

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 1 March 2021

Committee: Northern Planning Committee

Date: Tuesday, 9 March 2021

Time: 2.00 pm

Venue: THIS IS A VIRTUAL MEETING - PLEASE USE THE LINK ON THE AGENDA TO LISTEN TO THE MEETING

Members of the public will be able to listen to this meeting by clicking on this link:

www.shropshire.gov.uk/NorthernPlanningMeeting9March2021

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<https://www.shropshire.gov.uk/planning/applications/planning-committees/>

Claire Porter
Director of Legal and Democratic Services

Members of the Committee

Roy Aldcroft
Nicholas Bardsley
Gerald Dakin
Pauline Dee
Nat Green
Vince Hunt (Vice Chairman)
Mark Jones
Pamela Moseley
Keith Roberts
Paul Wynn (Chairman)
David Vasmer

Substitute Members of the Committee

Joyce Barrow
Ted Clarke
Julian Dean
Steve Davenport
Roger Evans
Rob Gittins
Roger Hughes
Chris Mellings
Paul Milner
Peggy Mullock
Alexander Phillips

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on Tuesday, 9th February 2021, attached, marked 2.

Contact: Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 2.00 p.m. on Friday, 5th March 2021.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 School House, Overton Road, Ifton Heath, St Martins - 20/02248/FUL (Pages 7 - 46)

Erection of 35 dwelling units and associated operational development following demolition of existing school buildings and retention of the former schoolhouse as a single dwelling (amended description).

6 Appeals and Appeal Decisions (Pages 47 - 56)

7 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 6th April 2021.



Committee and Date

Northern Planning Committee

9th March 2021

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 9 February 2021

THIS IS A VIRTUAL MEETING - PLEASE USE THE LINK ON THE AGENDA TO LISTEN TO THE MEETING

2.00 - 5.02 pm

Responsible Officer: Shelley Davies
Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

Present

Councillor Paul Wynn (Chairman)
Councillors Roy Aldcroft, Nicholas Bardsley, Gerald Dakin, Nat Green, Vince Hunt (Vice Chairman), Mark Jones, Pamela Moseley, Keith Roberts, David Vasmer and Julian Dean (substitute for Pauline Dee)

183 Apologies for Absence

An apology for absence was received from Councillor Pauline Dee. (substitute: Councillor Julian Dean).

184 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 12th January 2021 be approved as a correct record and signed by the Chairman.

185 Public Question Time

There were no public questions or petitions received.

186 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

With reference to planning application 20/04019/FUL – Land South of Bridgewater Street, Ellesmere, Councillor Mark Jones stated that he would leave the meeting, taking no part in the debate or vote on the application due to perception of bias.

187 Proposed Dwelling to the West Of 14 Ellesmere Road, Tetchill, Shropshire (20/04023/FUL)

The Principal Planning Officer introduced the application for the erection of 1 No dwelling and realignment of private access drive; and all associated works and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planning Officer noted that this application was considered at the Northern Planning Committee meeting held on 12th January 2021 at which Members resolved to grant planning permission in accordance with the Officer's recommendation subject to:

- The conditions as set out in Appendix 1;
- Delegation powers to the Planning Services Manager to amend conditions 3 and 4 in relation to the comments noted by the Highways Manager regarding the visibility splay and the inclusion of a footpath on a previous planning consent; and
- An additional condition in relation to boundary treatments as noted by the Principal Planning Officer.

It was explained that the application was being re-presented to this meeting to update Members on the advice given regarding the footpath along the site's road frontage which was incorrect in relation to the relevant planning history for development to the rear of the site.

Having considered the submitted plans the majority of Members expressed their support for the application in accordance with the Officer's recommendation.

RESOLVED:

That planning permission be granted, in accordance with the Officer's recommendation subject to the conditions as set out in Appendix 1.

Councillor Julian Dean abstained from voting as IT difficulties had meant that he had not been present for the whole of the debate. Due to IT difficulties Councillor Gerald Dakin was not present for this item.

188 Links Holiday Lodges, The Links, Hinstock, Market Drayton, Shropshire (20/03330/FUL)

The Principal Planning Officer introduced the application for the change of use of land to form holiday caravan park to include the siting of 10 static caravans with layout, modified road access, amenity land, play area and office building and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planning Officer drew Members attention to the Schedule of Additional Letters which included updates from the Case Officer outlining the reason for Condition 5 which had been omitted from the agenda report and the requirement of an additional condition in relation to foul and surface water drainage, if Members were minded to approve the application.

In accordance with the virtual meeting speaking protocol the Solicitor read out a statement from Rose Carter, on behalf of Local Residents in objection to the proposal.

In accordance with the virtual meeting speaking protocol the Solicitor read out a statement from Hinstock Parish Council in objection to the proposal.

In accordance with the virtual meeting speaking protocol Councillor Rob Gittins, the local ward Councillor read out his statement in relation to the proposal.

In accordance with virtual meeting speaking protocol the Solicitor read out a statement from Mr Jason Kennedy, the agent for the applicant, in support of the proposal.

Having considered the submitted plans and noted the comments made by all of the speakers, the majority of Members expressed their objection to the application contrary to the Officer's recommendation.

RESOLVED:

That planning permission be refused, contrary to the Officer's recommendation for the following reason:

Members considered that the proposed development would have an adverse visual impact on the landscape and that this would not be satisfactorily mitigated by the landscaping proposed. In addition, the additional traffic that would be generated would give rise to adverse highways safety issues given the deficiencies of the local highway network. As such the proposed development would be contrary to policies CS6 and CS16 of the Shropshire Core Strategy.

Councillor Gerald Dakin abstained from voting as IT difficulties had meant that he had not been present for the whole of the debate.

189 Land South the Little Wickett, Rye Bank Wem, Shropshire (20/03017/FUL)

The Principal Planning Officer introduced the application for the erection of a local needs dwelling including garage and access and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planning Officer drew Members attention to the Schedule of Additional Letters which included a representation from Wem Rural Parish Council.

In accordance with the virtual meeting speaking protocol Councillor Chris Mellings, the local ward Councillor read out his statement in relation to the proposal.

In accordance with virtual meeting speaking protocol the Solicitor read out a statement from Gemma Foxley and Simon Forbes, the applicant, in support of the proposal.

Having considered the submitted plans and noted the comments made by all of the speakers, the majority of Members expressed their objection to the application in accordance with the Officer's recommendation.

RESOLVED:

That planning permission be refused, in accordance with the Officer's recommendation for the following reason:

The proposed local needs affordable dwelling will not be located within or adjoining a named settlement and will represent isolated and sporadic development in the countryside. As such the proposed dwelling would be contrary to policies CS5, CS6 and CS11 of the Shropshire Core Strategy; policies MD2 and MD7a of the SAMDev Plan; and the Type and Affordability of Housing Supplementary Planning Document.

190 The Rookery, Northwood, Shrewsbury, SY4 5NH (20/03670/FUL)

The Principal Planning Officer introduced the application for the erection of two-storey extension, single storey entrance porch, re-rendering existing house, replacement windows, remodel existing side entrance and clad in timber to match new extension and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planning Officer drew Members attention to the Schedule of Additional Letters which included representations from Wem Rural Parish Council and Councillor Chris Mellings.

In accordance with virtual meeting speaking protocol the Solicitor read out a statement from Mr David Wicks, Neighbour, in support of the proposal.

In accordance with the virtual meeting speaking protocol Councillor Chris Mellings, the local ward Councillor read out his statement in relation to the proposal.

In accordance with virtual meeting speaking protocol the Solicitor read out a statement from Philip Goldby, the applicant, in support of the proposal.

Having considered the submitted plans and noted the comments made by all of the speakers, the majority of Members expressed their support for the application contrary to the Officer's recommendation.

RESOLVED:

That planning permission be granted, contrary to the Officer's recommendation for the following reason:

The Committee acknowledged that the dwelling had already increased significantly in size from its original modest size and noting the setting of the site considered that the proposed extension would not have an unacceptable impact on the character and appearance of the dwelling and the surrounding area.

Subject to:

The Planning Services Manager being granted delegated powers to attach conditions to include standard commencement and plans conditions and those to cover external materials and the removal of Permitted Development rights for further extensions.

191 Land South of Bridgewater Street, Ellesmere, Shropshire (20/04019/FUL)

In line with his declaration at Minute 186, Councillor Mark Jones left the meeting at this point and took no part in the debate and did not vote on this item.

The Principal Planning Officer introduced the application for the erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works and with reference to the drawings and photographs displayed, he drew Members’ attention to the location, proposed layout and current use of the site.

Having considered the submitted plans, Members unanimously expressed their support for the application in accordance with the Officer’s recommendation.

RESOLVED:

That planning permission be granted, in accordance with the Officer’s recommendation subject to:

- The conditions as set out in Appendix 1 and any modifications to these conditions as considered necessary by the Planning Services Manager; and
- The signing of a Section 106 agreement in relation to affordable housing and open space provision as set out in the report.

192 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area as at 9th February 2021 be noted.

193 Date of the Next Meeting

It was noted that the next meeting of the Northern Planning Committee would be held at 2.00 p.m. on Tuesday, 9th March 2021.

Signed (Chairman)

Date:

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Committee and Date
Northern Planning Committee
9th March 2021

Item
5
Public

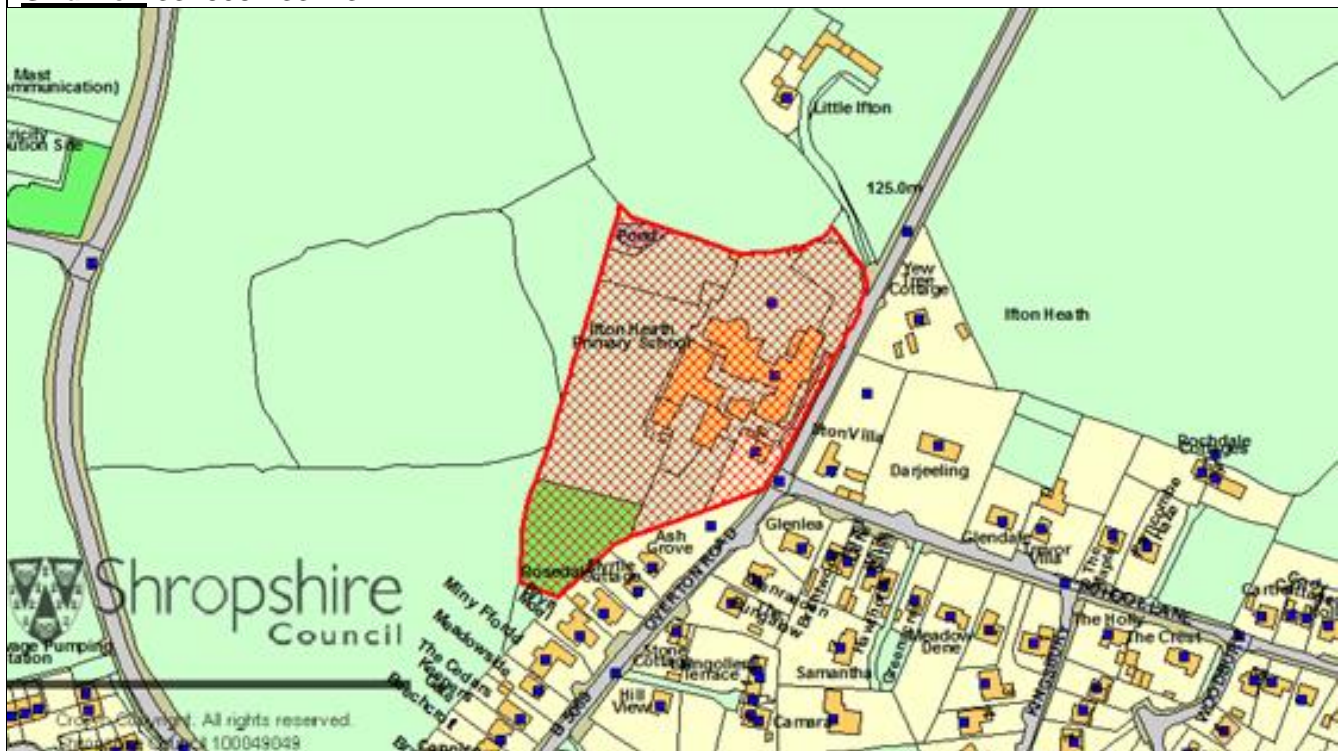
Development Management Report

Responsible Officer: Tim Rogers
Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 20/02248/FUL	Parish:	St Martins
Proposal: Erection of 35 dwelling units and associated operational development following demolition of existing school buildings and retention of the former schoolhouse as a single dwelling (amended description)		
Site Address: School House Overton Road Ifton Heath St Martins SY11 3DH		
Applicant: Cornovii Developments Ltd		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 332608 - 337131



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Recommendation: Refuse

Recommended reason for refusal:

1 The application is for residential development of a site that is situated outside of the development boundary for St Martins and the proposal is contrary to the adopted development plan and conflicts policies relevant to the location of housing (CS1, CS4, and CS5 and SAMDev policies S14.2(v), MD1, and MD7a). The presumption in favour of sustainable development outlined in paragraph 11 and 12 of the NPPF is not engaged as Shropshire Council has in excess of a 5 year housing land supply. Little weight can be given to the emerging development plan as the local plan review has not yet reached a sufficiently advanced stage.

