

allowing a new dwelling in the countryside are in fact met, and the proposal is contrary to Policies CS1 and CS5 of the Shropshire Local Development Framework Adopted Core Strategy, plus SAMDev Plan Policy MD7a.

UPDATE REPORT

1.0 Purpose of report

- 1.1 This application seeks full planning permission to erect a single-storey 'affordable' dwelling for occupation by a named individual confirmed by the Council's Housing Enabling Officer as being in local housing need.
- 1.2 At a meeting on 18th December 2018, members of the Planning Committee agreed to approve the application and grant permission, subject to prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990, to secure the development as an affordable home for occupation solely by qualifying local people in perpetuity. This is essential because the site is in open countryside, outside any settlement designated for new open-market housing under the relevant Local Plan policies. However, the agreement remains un-concluded, and hence planning permission has not been issued. This update report therefore invites members to consider a revised recommendation to refuse the application instead.
- 1.3 An additional complication is that the land is now being marketed as a "building plot with planning permission in place". This issue, too, is discussed further below.
- 1.4 For background and ease of reference, the case officer's original committee report and recommendation are attached as Appendix A.

2.0 Section 106 agreement

- 2.1 It is understood that the requisite Section 106 agreement has in fact been prepared and has been signed by the applicant, but has not been concluded because of delays at the Land Registry in registering the release of a third-party charge on the land. Officers appreciate that this is to some extent outside the applicant's control, and that attempts to resolve the issue are ongoing. Ultimately, however, the fact that the matter remains unresolved after almost three years gives rise to doubts over whether there is any serious commitment to the agreement being concluded. Thus, given that the development would be fundamentally unacceptable without the agreement, refusing planning permission is now recommended instead.

3.0 Marketing of site

- 3.1 The reference to a building plot in the recent sales particulars for Jays Farm raises the question of whether the development proposal is actually speculative as opposed to meeting a specific local housing need, which would be contrary to Paragraph 5.11 of the Council's *Type and Affordability of Housing* Supplementary Planning Document. However, the Housing Enabling Officer understands from the marketing agent that this is in fact an error, and that it is not in fact intended to sell the application site itself.

3.2

The Council's position is further protected by the fact that if the plot *were* to be sold without the Section 106 agreement having first been concluded, there would be no question of the planning permission being issued. On the other hand, if the agreement does end up being completed, planning permission granted and a sale agreed subsequently, the permission could only be implemented by someone else assessed as being eligible for an affordable home. Indeed, the same could happen in any other instance where an affordable dwelling has been approved but not yet built.

3.3

On balance, therefore, it is suggested that this second issue does not in itself warrant refusing planning permission (although it does again emphasise the importance of bringing the matter to a close).

5.0 **Conclusion**

5.1

Overall, whilst the marketing of the land is not felt to be the deciding factor, officers maintain that the failure to conclude the Section 106 agreement within a reasonable timescale makes it appropriate to now refuse planning permission on the basis that it has not been possible to secure the development as an affordable dwelling, which in turn means the application fundamentally conflicts with the relevant development plan policies.

APPENDIX A:

**COPY OF OFFICER REPORT AND RECOMMENDATIONS
CONSIDERED AT 18TH DECEMBER 2018 SOUTH PLANNING COMMITTEE MEETING**



Committee and date

Item
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: 18/02384/FUL	Parish:	Hope Bagot
Proposal: Erection of affordable dwelling and installation of septic tank (revised scheme)		
Site Address: Proposed Affordable Dwelling North Of Jays Farm Hope Bagot Shropshire		
Applicant: Mr Rupert Burton-Bowen		
Case Officer: Trystan Williams	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 358987 - 274005



Recommendation: Grant permission subject to prior completion of a Section 106 to ensure the dwelling remains 'affordable' in perpetuity, and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission to erect a single-storey 'affordable' dwelling for occupation by a named individual in local housing need. It is also proposed to form a vehicle parking/turning area, and to install a septic tank and soakaways for foul drainage. The dwelling would have a rectangular floor plan, and would provide a lounge, kitchen/dining area, utility, lounge, three bedrooms and a bathroom. The dual pitched roof would be of plain clay tiles, with horizontal natural oak boarding to external walls and a lead capped stone plinth below the boarding.

A previous application for a two-storey dwelling in a similar position (ref. 16/05675/FUL) was withdrawn owing to concerns over:

- the degree of housing need;
- the size of the site; and
- potential impacts on the historic environment.

2.0 SITE LOCATION/DESCRIPTION

2.1 Hope Bagot is a small village in a secluded and well-treed valley on the west side of Clee Hill, within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Its greatest concentration of buildings, designated a conservation area, is around the Grade I-listed Norman Church of St John the Baptist. Jays Farm is situated on the eastern edge of this grouping, up a rough track and bridleway exiting the road to Knowbury opposite the southeast corner of the churchyard and the village hall. The application site is the northern half of a paddock across the bridleway from the applicant's family's existing home, which is a rendered bungalow. To its west, below an associated timber stable block and a boundary with gappy vegetation and panel fencing, is half-timbered and Grade II-listed 'Upper House', beyond which, alongside the road junction, stands stone and brick Mill Cottage. Other listed buildings nearby, both of them Georgian and with Grade II designation, include 'Hope Court Farm House' across a field to the north and 'The Rectory' to the northwest, beyond Upper House. East of the site is further pastureland.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council's adopted 'Scheme of Delegation' the application is presented to the planning committee for determination because the officer recommendation of approval is contrary to an objection from the Parish Council, and at the request of Shropshire Council's Local Member. The Principal Officer, in consultation with the Chair and Vice Chair of the South Planning Committee, consider that the Committee should consider the site context in this case due to the differing views expressed by interested parties.

4.0 COMMUNITY REPRESENTATIONS

Consultee comments

4.1. Hope Bagot Parish Meeting – objection:

The application should be regarded as invalid as the applicant has not followed the process outlined in Shropshire Council's *'Build your Own Affordable Home'* information pack adapted from its Housing SPD. Being approved as a qualifying person by the Housing Enabling Team should involve the intended occupier approaching the parish council to obtain confirmation of a strong local connection, following a specific pro-forma. In this case it is patently incorrect that at the time of the applicant's eligibility application parish meetings were not taking place due to the chairman's poor health. The Housing Enabling Officer did not approach the parish clerk to confirm whether or not meetings were being held, and in fact a minuted meeting resulted in the submission of an objection to the previous (ultimately withdrawn) planning application for a dwelling here. The Housing Enabling Team has since acknowledged that the correct process was not followed at that time, yet it continues to collaborate with the applicant in avoiding the local connections assessment by the parish meeting, in breach of the aforementioned guidelines. This raises serious issues of local democracy.

4.1.1 Notwithstanding the Housing Enabling Team's stated reasons for not involving the parish meeting in the eligibility assessment, councillors believe that the applicant fails to meet a minimum of two of the nine clear criteria used by Shropshire Council in that process. Consequently it is felt that the need for an affordable dwelling has not been established satisfactorily.

4.1.2 The site is immediately adjacent to the village conservation area and close to numerous listed buildings. Although this revised application has gone some way to reflect the rural and agricultural vernacular, the site's location is inappropriate as the development would be close to and visible from Upper