2 Although the proposal includes some material benefits above those that would in any case be required for development of this part brownfield site (including 12 additional affordable homes) it is not considered that the application provides sufficient overriding benefits that would justify a departure from the adopted Development Plan. Furthermore, the proposal includes the demolition of the former Ifton School, a non-designated heritage asset, and the benefits delivered by the scheme are not considered to outweigh its loss as required by SAMDev policy MD13 and the tests as set out in the NPPF. (par 197). Consequently it is not possible to complete part 2 of the European Protected Species Test Matrix and conclude that there is no satisfactory alternative arising from the development

3 Whilst the scale, design and layout of the development is acceptable the applicant's noise assessment recommends that a 1.8m acoustic fence be provided along the front boundary to mitigate against noise and no details have been provided and it is considered that this would be visually prominent and would have an adverse impact on the character and appearance of the locality contrary to Local Plan policies CS6, CS17, and MD2

REPORT**1.0 THE PROPOSAL**

1.1 This full application relates to the erection of 35 dwellings following demolition of existing school buildings and the retention of the dwelling known as 'School House' as a single dwelling together with 13 affordable dwellings.

1.2 The applicant is Cornovii Developments Limited which is a private company wholly owned by Shropshire Council.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is the former Ifton Heath Primary School that closed in 2012 when the primary school moved to the Rhyn Park Secondary School to provide an all-through school known as St Martins Academy. The site includes the former school building to the front of the site which is an early 20th century, red brick building under a slate roof and traditional in character, with more modern extensions and buildings to the rear, a hard surfaced area providing a former playground and car park to the side and a playing field bound by trees and hedgerows to the rear.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as it relates to land owned by the Council for a proposal that is not in-line with statutory functions.

4.0 Representations

4.1 Consultee Comments

Most recent comments are included in the officer report in addition to earlier comments where relevant. All comments are available to view in full on the online planning register.

4.1.1 Shropshire Council Housing Enabling team: Support

29 Jan 2021:

The application site falls within an area where the prevailing target rate for affordable housing is 10%, therefore for a development comprising 35 dwellings; there would be a policy requirement for 3.5 affordable dwellings (the 0.5 being provided as a financial contribution). The current proposal seeks to exceed policy requirements by 7.5 affordable dwellings.

You have requested advice on whether Vacant Building Credit could be applied in this instance. I can confirm that vacant building credit is relevant in this instance and have applied our accepted formula against the proposed scheme. As a consequence of the VBC, there is a reduced requirement for 1.33 affordable dwellings i.e. one affordable dwelling to ensure policy compliance, with the remaining fraction as a financial contribution.

It is particularly pleasing to note that this scheme will over deliver in terms of affordable dwellings, by 10 affordable dwellings on the basis of the credit being applied together the originally proposed additional affordable dwellings. Not only are the additional numbers of affordable dwellings important but the site and type of properties being provided, which includes bungalows, as evidenced as being needed by the local community. It is encouraging to see a mix of affordable homes being provided. The scheme is fully supported by Housing Enabling and Development Team.

OFFICER NOTE: The policy exceedance offered by the application is now 12 affordable dwellings as the applicant has increased the offer overall to 13 affordable dwellings

8 July 2020

There is a need for affordable homes in St Martins. As this development is proposed to meet local needs a local lettings plan will be required and only the local need will be used as evidence of need. There are currently 26 families with a local connection needing a home in St Martins this is made up of 7 x 1 beds, 12 x 2 beds and 7 x 3 beds.

4.1.2 Shropshire Council Historic Environment team: Object

06 January 2021: *The submitted HIA does not include any description of the existing non-designated heritage assets interiors or their roof construction etc. There are no existing floor plans which can be used to understand the buildings format, where it may have been adapted over time, from what it may have been in its primary form; this is required to enable assessment of significance. The subsequently submitted Inspection Appraisal document by Ian Shaw Associates, dated August 2020, does go some way to addressing this but this document does not make any assessment of significance. We do not agree that an assessment which does not consider the interior of the building is sufficient to be able to come to any conclusions regarding its' significance. In his email of 15.12.20 the agent refers to paragraph 179 of the NPPF (but assume means 189 of the NPPF) and quote "... the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance..." As the application is for the demolition of the HA the impact is obvious, until an assessment of the internal fabric is undertaken and its significance articulated within a submitted HIA the significance cannot be taken as having been understood to inform the action of demolition. This in lack of information and impede understanding and therefore in turn impact on the consideration made in paragraph 197 of the NPPF. Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that affect (directly or indirectly) non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset. As this application is for the total demolition of the non designated heritage asset we would put that harm as being less than substantial, due to the fact that the building is not a designated heritage asset or in a designated area.*

MD13 states that Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring proposals avoid harm or loss to significance of designated and non-designated heritage assets and ensuring that proposals affecting the significance of these assets are accompanied by a Heritage Assessment. It goes on to state that proposals which are likely to have an adverse effect on the significance of non-designated heritage assets, including their setting, will only be permitted where it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse impact caused.

MD7a states that new market housing will be strictly controlled outside of the main Market Towns, etc, however, conversions to open market dwellings will only be acceptable where the building is of a design and form which is of merit for its heritage value etc. ie Heritage Asset. CS5 also concurs with this policy. The main school building is considered a non-designated heritage asset and therefore complies with these policies for conversion.

MD7b states that proposals for the replacement of buildings which contribute to the local distinctiveness, landscape character and historic environment, will be resisted unless they are in accordance with Policies MD2 and MD13. Any negative impacts associated with the potential loss of these buildings, will be weighed with the need for the replacement of damaged, substandard and inappropriate structures and the

benefits of facilitating appropriate rural economic development. The policy also states the replacement of dwellings and other buildings can significantly impact on the character of the countryside and there is a need to ensure the appropriate scale, design and location of them. In order to promote a sustainable approach to development, development which appropriately conserves the existing historic and landscape resource are encouraged and this will include the appropriate re-use of existing suitable buildings and previously developed land.

Some calculations regarding costings has been put forward regarding conversion versus demolition and rebuild. Advice regarding these has been sought from our own Senior Conservation Officer & Technical Specialist and the following comments have been received, which are self explanatory:

“Based upon the information included within the Surveyors report, it’s difficult to make a clear and informed assessment of the current condition of the building and its potential for conversion. As such, until its condition is further understood all stated design recommendations should be considered generically detailed, especially as they fail to consider the basal requirements of BS 7913 - Guide to the Conservation of Historic Buildings.

As such, I recommend that the applicants cost consultant be asked to further clarify the basis of their costs and confirm if the stated meterage rates have been recorded as high, average or low within their respective ranges.”

The retention of the historic asset would conserve the embodied energy which has already been used in their construction and this should be a consideration when carry out the planning balance and include into this the carbon which would be used in both the demolition works and the production of the building materials and actual construction of new properties in their place.

With regard to the design of the proposed dwellings, they have been revised from those originally submitted and are an improvement, but we consider them to be still lacking in certain areas. For example, but not extensively - no chimneys, no heads or sills, heirarchy of window sizes between first and ground floor etc. We would also note that there are certain house types which have blank and therefore bland gables/elevations facing public areas, where some interest should and could be added. Examples of this are house type 2BA on Plot 32 (where surveillance over the pond open area is very important), frontage plots and house type 4DA on Plots 24, 25 and 35.

We consider that the heights of the proposed dwellings could be reduced with first floor windows being topped by the brick eaves course indicated. This also relates to the single storey dwellings.

It is hard to understand completely which house type (especially the 3 bed dwellings) is on which plot (this should be clearly indicated on the site plan).

We would also consider that pavements are not needed on both sides of the road all of the way through the development, and that the creation of “home zone” areas are likely to be beneficial throughout the development.

RECOMMENDATION:

We still maintain our concern regarding the total loss of the identified building and this will need to be considered in the planning balance under para 197 of the NPPF where the significance is still not properly articulated as part of a submitted HIA. We also consider that the proposal still falls short of the requirements of CS6, CS17 and MD2 in that it does not protect, restore, conserve and enhance the natural, built and historic environment ... nor does it appear to take into account the local character and context in terms of design and detailing, scale and proportion etc. CS5, MD7a and MD13 are generally supportive of the sympathetic conversion of HA's (see above) whereas MD7b is resistive of the replacement of buildings which contribute to the local distinctiveness, historic environment and character. The design of the proposed dwellings should be improved to ensure a better fit with the local character of the area.

4.1.3 Shropshire Council Ecology: No objection in principle

25 February 2021: I have read the submitted Ecological Assessment (Star Ecology, May 2020) and recently submitted/updated Dusk Emergence and Dawn Re-entry Bat Survey & Mitigation Strategy (Middlemarch, Environmental Ltd, February 2021). I am happy with the level of survey work and have updated and included previous SC Ecology conditions and informative recommendations to be included on the decision notice.

I have also reviewed the Soft Landscape and Biodiversity Enhancement Plan (AHR Architects Ltd, IFT-AHR-ZZ-ZZ-DR-L-90-108. The design and information provided in the plan is satisfactory and therefore the plan on ecology grounds should be conditioned. The locations of the species-specific features however (e.g bat and bird boxes) have not been specified and should be subject to further conditions.

The following bat roosts are present in the buildings at the site:

- Building B1 – day roost for low numbers of common pipistrelle bats;*
- Building B2 – infrequently used day roost for low numbers of lesser horseshoe bat, day roost for low number of common pipistrelle bats; and,*
- Building B3 - infrequently used day roosts for low numbers of lesser horseshoe and brown long-eared bats.*

Proposed redevelopment of the site will result in the loss of roosts within buildings B1, B2 and B3. Mitigation proposals are provided in Section 7 which demonstrate that no individual bats will be killed or injured. In addition, the bat roosts to be lost as a result of the demolition of the former school buildings will be mitigated for on-site ensuring that the favourable conservation status for the bat species present is maintained.

Works to Buildings B1, B2, B3 will have to take place under a European Protected Species Licence from Natural England. Section 7 of the report sets out the mitigation and compensation measures which will form part of the licence application.

I have provided a European Protected Species 3 tests matrix at the end of this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered.

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

18 January 2021

The drawings are missing from section 7 of the Dusk Emergence And Dawn Re-Entry Bat Surveys (Middlemarch Ecology, July 2020).

Buildings B1, B2 and B3 contain bat roosts. In order for me to complete the 3 tests, details of the proposed bat mitigation are required. This doesn't need to be as detailed as what is required for the EPSL application but there needs to be sufficient details to ensure that the favourable conservation status (FCS) of the bats can be maintained.

22 June 2020

The PRELIMINARY BAT ROOST ASSESSMENT (Middlemarch Environmental, May 2020) states that 'Three buildings on site (B1, B2 and B3) were concluded to have high bat roost potential. One building (B4) was concluded to have moderate potential and two buildings (B5 and B6) were considered to have low bat roost potential. As the proposals for the site involve the demolition of all the existing buildings, impacts to any bats present within these buildings would be significant including the potential destruction of roost sites and direct harm to individual bats. Therefore further survey effort is required in the form of emergence and return to roost surveys to confirm whether bats are roosting in the buildings.' Please re-consult Ecology when these have been submitted.

4.1.4 Shropshire Council Economic Growth: No objection in principle

22 June 2020

Economic Growth Service supports the proposal which meets the objectives of the Economic Growth Strategy to retain and attract families and young professionals by the provision of starter homes and affordable housing.

The design is built on sustainable principles and meets the Lifetime Homes standard with a flexible approach and potential to meet a variety of future need.

Scheme has a strong and simple design and it is suggested that additional detailing is provided around windows and doors and those gable ends facing onto footways, to provide variety and interest.

4.1.5 Shropshire Council Learning and Skills: No objection in principle

17 June 2020

Shropshire Council Learning and Skills reports that the local school, St Martins all through school, is forecast to be full by the end of the current plan period. This development along with future housing in the area is highly likely to create a

requirement for additional school places. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places or facilities considered necessary to meet pupil requirements in the area. In the case of this development it is recommended that any contributions required towards education provision are secured via CIL funding.

4.1.6 Shropshire Council Parks and Recreation: No objection in principle

15 December 2020:

The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

Based on the current design guidance the development will deliver 111 bedrooms and therefore should provide a minimum 3330m² of usable public open space as part of the site design. The site design allows for public amenity space however, it is not clear how much POS is being provided on site.

We would like to see one central area of open space, within the residential area of the development, for functional public enjoyment, rather than open space used to buffer houses along the edge of the development or using land that isn't suitable for its intended use.

All POS provided must be 'useable' space and therefore should not include LPG stations, swales, water basins or attenuation pools.

The types of open space provided need to be relevant to the development and its locality and should take guidance from the Place Plans. The ongoing needs for access to manage open space must be provided for and arrangements must be in place to ensure that the open space will be maintained in perpetuity whether by the occupiers, a private company, a community organisation, the local town or parish council, or by Shropshire Council.

4.1.7 Shropshire Council Regulatory Services: Object

7 July 2020

Regulatory services have reviewed the noise report and Ground investigation report provided and have the following comments:

Noise

The noise assessment concludes that the noise levels from the industrial site to the north west of the site and the road traffic noise from Overton Road are likely to have a significant adverse impact on the proposed development. The noise report has suggested acceptable internal noise levels could only be achieved by implementing an insulation scheme which would only be effective when windows are kept shut.

The National Planning Policy Framework (NPPF) 180 indicates that planning decisions should ensure developments avoid noise giving rise to significant adverse impacts on health and the quality of life. The Professional Practice Guidance on Planning and Noise (ProPG) indicates that most residents value the ability to open windows at will, for a variety of reasons, and hence relying on a scheme that depends on windows being kept shut will have a detrimental impact on the quality of life of the occupants. Where internal noise levels are assessed with windows closed the justification for this should be included in the Acoustic Design Statement (ADS).

NPPF also states in paragraph 182 'existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed'.

Hence, good acoustic design principles should be used to ensure optimum acoustic standards are achieved without adversely affecting the quality of life of the occupants, or the operation of neighbouring businesses. ProPG provides advice on good acoustic design, in particular it recommends:

'2.22 Using fixed unopenable glazing for sound insulation purposes is generally unsatisfactory and should be avoided; occupants generally prefer the ability to have control over the internal environment using openable windows, even if the acoustic conditions would be considered unsatisfactory when open. Solely relying on sound insulation of the building envelope to achieve acceptable acoustic conditions in new residential development, when other methods could reduce the need for this approach, is not regarded as good acoustic design. Any reliance upon building envelope insulation with closed windows should be justified in supporting documents.

2.23 Planning applications for new residential development should include evidence that the following aspects of good acoustic design have been properly considered

- ' Check the feasibility of relocating, or reducing noise levels from relevant sources.*
- ' Consider options for planning the site or building layout.*
- ' Consider the orientation of proposed building(s).*
- ' Select construction types and methods for meeting building performance requirements.*
- ' Examine the effects of noise control measures on ventilation, fire regulation, health and safety, cost, CDM (construction, design and management) etc.*
- ' Assess the viability of alternative solutions.*
- ' Assess external amenity area noise'.*

In summary the noise mitigation scheme currently proposed does not adequately protect the quality of life of the future occupants or the operation of neighbouring businesses and hence I recommend that this application is not decided until an acceptable scheme of mitigation, which takes into account the principles of good

acoustic design detailed in ProPG and highlighted above, has been agreed.

Contaminated Land

A report by Soiltechnics; Ground Investigation Report, Proposed Residential Development, Ifton Heath, Shrewsbury; Report: STR4868M-G01, December 2019 has been submitted in support of this planning application.

Regulatory Services has not identified the proposed development site as potentially contaminated land but has carried out a review of the Soiltechnics report.

The Soiltechnics site investigation has not identified any contaminants of concerns that would preclude the proposed residential development and as such no specific remedial measures are proposed. Accordingly, Regulatory Services has no further comments or recommendations in respect of contaminated land issues.

Regulatory Services notes that an Asbestos survey has been carried out by Shield On-Site Services of the existing on-site buildings and updated the Asbestos Register for the site. Asbestos has been confirmed within the buildings and while Soiltechnics did not identify any potential risks from asbestos in soils, they do identify that demolition of the buildings could potentially introduce asbestos containing materials and debris into shallow soils.

Therefore, Regulatory Services recommends the following as an informative only: The applicant has submitted a survey which has identified the presence of asbestos containing materials. The applicant must act on the recommendations of the survey and remove and dispose of asbestos containing material in accordance with the Control of Asbestos Regulations 2012. If asbestos is not managed in a suitable manner, then the site may require a detailed site investigation and could become contaminated land as defined in Part 2A of the Environmental Protection Act 1990.

4.1.8 Shropshire Council Trees: No objection in principle

25 February 2021: There are a number of trees on this site and an Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified 29 individual trees and 17 groups of trees which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.

The proposed development would require the removal of 10 individual trees, 7 low value. 2 moderate value and one in poor condition, along with 9 groups of trees all low value and part removal of 4 groups of trees of moderate value.

Having reviewed the plans and visited the site, it is agreed that the trees for removal are not significant in the amenity of the area and their loss can be mitigated through new planting.

There is the proposal for works within the RPA of a number of retained trees, mainly to upgrade existing hard surfaces. I would concur with the AIA in that this work is unlikely to be detrimental to the trees but will require additional care and a specialised method statement to deal with this aspect is required. No dig foot paths have been advised where these are within the RPAs of retained trees and this will require a specification and method statement to ensure that they are constructed in a manner that will not damage the retained trees.

A landscaping plan has been provided for the site, with new tree planting proposed that will mitigate tree losses. As a number of the trees are to be planted in constrained sites it will be necessary to ensure that adequate soil resources are provided to allow the trees to establish and develop to maturity. The Landscaping Scheme must be amended to show that adequate soil resources are provisioned, and this may require the use of specialised planting systems such as structural soil cells.

No objection is raised in principle to the development providing the above issues are addressed and the tree protection condition.

4.1.9 Shropshire Council Waste Management: No objection in principle

3 July 2020

It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

I would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <https://new.shropshire.gov.uk/media/7126/shropshire-refuse-and-recycling-planning-guidance-july-2017-002.pdf>

We would prefer to see a vehicle tracking of the vehicle manoeuvring the road to ensure that the vehicle can access and turn on the estate. Details of the vehicle size and turning circles are in the document linked above.

Particular concern is given to any plots which are on private drives that the vehicles would not access. Bin collection points would need to be identified and residents advised when they move in/purchase.

Residents would also need to be made aware that they would be collection points only and not storage points where bins are left permanently.

4.1.10 Shropshire Council Drainage: No objection in principle

10 Feb 2021: *A revised drainage details, plan and calculations should be submitted for approval based on the Revised Site Plan.*

Discharging of private surface water from the Development Site into the highway drain is subject to obtaining Consent from the Highway Authority.

Recommends a pre-commencement drainage condition.

4.1.11 Shropshire Council Highways: No objection in principle

3 February 2021

The site seeks the redevelopment for the former Ifton Heath Primary School, which was closed in 2012 and the Primary School provision was subsequently located at the Rhyn Park School. The school buildings however remain on site.

In considering the impact of the proposed development on the highway network, the application is supported by a Transport Statement (TS), which concludes that the proposal is acceptable and there are no grounds from a highway/transportation perspective why permission should not be granted. I consider that the TS is robust and I would agree with the conclusions set out in the TS. Moreover, whilst the traffic patterns of a residential development differ from those associated with a school site, it is considered that overall there is potential highway gain when set against the issues that surround the peak picking up and dropping off of infant children during the school term periods.

The application seeks to promote residential development of 35 dwellings served via an estate road layout, with the intention that the internal roads and footways would be built to an adoptable standard. The proposed internal road layout is of a typical design with footways on both sides of the road and parking provision of 2 spaces per property. There are not considered to be any fundamental issues regarding the suitability of the internal road layout. The proposed site access affords visibility splays in excess of 2.4 x 43 metres which accord with a 30 mph speed limit and the criteria set out in Manual for Streets. The national speed limit of 60 mph comes into effect to the northeast of the access point. Again there are not considered to be any fundamental issues with the access to the site, though there is potential to implement additional measures to support the reduction of traffic approach speeds travelling towards the site from the north-eastern direction.

Following the above, the application is supported by a draft 'Traffic Calming Measures' scheme as shown on Drawing SK01 Rev P0. Whilst being supportive of measures to assist in the reduction of approach traffic speeds travelling toward the development site, the scheme shows the provision of a 'Give Way' priority build out. This feature is not considered appropriate and should be removed from the scheme. Changes to include the introduction of a 40 mph buffer, traffic signing and road markings would be more appropriate, along with the provision of a vehicle activated sign (VAS). It is recommended that this matter be dealt with by imposing a negatively worded planning condition in order to develop a scheme.

In conclusion therefore there is no highway objection to the granting of consent subject to the recommended conditions being imposed.

4.1.12 **Shropshire Council Leisure Services: Object**

25 February 2021: The application site, nor St Martins School playing field were picked up in the Playing Pitch and Outdoor Sports Strategy (PPOSS) which is unfortunate. If the use of the school playing fields were secured for community use, this could potentially provide some additional capacity for community sport, though I'm not persuaded that this alone would justify the application site as being surplus.

Looking at the consented scheme for additional playing field next to St Martins School which the applicant is saying mitigates for the loss of the playing fields at Ifton Heath. I would make the following points:

- *The playing field area that is proposed is a much larger area compared to the playing field loss at the former Ifton Primary School. The plan with the planning application does not show how many pitches could be accommodated, though it's clear that this would be capable of providing several pitches. Being located within the same village I agree that this would be a suitable location for replacement playing field provision.*
- *The terms of the planning consent 19/01268/FUL includes a planning condition which states that "The hereby approved change of use of land from agricultural land to recreational land in no way confirms the siting of any sports pitches, play equipment, sports facilities or similar. A further full planning permission is required to determine the siting, design, and construction of any such provision or facility prior to its installation".*
- *Having reviewed the officers report, there is no reference to this being put forward as mitigation for the loss of playing field at former Ifton School site, nor is there any reference to this in the SAMDev policy allocation. It could be argued that this is additional provision to meet the needs of the consented new housing?*
- *I'm not clear on the s106 provisions being referred to by the applicant in relation to planning approval 19/03995/FUL? I can't find the reference relating to provision of the car parking area and sports pitches to be delivered before 40th dwelling so this needs to be clarified.*
- *My reading of the s106 agreement is that the developer is only obligated to provide a 999 year lease to the Parish Council for the "Recreational and Educational land" and that the terms of the lease shall put responsibility upon the Parish Council to lay out, equip and make available for use the land in question. There does not seem to be any provision in either the planning permission or the s106 agreement for securing community use of the new playing field by way of a community use agreement, nor is there any detail on the specification of the playing fields.*

If this site is seen as the replacement provision to meet Exception E4 of Sport England's Playing Fields Policy and Para 97b) of the NPPF as is being suggested by the applicant. If this is the case then we need to consider the following;

1) *A planning application is needed to secure details of the layout of the playing field so the provision of new sports pitches can be implemented. This should include an agronomy assessment by a sports turf specialist to include details of pitch specification works (to include soils, levels, drainage, cultivation, pitch establishment etc), a detailed maintenance regime (that the school/Parish Council are capable of delivering thereafter) and a community use agreement to secure the use of the playing field for local users. In my view, this planning consent needs to be secured before the loss of playing field at former Ifton Heath site. In the absence of this, how can we be sure that the replacement facility will be delivered to be fit for purpose and made available before the loss takes place?*

2) *The s106 agreement is clear that the only obligation on the developer is to provide a lease for the land, not to meet the cost of laying out the pitches etc. How will the costs of this be met? In my view, if this is to be seen as the mitigation for the loss, the developer of the Ifton Heath site should be required to make an appropriate financial contribution to the “pot” to help deliver these sports pitches. I’ve suggested in the past that taking into account the relative small size of playing field to be lost (equitable to a mini pitch), that a sum of £30,000 would be appropriate. If this sum could be secured, I think I could conclude that Exception E4 would be met by the proposed new playing fields at the existing school.*

3) *A sum of money (£30,000) is provided to the Shropshire Council to be used on projects with the Oswestry Place Plan Area and as per the projects and recommendations set out in the Playing Pitch and Outdoor Sports Strategy and Action Plan.*

The fundamental issue remains that no facilities have been provided in the St Martins area since the primary school closed. Whilst it’s good that land has been set a side for new facility nothing has been built and without a significant sum of money the scheme is unlikely to be delivered. The offsite contribution that we are seeking could be put towards the St Martins project or other projects as outlined in the PPOSS action plan.

15 Feb 2021: *This application is for the Erection of 35 dwelling units and associated operational development.*

As a result it will lead to the loss of playing fields. I'm not aware that new facilities or improvements to existing facilities have happened since the primary school was closed. If the applicant disagrees with this I would expect them to provide evidence of this not just a statement. A planning application was granted (19/01268/FUL) however looking at the plans and google maps it doesn't look like any new facilities have been developed. This was for new and improved facilities next to St Martins School. Looking on the school website it mentions an exciting proposal to extend and improve sports facilities for St Martins and the surrounding area. This is being driven by The Parish Council working with the School and the Community under the banner of St Martins recreation partnership. Any funds allocated from the proposed development at the former primary school should be done in line with the Playing Pitch and Outdoor Sports Strategy and Action Plan.

The submitted information doesn't fully address the requirements of NPPF paragraph 97. There is no mention of which policy exception they believe this falls

in to when looking at Sport England's playing Fields Policy. In the applicants supporting information it states that adequate sports provision was provided on the site of the new St Martins all-through school. This doesn't compensate for the potential loss of the playing field at the former Primary School.

One of the recommendations in the PPOSS for the North West Analysis area (Ellesmere and Oswestry) states the need to Create additional capacity for youth football pitches in order to accommodate future demand such as securing access to educational site and improving poor quality provision. The pitch at the former primary school could be used to address future demand.

If the pitch is lost then we would be seeking an offsite contribution to mitigate for this. The costs below are taken from Sport England's cost guidance document.

Football natural turf pitches (costs as per Sport England cost guidance).

Area m² Cost

U8/U7 mini pitch (43 x 33 m) 1,419 £25,000

U16/U15 youth pitch (97 x 61 m) 5,917 £80,000

Senior pitch (106 x 70 m) 7,420 £100,000

4.1.13 **Shropshire Council Planning Policy: Object**

26 February 2021: The Revised Planning Statement provided by the applicant (4th Dec 2020) provides information in support of the proposal on a number of relevant planning issues. This comment focusses solely on the Planning Policy considerations of the site, and in particular an assessment of conformity with the current and emerging Local Plan.

The current Development Plan consists of:

- The Core Strategy, adopted 2020; and;*
- The Site Allocations and management of Development (SAMDev) Plan; adopted 2015*

In combination these documents provide an up-to-date development plan for the area. The Council currently has a housing land supply in excess of five years, and therefore it is considered the housing supply policies of the current development plan can be afforded full weight. The Council are at an advanced stage of the preparation of the review of the Local Plan, and have recently completed the Regulation 19 consultation, with a view to submitting the Plan for Examination in July 2021.

Paragraph 10.1 of the applicant's Planning Statement argues the proposal is "fully Development Plan compliant". It is strongly considered this is not the case. The settlement of St Martins is identified as a Community Hub in the Policy S14.2(v) of the adopted SAMDev Plan, which includes a housing requirement of around 200 dwellings over the plan period. In delivering this requirement, the Plan identifies a specific allocation (STM029) for 80 dwellings. The latest monitoring data indicates the settlement is delivering very well against its planned requirement, and therefore it is considered SAMDev Policy MD3 (3) is not engaged.

Contrary to the statement made within the applicant's Planning Statement (Dec 2020), the application site sits adjacent to but outside the currently defined development boundary. The site is therefore considered to be in a countryside location for the purposes of decision making and policies CS5 and MD7a of the Development Plan are engaged. Policy MD7a states that new market housing will be strictly controlled outside Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.

It is therefore considered that, when assessed against the current adopted and up-to-date development plan, the principle of market led housing development on this site is not established.

The site is included as a proposed housing allocations for around 35 dwellings in the ongoing Local Plan review. The inclusion of the site in the Plan review has been subject to two significant consultations at the Regulation 18 stage of plan preparation in November 2018 and July 2020. Neither of these consultations have led to significant objections being made to the site's inclusion as an allocated site. At the most recent consultation Welsh Water specifically provided comments on the site indicating that the public sewerage network was capable foul flows from the site. The Council still needs to assess the outcomes of the Regulation 19 consultation, although it is understood the Parish Council have indicated continued support for the inclusion of this site within the Local Plan. Based upon the current evidence, it is likely the site will continue to be included in the Plan review at the submission stage, now planned for July.

Notwithstanding the above, it remains the view that the weight that can be attached to the emerging Local Plan Review as things stand is very limited. The Plan needs to be subject to agreement to submit and then subject to an examination in public. It is the examination process, with the external scrutiny, which affords the Plan increased weight, with this process due to be undertaken during 2021 and early 2022.

It is important to remember that the emerging Local Plan is not solely a vehicle for allocating housing sites, and also includes a full suite of draft strategic and development management policies. These cover a range of relevant issues from residential mix, to achieving high quality design, providing green infrastructure, biodiversity net gain, and on-site renewable energy provision. Applying the general principle of 'a Plan should be read as a whole', it is considered applicants approaching the Council with applications on emerging housing allocations, should be seeking to demonstrate compliance with wider draft development management policies of the emerging Plan, and not only their draft allocation.

Whilst it is considered the principle of development is not established in the current Local Plan and that very limited weight only can be attached to the emerging Local Plan, there are clearly material considerations in this instance which should be taken into account in the decision making. For instance it is noted the site is seeking to deliver well above 'policy compliant' levels of affordable housing in an areas where there is defined need. It is also considered that part of the site is brownfield land, where an early opportunity for redevelopment is welcomed.

In applying very limited weight to the emerging Local Plan policy S14.2 (i), it is noted this includes as a requirement of the scheme an assessment of whether the playing field on the site is surplus to requirements. It is also considered necessary for the applicant to show they have sought opportunities for the retention and conversion of the historic school building on the site, and that appropriate boundary treatments are included within the design and layout to mitigate noise from the road to the east. A sustainable drainage strategy should also support this application.

4.1.14 **West Mercia Constabulary: No objection in principle**

7 July 2020

Provides comment on the proposal as Design Out Crime Officer for West Mercia Police. Does not wish to formally object to the proposal at this time. However, there are opportunities to design out crime, reduce the fear of crime and to promote community safety.

Advises that should the proposal gain planning approval the advice provided including 'Secured by Design' should be considered by the developer.

4.2 **Public Comments**

4.2.1 **St Martins Parish Council:**

9th January 2021 Representation

Although Parish Councillors supported the amended plans which included changes they had requested which included reducing the number of units to 35, change of design and type of the units facing Overton Road and the retention of the School House, a number of issues were raised which they wish to bring to the planning officer's attention for further consideration before you complete your report which we hope will go to the Local Area Planning Committee.

- There are no plans or mitigation measures in the form of acoustic barriers planned to reduce the background noise levels north of the site from Ridgway Rentals Plant Hire. Do you have a report on the noise impact assessment and a Health & Safety report?

- Concern from a highways point of view on access to the site, traffic calming and signage. At one stage it was suggested that refuge areas were put in and the 30mph area extended. There is also only a very narrow footpath on the opposite site of the road to this entrance. In addition, has a pollution test been carried out in this area?

- We can see no firm reasons or justification given on why the school building cannot be retained. This is highlighted in the latest (6th January 2021) report from Shropshire Council Historic Environment Development Services. Have you visited the site and had access to the school building?

- As a result of the bat survey what are your conclusions please?

6 July 2020 Object

In many ways as this site is owned by Shropshire Council the parish council feel

that any comments we make will make no difference in the decision-making process.

However as duly elected members to represent the parish we feel that we must take into consideration the views and feelings of many residents in the parish who are strongly against this application on the following grounds;

- Although the school building is in a poor state of repair any bricks or stonework that can be saved should be used elsewhere on this development, especially on the entrance from Overton Road.*
- The School House has had a lot of money spent on this recently and therefore should NOT be demolished.*
- The properties facing Overton Road should NOT consist of any terraced units.*
- The proposed plans are an over development of the site and should therefore be restricted to no more than 30 units.*
- Checks should be taken on the capacity of the existing water and sewerage system in this area as we believe is now at full capacity.*
- The views of Highways should be sought as this will generate extra traffic onto an already busy road.*
- We were under the impression that the site was "earmarked" by Shropshire Council as a zero-carbon development. Cornovii Developments addressed this issue in an email on 20/05 but, as far as we can see, offered no guarantee. We would like to know if Shropshire Council have given up on the idea and are back to business as usual despite declaring a state of emergency regarding climate change.*

Therefore, at this stage the Parish Council strongly object to this application until such times that revised plans are presented taking into consideration the concerns above.

4.2.2 Shropshire Playing Fields Association: Object

10 December 2020:

We note the revised planning statement from the developers says:

“Policy MD2 required adequate open space in new developments and is set at a minimum standard of 30sqm per person (equivalent to 3ha per 1000 population). For development of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation.

This requirement is put in place to ensure that people in all areas of Shropshire have access to multifunctional open space. The required public open space is provided on site and can be seen in the proposed site plans”.

Yet when we look at the proposed plans a functional play area does not seem to have been included.

Additionally our previous comments related to the loss of outdoor sport pitches has not been mitigated so we suggested a figure to compensate for this loss should be paid by the developer to the local parish council, that they might be able to

enhance existing facilities for new and existing residents to benefit.

Other than that please take our original comments as still valid.

7 July 2020

Objects to the loss of open public spaces including hard court playgrounds and sports courts as well as sport pitches and natural open spaces home to wildlife all of which enhance the well being of the local community.

We note there is no robust open space needs assessment available, playing pitch strategy available, play strategy available, cultural outdoor strategy available on which decision makers could reasonably determine if this site is needed for other uses than residential development.

We note the developer talks about play areas and outdoor space being provided but this is not detailed on the application site plan.

Policy MD2 required adequate open space in new developments and is set at a minimum standard of 30sqm per person (equivalent to 3ha per 1000 population). For development of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation.

This requirement is put in place to ensure that people in all areas of Shropshire have access to multifunctional open space.

Given the proposed loss of play and open space facilities on land owned by Shropshire Council we do not see any attempt to provide existing residents or new residents any alternate sites or opportunities to offset this loss as required in national planning policy guidelines.

At the very least an opportunity should exist to improve off road pedestrian and cycling opportunities throughout the village to enhance safety whilst at the same time encouraging physical activity.

We believe a school building that has for so long been at the heart of this vibrant community should be retained, protected and enhanced so that once again it can enrich the lives of future generations whether they be existing or new residents to the area.

4.2.3 **9 letters of objection summarised as follows:**

Conflict of interest with Shropshire Council deciding the fate of its own application.

Particular displeasure with the way in which the applicants appear to have cynically manipulated the local population. Initial plans shown on their website, appealed us indicating retention of the existing buildings which form a major character and history of our locality. We were also reassured on several occasions by our local councillor Steve Davenport that these buildings would be retained. However at the last minute their true intentions are submitted in this form.

This application continues to be riddled with misleading information, with no consideration for community wishes. The non designated heritage asset response fails to take reasonable account of the emotional attachment the village has for the school building, relying totally on the physical appearance. Although the building is described as commonplace, there are no examples provided of other similar buildings in the locality.

MD13 + MD7b, require more than being the cheapest option as a reason to dispose of an historic building.

Cornovii's assertion that the 1915 building is only fit for demolition, due to noxious substances and the condition of the building, are clearly flawed and rebutted by the interior photographs, showing the building to be in good condition.

The order of costs estimate is again misleading. How can renovation of 6 units be compared with the economy of scale with 34 units, particularly when the demolition costs of demolishing the newer "asbestos riddled" buildings is not included?

The site is described as redundant of use. The local housing plan proposes that nearly 1000 houses are to built in the catchment area (not including Chirk) for the nearly full St Martins school. 355 houses in the area for the primary. Where are the children these houses will attract going to go to school?

Ellesmere and Oswestry have similar building plans. The primary school was shoehorned onto the site and will soon be bordered by housing. Pre covid Ofsted figures show the primary school pupils have suffered badly in the school merger. What is SCC's plan for schooling, to demolish a fit for purpose school for a few houses, to then in a few years have to spend millions in tax payers money to try and extend the St Martins site, causing further disruption to pupils.

Ifton Heath was closed to save a failing St Martins school, not due to any building issues.

The main former school building that fronts Overton Road is an aesthetically pleasing building which dates from 1915. The building adds to the street scene being set back from the road behind the original railings. The building has interesting original sash windows along the frontage to the road.

From a sustainability and environmental viewpoint, it would be better to convert this building for housing rather than demolish it.

There are few older buildings in the village and the demolition of this historic building would be detrimental to the historical fabric of the village.

The idea that the school building is beyond repair is ridiculous, but is clearly the cheapest, more convenient option.

The recently renovated School House (at tax-payers expense) would provide social housing for a large family from the village, something these homes will not provide.

A freedom of information request shows that SCC have spent £144,673 on the renovations to the School House, since the school closure, knowing the house was to be given free to a private developer (Cornovii) to demolish. Presumably another similar amount will have to be spent elsewhere to house the current occupants. This is public money and SCC have a duty to deal with it appropriately. Common/financial sense would dictate that the School House is retained by SCC for its current use.

The School House has never looked better, recently having a great deal of money spent on it, out of the public purse, but is now discarded, despite being on the fringe of the development and thus could easily be retained. What a waste of public money and resource.

Has submitted an application to Historic England for listed status for the school building and School House.

Has also requested a tree preservation order for tree T23 on the plans (although this is decided by SCC).

It should also be put on file, these comments from a local chartered surveyor, who knows the local market very well: *"I feel compelled to say that, in my opinion, demolishing the existing house is a mistake. Have the council had it valued? without making an inspection I would think the house represents a minimum of at least 6 plots and I simply don't see 6 plots being replaced by its demolition. Clearly if the house needed to be demolished to allow access to the whole site then it would be a necessary evil"*

The proposals from Cornovii Developments Ltd state the company is meeting unmet housing needs in the area, however St. Martins has had several residential sites built recently with hundreds of new homes built in the village. St. Martins does not have a shortage of private homes.

This site is outside the SAMDev plan, there is an over reliance on St. Martins as a community hub, in addition to infill, recent planning/developments have added 80+ houses at Rhos Y Llan, Holland Drive 75, Bower farm 55 and now Ifton for 40 with no investment in infrastructure.

Cornovii Developments Ltd also state they will be building affordable homes, however only 15 of the 40 new homes will be affordable.

Shropshire Council under the guise of Cornovii is building homes to sell privately instead of building homes owned by the council to meet the needs of families in Shropshire on the housing waiting list.

The Ifton Heath school site is an asset to the village, however the council is stripping this asset away to sell privately. Will the village see any re-investment of the profits?

Our village has borne a disproportionate amount of development compared to other parts of North Shropshire, and as others have pointed out, with little or no

consideration for increased traffic, sewage capacity, and amenities for our ever growing population.

The amount of traffic through the village is increasing with every new build, however the access roads are not practical to serve such a busy a village.

This is already a busy and dangerous road, adding another 80 or so vehicles could result in some serious accidents or injuries.

This along with no speed calming measures and increase in pedestrians travelling to school is a safety risk which is not being addressed properly.

5.0 THE MAIN ISSUES

Principle of development having regard to relevant planning policy
 Layout, scale design character and appearance
 Access/parking
 Open space provision and loss of playing field
 Trees and landscape
 Ecology
 Impact on residential amenity
 Noise
 Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development having regard to relevant planning policy

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless other material considerations indicate otherwise.

6.1.2 The National Planning Policy Framework is a significant material consideration representing the Government's planning policy and should be taken into account where it is relevant to the planning application. Shropshire Council has in excess of a 5-year land supply for housing (6.42 years against local plan housing requirement -Five Year Supply Statement 2019) and consequently its housing policies within the local plan are up to date. Paragraph 12 of the NPPF states (emphasis applied):

*“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. **Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.**”*

- 6.1.3 The most relevant policies in determining whether this site is acceptable in principle for housing development are Core strategy policies CS1, CS4, and CS5 and SAMDev policies 14.2(v), MD1, and MD7a.
- 6.1.4 CS1 sets out the strategic approach for Shropshire and CS4 sets out that development will be allowed in Community Hubs and Community Clusters that *'helps rebalance rural communities by providing facilities, economic development or housing for local needs, and is of a scale that is appropriate to the settlement'*.
- 6.1.5 SAMDev MD1 identifies St Martins as a community hub and SAMDev policy S14.2(v) states:
- 'St Martin's is a Community Hub which will provide for future housing growth of about 200 homes to support existing facilities and services and to help deliver additional community recreation provision. As there is already planning approval for 110 dwellings in the village, this level of growth will allow for around a further 90 new dwellings. In addition to the preferred site allocation for 80 dwellings, there are opportunities for sustainable development by infilling, small groups of houses and conversions on suitable sites windfall sites within the development boundary.'*
- 6.1.6 Planning permission has previously been approved for development of the allocated site for 80 dwellings and the housing guideline for St Martins has already been exceeded. The site is not within the development boundary for St Martins and in terms of planning policy is situated in countryside
- 6.1.7 Both Core Strategy policy CS5 and SAMDev policy MD7a strictly control development in the countryside such that only limited types of development, such as conversion of buildings of architectural or heritage merit or accommodation for essential countryside workers and other affordable housing, is permitted.
- 6.1.8 The proposal is not for development that would be permitted in the countryside under policy CS5 and MD7a and therefore development of this site for open market housing would be contrary to the local plan policies identified as most relevant to the determination of this application and should not be supported unless there are material considerations that indicate otherwise.
- 6.1.9 **Material Considerations**
- 6.1.10 Considerations material to the determination of a planning application are considered further below. The weight to be attached to a material consideration is a matter for the decision taker. The material considerations relevant to this case start with the adopted development plan policy which is set out in paragraphs 6.1.3 to 6.1.8 above.
- 6.1.11 The local plan is at an advanced stage of review and the application site has been identified as a potential allocated housing site as part of this review. The applicant considers that weight should also be given to the emerging local plan and that this is an additional material consideration that together with the benefits set out in para 6.21 below should tilt the balance in favour of the development contrary to the

adopted plan.

- 6.1.12 The site is a proposed allocated site within the Local Plan Review (SMH038) with the following development guideline for 35 dwellings:

Development following appropriate relocation of existing site occupants.

Development to fund an appropriate estate road junction onto Overton Road.

Opportunities for retention and conversion of historic school building to be sought.

An assessment of whether the open space on the site is surplus to requirements must be undertaken. If this concludes the open space is not surplus, then an appropriate financial contribution will be required to fund the equivalent or better provision.

The scheme design should complement the site setting and reflect outcome of ecological and heritage assessments.

Provision of a suitable water supply and foul-water disposal which will not adversely affect the River Dee SAC must be demonstrated via HRA for this site to be developed.

The design and layout of development and appropriate boundary treatments should mitigate noise from the road to the east of the site.

The site will incorporate appropriate sustainable drainage, informed by a sustainable drainage strategy. Any residual surface water flood risk will be managed by excluding development from the affected areas of the site, which will form part of the Green Infrastructure network. Flood and water management measures must not displace water elsewhere.

- 6.1.13 With regards to the weight that can be given to emerging local plans the NPPF advises the following at paragraph 48:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);*
- and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- 6.1.14 The review of the Local Plan is at an advanced stage of preparation. The pre-submission draft of the local plan has just come to the end of a regulation 19 consultation and it is anticipated that a final version of the draft will be considered by Full Council later in 2021 and following this, if approved, would then be

submitted to the Planning Inspectorate for independent examination. It is anticipated the Examination process will last at least 12 months, and it is therefore hoped to move to adoption of the Local Plan in Summer 2022, subject to a successful Examination process.

- 6.1.15 In terms of the weight that might be afforded to the revised local plan the Council's Planning Policy team advises (emphasis applied):

“Paragraph 10.1 of the applicant’s Planning Statement argues the proposal is “fully Development Plan compliant”. It is strongly considered this is not the case.”

“The site is included as a proposed housing allocations for around 35 dwellings in the ongoing Local Plan review. The inclusion of the site in the Plan review has been subject to two significant consultations at the Regulation 18 stage of plan preparation in November 2018 and July 2020. Neither of these consultations have led to significant objections being made to the site’s inclusion as an allocated site. At the most recent consultation Welsh Water specifically provided comments on the site indicating that the public sewerage network was capable foul flows from the site. The Council still needs to assess the outcomes of the Regulation 19 consultation, although it is understood the Parish Council have indicated continued support for the inclusion of this site within the Local Plan.”

*“Notwithstanding the above, it remains the view that **the weight that can be attached to the emerging Local Plan Review as things stand is very limited.** The Plan needs to be subject to agreement to submit and then subject to an examination in public. It is the examination process, with the external scrutiny, which affords the Plan increased weight, with this process due to be undertaken during 2021 and early 2022”*

- 6.1.16 The key planning issues to consider in the context of the site not being policy compliant and the emerging local plan attracting very limited weight at this time, is whether material considerations are sufficient to outweigh this.
- 6.1.17 With regard to factors in support of the development, a substantial part of the site is previously developed land incorporating the former school buildings and hard surfaced areas. Paragraph 84 of the NPPF states:

“The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”

This would be a factor in favour of development in principle on the previously developed part of the site as it is well-related to the built-up area of St Martins. For clarification the definition of previously developed land excludes “*land in built-up areas such as residential gardens, parks, recreation grounds and allotments*”. In officers view this exclusion applies to the undeveloped green areas of the school, previously used for sport or recreation.

- 6.1.18 Another key benefit of the proposal is the provision of 13 affordable homes. There is a significant need to provide affordable housing across the County and St Martins is a location where housing market viability generates less affordable

housing to be policy compliant than other parts of the County, 10%. The policy requirement for this site would ordinarily deliver 3.5 affordable dwellings (the 0.5 being provided as a financial contribution). However, the Vacant Buildings Credit resulting from the former school buildings can be applied and as a consequence there is a reduced requirement for 1.33 affordable dwellings i.e. one affordable dwelling to ensure policy compliance, with the remaining fraction as a financial contribution.

- 6.1.19 The current proposal would provide an additional 12 affordable dwellings (originally 10 additional to policy but the applicant has extended the offer to provide 13 affordable dwellings overall) and this would be a significant factor if this were a policy compliant site. With regard to the current planning policy context the previously developed element of the site could potentially be redeveloped (in principle) on an open market basis subject to existing planning policy requirements. The remainder (around 50%) of the site could be developed on a rural exception site basis – i.e. 100% affordable housing provision. Therefore, in terms of achieving compliance for affordable housing against the current policy context across the whole site more than 50% of the properties (more than 18) would need to be affordable. The development as first proposed provides for 31% affordable. The applicant has offered to increase the number of affordable properties to 13 which would increase the contribution to 37%. This is not insignificant but still falls short of the point where a policy compliant case could be made at this time specifically with regard to affordable housing.
- 6.1.20 The timing of the consideration of this planning application is relevant to the potential outcome insofar as a determination for a planning application on this site once the local plan is adopted (mid 2022) is likely to be considered against an allocated housing site. The policy compliant affordable housing requirement would then only be 1.33 dwellings having regard to Vacant Buildings Credit as set out above. The reason for the planning application being submitted for consideration now is specifically to meet timeframes that the applicant is seeking to meet, linked also to deadlines set by external funders that support the delivery of the affordable housing. This is a finely balanced issue, the quantum of affordable housing offered now significantly exceeds what might be delivered if the site is allocated for housing once the local plan is adopted, however this application has to be assessed against the current planning policy context which, delivers an under- provision over the site as a whole (para 6.1.19 refers).
- 6.1.21 The applicant has submitted a supplementary statement to outline the benefits of allowing this proposal to be weighed against the conflict with the adopted development plan policies. This statement offers the 7 benefits with officer comment below:

All homes will be built to future homes standard which means that they are at least 20% more energy efficient than a typical new build property. This is a key objective of the recently approved Climate Change Strategy to push up building standards. This scheme will be an exemplar to other builders on how sustainable standards can be improved in an efficient and cost-effective manner.

Comment: This is welcomed as good practice and could attract some limited weight

in the planning balance

CDL are proposing to add traffic calming measures to the North entrance into St Martins at the request of the Parish Council. These works would be over and above the measures that have been requested by the highway authority for this development.

Comment: This is welcomed as good practice and it is not required to make the scheme acceptable in planning terms but attracts support from the community.

CDL are providing 11 affordable houses on a development which will deliver 35 homes in total (31%). We note the recently approved scheme for 80 units at St Martins will be delivering 8 affordable homes of a lower spatial standard. The provision of affordable housing is a corporate priority of Shropshire Council.

Comment: This is clearly material and a significant issue, the offer has been extended to 13 affordable homes (37%) but as stated in paragraph 6.1.19 when assessed against the current local plan would not achieve policy compliance having regard to the site overall.

The property mix proposed for the site is in-line with the request from Housing Strategy and the Parish Council with a number of bungalows and entry level homes being built on the site. We are also introducing a local connection criteria in partnership with the Parish Council. –

Comment: This is necessary for policy compliance.

The site will offer a range of tenures including low-cost home ownership, market sale and affordable rent. We note the lack of availability of low-cost home ownership homes in St Martins.

Comment: This supports policy compliance.

All housing is designed to meet NDSS standards, and offer flexible living spaces, providing facilities for home working and schooling. These space standards are not currently offered within proposed new development within St. Martins, and ensures that Cornovii Developments are able to offer housing suited to the needs of families, as new methods working and schooling prevail.

Comment: A welcome benefit and something that is being sought on new development more widely.

Land to the SW of the site will be landscaped to form a POS, which will include a nature walk, and an installation providing historical information related to the Ifton school, in order to underline the heritage of both the school site, and its historical importance within the village.

Comment: The proposed open space provides 148 square metres of additional open space over the policy compliant amount of 3,060 square metres (based on the number of persons/beds) and could attract some limited weight in the planning

balance (see paragraph 6.4 below).

- 6.1.22 The applicant has also offered to make a contribution of £30,000 in lieu of the loss of the existing school playing field to help deliver sports pitches elsewhere in the community. This is required to make the scheme acceptable in planning terms having regard to the relevant policy requirement.
- 6.1.23 The benefits of the proposal also need to be considered against dis-benefits. The application includes the demolition of the former Ifton school, a traditional redbrick building occupying a prominent part of the site adjacent to Overton Road. This is considered to be a non-designated heritage asset, it is not listed or situated in a conservation area but clearly a building of some architectural quality and valued by members of the community. The retention and conversion of this building would be acceptable in policy terms and would be supported by CS5 and MD7a as referred to in paragraph 6.1.8 above.
- 6.1.24 With regards to the loss of heritage assets the NPPF states the following:

197. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Core Strategy policy CS17 seeks to ensure that all development contributes to local distinctiveness, having regard to the quality of Shropshire's heritage assets, and protects and enhances the diversity, high quality and local character of Shropshire's built and historic environment, and does not adversely affect the visual, ecological or heritage values of these assets. SAMDev policy MD13 states that the loss of a non-designated heritage asset will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect. The provision of a significant amount of affordable housing is considered to be of public benefit but the current proposal is not considered to provide sufficient affordable housing to outweigh both the conflict with policy MD13 (loss of a non designated heritage asset) and the policies identified relevant to the location and provision of housing within the adopted development plan.

- 6.1.25 The applicant has been asked to consider retaining the historic part of the school building and converting it to provide 3 dwellings which would comply with policy that allows for the conversion of buildings of heritage and/or architectural merit, this is also an objective of the emerging local plan should the site be allocated for housing (6.1.12 refers). This could provide 3 or more open market dwellings through conversion and leave 29 new build 13 of which would be affordable. A scheme such as this that included a policy compliant element (conversion) and more affordable housing could be viewed more favourably and supported at this time in advance of the local plan review.
- 6.1.26 An independent viability assessment has been undertaken and indicates that a proposal to include conversion of the old part of the school to 3 units and the provision of 29 new build houses including 13 affordable units would be viable and

this scheme provides a benchmark land value (BLV). Using this BLV an alternative scheme for 35 new build dwellings including demolition of the school that provided 18 affordable units and 17 open market would also be viable and provide a residual land value the same as the BLV.

6.1.27 The applicant has been asked to consider offering 18 affordable houses instead of the 13 now offered but has not agreed to this on the grounds that this would render the project unviable and the findings of the viability assessment are also disputed by the applicant.

6.1.28 In conclusion it is considered that the development of this part brownfield site for a scheme that currently provides 35 new build homes including 13 affordable homes with traffic calming measures offers insufficient material considerations or benefits to outweigh the harm of the conflict with the currently adopted plan and does not provide sufficient public benefit that would compensate for the loss of the old school building considered to be a non-designated heritage asset.

6.2 **Layout, scale, design character and appearance**

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.2 The applicant has undertaken an assessment of the village having regard to the type and design of residential properties and proposes a form of development that has some traditional characteristics with brick elevations and ridged rooves albeit expressed in a contemporary idiom with crisp detailing arranged in a broadly conventional form with street frontages parallel to straight roads. A mix of detached and semi-detached properties are proposed no more than two storeys in height.

6.2.3 The houses consist of a mix of 1, 2, 3 and 4 bed properties of which 3 are bungalows. The former school building would be replaced with three pairs of semi-detached properties occupying a similar position facing Overton Road with parking to the rear and some soft landscaping. The School House is proposed to be retained as a single dwelling. The overall layout, scale, design and appearance of the development and landscaping of the site is considered acceptable and would have no significant adverse impact on the character and appearance of the locality or adversely impact on existing residential amenity.

6.2.4 The demolition of the part of the school building considered to be a non-designated heritage asset is however not considered to be acceptable without significant public benefit being provided to outweigh this loss as outlined in paragraph 6.1.24 above. At this point in time it is not considered that the proposal offers significant benefit to outweigh the loss of this building. If the site was already an allocated site, the proposal would still be required to offer public benefits to allow the loss of this building.

6.2.5 The applicant's latest noise assessment recommends that a 1.8m acoustic fence be provided along the front boundary to mitigate against noise. It is considered that this would be visually prominent and would require careful design, the details of which have not yet been submitted and should committee support the application details of this would need to subject to a planning condition requiring the detailed design to be first agreed.

6.3 **Access/parking**

6.3.1 Access to the site is by way of a junction with Overton Road in the vicinity of the current school vehicular access to the northern part of the site. The carriageway terminates in a series of cul-de-sacs and each carriageway has a footway either side. A pedestrian path through to Overton Road is provided toward the centre of the site. Each property has two parking spaces. Highways have no objection to the proposal.

6.4 **Open space provision and loss of playing field**

6.4.1 The former playing field forms part of the application site and the proposal would result in the loss of this field. Paragraph 97 of the NPPF states the following with regards to development on playing fields:

97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

6.4.2 An 'Open Space & Playing Fields Assessment' and 'Further Statement' have been submitted which states that '*Full compensatory playing fields and open space were provided by the St Martins school (which holds academy status) when the new School was constructed in the settlement*'. No new school has been constructed and no new playing fields have been provided at St Martins school (previously known as Rhyn Park) since the primary school closed in 2012.

6.4.3 The current SAMDev policy settlement policy 14.2(v) identifies infrastructure investment priorities for St Martins and states that there is a recognised under provision of space for sport and recreation. It is an aspiration of the Parish and the community to provide additional outdoor sports facilities and planning permission 19/01268/FUL has been approved for outdoor sports pitches but has not yet been implemented. The S106 attached to planning permission 19/03995/FUL for the erection of 80 homes in St Martins secured the offer of the land to the PC that planning permission 19/01268/FUL relates to but does not include any funding.

6.4.4 No facilities have been provided in the St Martins area since the primary school

closed and that whilst it is good that land has been set aside for new sports pitches (secured by the planning permission for 80 houses) nothing has yet been provided and without a significant sum of money the scheme is unlikely to be delivered.

- 6.4.5 It is considered that the information submitted does not adequately demonstrate that the former playing field at the rear of the site is surplus to requirements and so alternative provision or a financial contribution is required to mitigate this loss. The SC Leisure Services officer has confirmed that the developer of the Ifton Heath site should be required to make an appropriate financial contribution to help deliver these sports pitches and that taking into account the relative small size of the playing field to be lost (equitable to a mini pitch), that a sum of £30,000 would be appropriate. This sum should be secured to put towards the St Martins project or used on other projects with the Oswestry Place Plan Area and as per the projects and recommendations set out in the Playing Pitch and Outdoor Sports Strategy and Action Plan.
- 6.4.6 The applicant has agreed to make a contribution of £30,000 to mitigate the loss of the playing field and considers that this should be seen as another benefit of the proposal to weigh in favour of the proposal. However, this contribution is not over and above what would be required for development of this site to comply with policy.
- 6.4.7 MD2 requires that open space should be provided at 30 square metres per bed space. The revised proposal provides for 102 bedrooms generating a requirement for 3,060sq m of public open space. The application makes an over provision of 148 square metres of open space against this requirement of 3,208. The majority of the open space is provided in an area that includes a number of established trees and provides a nature walk. Whilst this open space provides valuable outdoor amenity space it does not offer opportunity for sport and does not compensate for the loss of a playing field which is why it is essential and necessary that the development provides a contribution toward sport facilities elsewhere within the community.

6.5 **Trees and landscape**

- 6.5.1 A landscape proposal has been provided and reviewed by both the SC Tree Officer and Ecologist. The proposal would not result in the loss of any significant trees and the recommended conditions would ensure the protection of trees to be retained and the establishment and sustainability of those to be planted. It is considered that the submitted landscaping plan is satisfactory and a condition could ensure the implementation and future management and maintenance of open space and landscaped areas not within private gardens.

6.6 **Ecology**

- 6.6.1 Ecology surveys have revealed the presence of bats within some of the buildings to be demolished. Mitigation and compensation measures have been submitted that will include the provision of bat boxes, and other ecological enhancements such as bird boxes are recommended.

6.6.2 SC Ecology team has confirmed that the proposed development will not be detrimental to the maintenance of the population of bats at a favourable conservation status within their natural range provided that the recommended conditions are included in any decision notice for approval and are appropriately enforced. Work proceeding in accordance with these conditions will ensure the protection of wildlife and the provision of ecological enhancements required by policy MD12 and CS17. A European Protected Species licence will be required for the proposed work. The ‘three tests’ must be satisfied in all cases where a European Protected Species may be affected by a planning proposal and where derogation under Article 16 of the EC Habitats Directive 1992 would be required, i.e. an EPS licence to allow an activity which would otherwise be unlawful. In case the application was recommended for approval an EPS 3 tests matrix has been provided by the Ecologist with part 3 completed and is included in appendix 1 of this report.

6.6.3 If the application was being recommended for approval tests 1 and 2 would need to be considered and completed. Test 1 requires the decision maker to determine whether the development is ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment?’ Here the provision of housing and in particular affordable housing is in the public interest and the issue in weighting the benefits of the affordable housing is whether this meets the requirements of the first test. Officers conclude that it does not in the current planning policy context. Test 2 requires the decision maker to consider whether there is ‘no satisfactory alternative?’ As outlined in the report above officers consider that the development proposed is not acceptable in light of the current planning policy context and it is considered that there are alternatives for the development of this site that could offer overriding and more significant public benefits of a social or economic nature than currently proposed.

6.7 Impact on residential amenity

6.7.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development ‘*creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*’.

6.7.2 Having regard to density, plot sizes and property separation distances it is considered that the proposed design and layout is considered to be policy compliant in terms of the amenity impacts for existing and future residents. However, mitigation for surrounding noise sources for future residents is not at the time of writing resolved.

6.8 Noise

6.8.1 In response to comments made by Regulatory Services with regard to potential noise impacts from the Overton Road and from established commercial sites to the North and west of the application site the applicant has provided a revised Noise

Impact Report. The report assesses the potential impact of noise on future occupants of the development and responds to comments made by the Council's regulatory services team. It concludes:

“Openable windows may not be relied upon as a means of background ventilation, and an alternative ventilation strategy should be offered such as appropriately specified trickle ventilators (with openable windows for rapid ventilation/cooling on facades not facing Overton Road or Ridgway Rentals).”

An assessment of industrial noise impacts from the existing Ridgway Rentals site has been carried out. Although the BS4142 assessment as indicated a probability of adverse impact externally to the houses to the very north of the site, through consideration of the site context and embedded mitigation afforded by the control of environmental noise intrusion it has been demonstrated that incident noise from industrial activities can be controlled to an internal level sufficiently low as to minimise the risk of complaint due to internal noise levels.”

- 6.8.2 The applicants noise impact report also recommends the provision of acoustic fencing to the front of properties facing Overton Road as follows:

“we recommend that a 1.8 m high close boarded timber fence with a minimum surface mass of 10 kg/m² is indicated in the location indicated in Section 8.0. This could be achieved using two or more layers of a wide range of materials including, for example, plywood or equivalent sheeting board to a suitable thickness required to achieve the mass per unit area. All junctions should be staggered.”

- 6.8.3 At the time of writing comments are awaited from Regulatory Services with regards to the latest Noise Impact report recommendations. The report was received on 24th February and while responding to the acoustic issues may generate other planning considerations such as the visual impact of a 1.8M acoustic fence adjacent to the footway boundary with Overton Road. Should this be considered necessary to address Regulatory Services requirements then the specific siting and design would also need to be agreed in the event of the application being approved so that the impact on the street scene can be taken into account and the detailed design together with any landscape mitigation provided.

6.9 Drainage

- 6.9.1 As the site is greater than 1ha a flood Risk Assessment has been submitted for consideration. In the further statement dated 8 February 2021 revised Catchment and Drainage Strategy Reports are referred to but these reports have not been submitted. WSP (on behalf of SC drainage) have advised that revised drainage details, plans and calculations should be submitted for approval based on the revised site plan. They have also commented that discharging of private surface water from the development site into the highway drain is subject to obtaining consent from the Highway Authority.

- 6.9.2 As a satisfactory drainage scheme has not yet been provided WSP have recommended a pre-commencement condition requiring a scheme of surface and

foul water drainage to be submitted to and approved in writing by the Local Planning Authority. The applicant has agreed the imposition of such a condition on any approval.

7 CONCLUSION

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 7.2 The settlement of St Martins is identified as a Community Hub in the Policy S14.2(v) of the adopted SAMDev Plan, which includes a housing requirement of around 200 dwellings over the plan period. In delivering this requirement, the Plan identifies a specific allocation (STM029) for 80 dwellings. The latest monitoring data indicates the settlement is delivering well against its planned requirement, and therefore it is considered SAMDev Policy MD3 (3) is not engaged. The application is for residential development of a site that is not allocated for development and the proposal is therefore contrary to the adopted development plan as it conflicts with Core Strategy Policies CS1, CS2, and CS5 and SAMDev Policies S14.2(v), MD1, and MD7a.
- 7.3 It is acknowledged that there is a benefit in bringing forward housing delivery and in utilising previously developed land. The delivery of 35 new build homes and in particular the provision of 13 affordable homes is a significant benefit to the scheme. Other benefits include additional traffic calming, open space and a contribution to the provision of sports facilities in the community. However the overall benefits are not considered sufficient to outweigh the harm of the conflict with the adopted local plan and do not provide sufficient public benefit that would compensate for the loss of the old school building considered to be a non-designated heritage asset. The presumption in favour of sustainable development outlined in paragraphs 11 and 12 of the NPPF is not engaged as Shropshire Council has a 6.42year housing land supply and local plan policies relevant to the determination of the application are therefore up to date. Furthermore, very limited weight can be given to the emerging development plan as the local plan review has not yet reached a sufficiently advanced stage.
- 7.4 In addition, the noise mitigation strategy recommended on behalf of the applicant has not been supported by any design details and so the visual impact of this should it be necessary in support of the proposal has not been assessed. The European Protected Species three test matrix is not met as a consequence of the planning balance not demonstrating an overriding benefit from the development to outweigh the conflict with the adopted plan.
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they

disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 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.

8.3 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.

9.0 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.

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS1, CS4, CS5, CS17, S14.2(v), MD1, MD2, MD7a), MD12 and MD1

11. Additional Information

List of Background Papers

Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder) - Councillor Gwilym Butler

Local Member - Councillor Steven Davenport

APPENDIX 1: EPS 3 Test Matrix (Test 1 and Test 2 to be completed if recommended for approval)**European Protected Species Three Tests Matrix**

Test 3 completed by Shannon Davies Planning Ecologist

shannon.davies@shropshire.gov.uk

Test 1

Is the development 'in the interests of public health and public safety, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

Test 2

Is there '**no satisfactory alternative?**'

Test 3

Is the proposed activity '**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range'?

Bat surveys between May and June 2020 identified the following bat roosts in the buildings:

- Building B1 – day roost for low numbers of common pipistrelle bats;
- Building B2 – infrequently used day roost for low numbers of lesser horseshoe bat, day roost for low number of common pipistrelle bats; and,
- Building B3 - infrequently used day roosts for low numbers of lesser horseshoe and brown long-eared bats.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

Section 7 of the Dusk Emergence and Dawn Re-entry Bat Survey & Mitigation Strategy (Middlemarch, Environmental Ltd, February 2021) sets out the following mitigation and compensation measures, which will form part of the licence application:

Pre-works survey

A pre-works survey will be undertaken immediately prior to any building or demolition works taking place. This will comprise a daytime assessment and a nocturnal emergence survey (where weather conditions and seasonality permit). This will ensure that the bat roosting status of the site has not altered since the activity surveys were undertaken. If the status has not altered, then works can proceed as per the Natural England licence. If the status of the bat roost has changed, advice will be sought from Natural England.

New Roost Creation

Due to the presence of roosts of void dwelling bat species on site, in particular the present of

lesser horseshow bat, it will be necessary to construct a 'bat barn' prior to the demolition of buildings B2 and B3. This will be constructed at the location shown on Drawing C152069-02-05 in Chapter 8. This approach has been discussed and approved by the client. The 'bat barn' will have features incorporated into the design to provide replacement roosting habitat for both crevice dwelling (e.g. common pipistrelles) and void dwelling species (e.g. brown long-eared bats and lesser horseshoe bats). The structure will also provide a shelter and seating area for residents using the area. The design of the structure and key features for bats are shown on drawings C152069-02-05 to -09 in Chapter 8.

Additional bat box features proposed at the site can be found in the Dusk Emergence and Dawn Re-entry Bat Survey & Mitigation Strategy report (Middlemarch, Environmental Ltd, February 2021).

Timing of Works

No timing restrictions will be necessary for works to roosting locations within the buildings as they contain only day roosts. The construction of the bat barn will need to be completed prior to the demolition of any buildings which contain bat roosts.

Toolbox Talk

Prior to any works taking place on a building containing a bat roost, a 'toolbox' talk by a suitable experienced ecologist will be held with the site team in order to ensure that the contractors are aware of the bat issues associated with the site. This 'toolbox' talk will discuss the appropriate methodologies to remove the features around the building to ensure that no harm to bats occurs.

Ecological Clerk of Works

All suitable bat roosting features present on Buildings B2 and B3 will need to be removed by hand under supervision of a licensed bat worker.

If at any point a crevice dwelling bat is discovered during the exclusion works then it will be caught by hand, placed in a cotton bag and transferred to one of the bat boxes installed on the site. If a void dwelling species is discovered, then it can be placed directly into the created bat barn.

The site works will not be undertaken when it is raining to ensure that bats do not get wet when re-located to their new roost location. The bat boxes are suitable for year-round use by crevice dwelling bats.

Any recovered bat droppings found during the works will be relocated to the bat boxes or bat barn installed on site prior to works commencing.

In the unlikely event that a bat becomes injured, any injured bats will be immediately taken into care (as directed by the Bat Workers Manual, 2004). Details of a local experienced bat carer are known.

Unexpected Bats Following Completion of Exclusion Works

If a bat is discovered unexpectedly, works to the building will stop immediately (to prevent any bat being disturbed or harmed) and the named ecologist or accredited agent on the licence granted will attend the site. The mitigation installed on site is appropriate for year-round use and the bat worker will relocate any discovered bat using the methodologies detailed above. The site will be re-assessed or if an amendment to the licence needs to be submitted to prevent breaches of the licence granted by Natural England.

Lighting

Any new lighting should be designed in accordance with the principles of 'Landscape and

Urban Design for Bats and Biodiversity’ as published by the Bat Conservation Trust (Gunnell et al, 2012). In particular, lighting should not impact on the boundary vegetation, or retained vegetation south of the development, or upon the bat barn. Materials used under lights, such as floor surfaces, should have a minimum reflective quality to prevent light reflecting upwards into the sky. This will ensure that bats using the site and surrounding area to roost/forage/commute are not affected by illumination.

The design of any lighting strategy for the site should be discussed with and approved by Middlemarch Environmental Ltd to ensure that no roosting locations installed on site are subject to illumination and connectivity between roost sites and foraging grounds is maintained.

I am satisfied that the proposed development will not be detrimental to the maintenance of the populations of Common Pipistrelle, Lesser Horseshoe and Brown Long-eared bats at favourable conservation status within their natural range, provided that the conditions set out in the response from Shannon Davies to Jane Raymond (dated 25th February 2021) are included on the decision notice and are appropriately enforced. The conditions are:

- European Protected Species Licence;
- Working in accordance with protected species survey reports;
- Ecological Clerk of Works condition (bats) – this includes confirmation of the roost provision as stated in the Dusk Emergence and Dawn Re-entry Bat Survey & Mitigation Strategy (Middlemarch, Environmental Ltd, February 2021) report.
- Lighting plan.

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Committee and Date
 Northern Planning Committee
 9th March 2021

Item
6
 Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

SCHEDULE OF APPEALS AS AT COMMITTEE 9th MARCH 2021

Appeals Lodged

LPA reference	19/05044/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Griffiths
Proposal	Erection of one dwelling; creation of vehicular access; works to trees and landscaping scheme
Location	West Of Houlston Lane Myddle
Date of appeal	04.11.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	

LPA reference	19/03607/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A Middleton
Proposal	Application under section 73A of the Town and Country Planning Act 1990 for the erection of family annexe replacing previous double garage with roof store over (Resubmission)
Location	Trefarclawdd Lodge Coed Y Go Oswestry
Date of appeal	26.01.2021
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	20/01180/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Robert Yale
Proposal	Removal of Condition No. 9 (remove the permitted development rights) attached to planning permission 12/05149/FUL
Location	Mount View Mount Pleasant Cottages Lockleywood Hinstock Market Drayton TF9 2LS
Date of appeal	25.06.2020
Appeal method	Written Representations
Date site visit	03.11.2020
Date of appeal decision	11.02.2021
Costs awarded	
Appeal decision	ALLOWED

LPA reference	20/01102/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr D Petrie
Proposal	Application under Section 73a of The Town and Country Planning Act 1995 for the retrospective siting of one shipping container for storage purposes; erection of 2m high fencing to front boundary
Location	Land Adjacent To 4 The Croft Bellaport Road Norton In Hales
Date of appeal	23.10.2020
Appeal method	Written Representations
Date site visit	10.02.2021
Date of appeal decision	16.02.2021
Costs awarded	
Appeal decision	Dismissed



Appeal Decision

Site visit made on 3 November 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th February 2021

Appeal Ref: APP/L3245/W/20/3253848

Mount View, Lockley Wood, Market Drayton, TF9 2LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Robert Yale against the decision of Shropshire Council.
- The application Ref 20/01180/VAR, dated 12 March 2020, was refused by notice dated 21 April 2020.
- The application sought planning permission for erection of an affordable dwelling and formation of a new vehicular access without complying with conditions attached to planning permission Ref 12/05149/FUL, dated 4 June 2013.
- The conditions in dispute are Nos 4 and 9 which state that:
 - 4) *Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 or any Order modifying, revoking or re-enacting that Order, the dwelling hereby permitted, shall not exceed 100sqm gross internal floor area, including any future extensions or alterations.*
 - 9) *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-*
 - *extension to the dwelling*
 - *free standing building within the curtilage of the dwelling*
 - *addition or alteration to the roof*
 - *erection of a porch*
- The reasons given for these conditions are:
 - 4) *To ensure that the dwelling is of a size appropriate to the local affordable housing market.*
 - 9) *To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.*

Decision

1. The appeal is allowed and planning permission is granted for erection of an affordable dwelling and formation of a new vehicular access at Mount View, Lockley Wood, Market Drayton, TF9 2LS in accordance with the application Ref 20/01180/VAR dated 12 March 2020, without compliance with condition numbers 4 and 9 previously imposed on planning permission Ref 12/05149/FUL dated 4 June 2013, and subject to the following conditions:
 - 1) The development shall be carried out strictly in accordance with the approved plans and drawings.

- 2) The new (affordable) dwelling hereby permitted shall be constructed to an equivalent to the Code for Sustainable Homes, level 3 star rating, for energy and water efficiency and meet the Lifetime Homes standard.
- 3) The development shall be carried out in accordance with the external materials approved under permission Ref 13/02279/DIS.
- 4) The access, parking and turning areas shall be satisfactorily laid out and completed in accordance with the approved plan SA9855/01 Revision C.
- 5) The garage(s) hereby approved shall not be used for any purpose other than those incidental to the enjoyment of the dwelling hereby approved but not including use as living accommodation.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no outbuildings, as permitted by Class E of Part 1 of Schedule 2 of that Order, shall be erected other than those expressly authorised by this permission.

Procedural Matters

2. A deed of variation pursuant to the original s106 agreement attached to permission Ref 12/05149/FUL has been submitted as part of this appeal. It is signed and dated, and I have taken it into account in reaching my decision.
3. The application sought to remove condition 9 of permission Ref 12/05149/FUL only. However, condition 4 of that permission is also directly relevant to the matters under dispute as it requires that the dwelling "*shall not exceed 100sqm gross internal floor area, including any future extensions or alterations*". This effectively precludes any further additions to the building, and so I have considered it as being under dispute in determining this appeal.

Main Issue

4. The main issue is whether the disputed conditions are reasonable and necessary in order to protect the character and appearance of the area.

Reasons

5. The appeal building consists of a recently constructed detached property on the north western side of Marl Pitt Lane. It is set within a relatively generous plot and is largely surrounded by open countryside.
6. The removal of the disputed conditions would allow for a number of extensions and alterations to be made to the building under permitted development rights. These would include extensions to the side and rear of the house, additions and other alterations to the roof, and the construction of porches and outbuildings. In this regard, the appeal property is set back within its plot and there is limited space to accommodate a new rear extension. Whilst an extension could be constructed to the side, this would be only single storey in height. In my view, any such extensions would be relatively modest in scale and would not result in significant harm to the visual amenities or openness of the area. They would also leave ample garden space remaining to serve the property.
7. Any porch installed under permitted development rights would also be limited in size. Similarly, any additions or alterations to the roof would be modest in

scale and subject to the limitations set out under the Order. Such alterations would not be harmful to the character and appearance of the area in my view.

8. In addition, the removal of the disputed conditions would allow for the construction of an outbuilding or series of outbuildings within the curtilage of the property. Given the shape of the plot, and the position of the existing garden area, this would allow for a substantial and visually prominent outbuilding or outbuildings that could remove much of the existing garden space. This has the potential to significantly harm the character and appearance of the area, and reduce the size of the outdoor amenity space to an unacceptable degree. In these circumstances, I consider it necessary to remove permitted development rights relating to outbuildings. However, the other restrictions set out in disputed conditions 4 and 9 are unnecessary in this case. Whilst the Council state that an extension to an affordable dwelling should only be allowed in 'exceptional circumstances', that test is not specified in any development plan policy that is before me.
9. For the above reasons, I conclude that the disputed conditions are unnecessary insofar as they relate to permitted development rights for extensions, additions and other alterations to the roof, and porches. The removal of these restrictions would not significantly harm the character or appearance of the area and would therefore accord with Policies CS5 and CS6 of the Shropshire Core Strategy (2011), and Policies MD2 and MD12 of the Shropshire Site Allocations and Management of Development Plan (2015). These policies seek to ensure, amongst other things, that new development is of good design and does not harm the character and appearance of the countryside. Whilst there would be some conflict with guidance in the Type and Affordability of Housing SPD (2012), that is outweighed by the lack of any significant harm in this case.
10. However, it is reasonable and necessary to restrict permitted development rights in relation to outbuildings in order to protect the character and appearance of the area, and to ensure that adequate garden space is retained. I have therefore removed the disputed conditions and replaced them with a new condition that reflects this approach.

Other Matter

11. The s106 agreement ensures that the dwelling's resale value is restricted as if it were still a maximum of 100 square metres in floorspace, regardless of any extensions that are constructed. Accordingly, the use of permitted development rights would not affect its contribution to the supply of affordable housing in the area. The proposal would therefore be consistent with the aims of Policy CS11 of the Shropshire Core Strategy (2011) and Policy MD7a of the Shropshire Site Allocations and Management of Development Plan (2015).

Undisputed Conditions

12. Planning Practice Guidance states¹ that decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate those imposed on earlier permissions that continue to have effect. In this regard, the Council has confirmed that previously imposed conditions 5-7, which were pre-commencement in nature, were discharged under permission Ref

¹ Paragraph Ref 21a-040-20190723

13/02279/DIS. Accordingly, I have not re-attached conditions 6 and 7, and have amended condition 5 to reflect the approved materials.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions, but substituting another, and restating those undisputed conditions that are still subsisting and capable of taking effect.

Thomas Hatfield

INSPECTOR



Appeal Decisions

Site visit made on 10 February 2021

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2021

Appeal Ref: APP/L3245/W/20/3261855

Land adjacent to 4 The Croft, Bellaport Road, Norton In Hales TF9 4AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Petrie against the decision of Shropshire Council.
- The application Ref 20/01102/FUL, dated 10 March 2020, was refused by notice dated 28 April 2020.
- The development proposed is the siting of a shipping container for storage of farm machinery/tools and the erection of a close-boarded fence.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the fence and container on the character and appearance of the area.

Reasons

3. The site is a roughly square piece of grassed land that sits in a small cluster of dwellings in the countryside away from any other settlement. Both the fencing and the container subject of this appeal are present now.
4. The solid tall timber fence is at the front of the site by the lane, and runs close to the back of the unadopted passing place. Its height, length and finish mean it is an unduly stark feature when seen from the lane, and it has a harshness and dominance that is appreciably at odds with the character and appearance of this rural area. I saw nothing similar in the locality. Although tall hedging on embankments is on the opposite side of the road, that is a softer feature that is more varied in its textures and colours and, as it comprises substantial planting of a sympathetic nature, it fully reflects the surrounding countryside. As such, its impact is not comparable to that of the fence before me. Therefore, I find the front fence, even accounting for the effect of future weathering, has an unacceptable effect on the character and appearance of the locality.
5. The appellant has offered to plant a hedge between the fence and the back of the passing place. That though would take a while to become established, and there is no certainty the fence would not be visible above or through that hedge. As such, it does not allay my concerns. I am also aware that a lower fence could be erected here as 'permitted development', but it is reasonable to assume the impact of that would be less pronounced.
6. I was told the fence was needed to provide security for the site. However, I have no evidence to show issues of security on this relatively small grassed

- area warrant such measures, or, given the absence of fencing at one end of the site, that this would be effective.
7. Turning to the large container, this is near the back of the site (although aerial photographs show it being positioned elsewhere in the past). It has an urban, industrial appearance that again relates poorly to this cluster of houses in this remote countryside location and appears as a discordant and dominant element. While it is screened to some extent at the moment by the fence, as I have found that to be unacceptable its presence does not overcome the adverse impact I have identified. In any event, the container can still be seen from the neighbouring houses. As such, I find this too appreciably harms the character and appearance of the surroundings.
 8. I understand there used to be a building on the site, but that has now gone and I have no details of its appearance, so the weight it can be given in my reasoning is limited. While the container was said to be to accommodate the small amount of equipment needed to manage the land, if that was deemed to be an adequate justification, I see no reason why such storage could occur only in something of this design. If the site was in a domestic garden the container may well be 'permitted development' but that is not the situation and so does not affect my findings.
 9. The appellant referred to examples elsewhere where fencing and containers had been allowed, either by the local planning authority or on appeal. I have relatively few details of those schemes and so the weight they can be given is not great. In any event, the appellant fairly accepts the circumstances of the Bicton example were different while the Llanymynech fence was in a domestic setting in a settlement. It was found that the fences at Onibury and Walford Heath were not out of character with their locations but, as I am unaware as to what those locations were, I can give limited weight to this. I note though that the solid timber fence at Walford Heath differed to this fence on Bellaport Road as it was to the side of the site rather than the front, and was by a commercial property. At Leebotwood the containers were deemed to cause only limited harm in the context of the existing adjacent buildings and operations, but such a context does not apply to the appeal before me. Finally, in the Doncaster example the Inspector said the very limited harm caused by the containers was outweighed by their role. However, neither that level of harm nor the weight attached to the need for the container are conclusions I share in this appeal. There are undoubtedly some instances where containers and tall fencing would be acceptable or where adverse impacts could be mitigated by planting but, for the reasons stated, I consider this appeal is not such an example.
 10. Accordingly, I conclude that the fence and the container detract unacceptably from the character and appearance of the area, thereby conflicting with Policies CS05, CS06 and CS17 in the *Shropshire Local Development Framework: Adopted Core Strategy*, and Policies MD2 and MD12 in the *Shropshire Council Site Allocations and Management of Development Plan*, which together among other things seek good design that respects the local distinctiveness of an area. I am aware of no material considerations to outweigh this harm or justify a decision other than in accordance with the development plan.

Other matters

11. The proposal is not for a change of use, and given the scale and nature of the land I see no reason why the use of this container should give rise to

unacceptable levels of noise. Moreover, although it is no doubt visible from the neighbouring, the height of the container and the presence of the intervening hedge mean it does not detract unacceptably from their outlook. As such, the scheme does not cause unacceptable harm to the living conditions of those residents.

Conclusions

12. For the reasons stated I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR

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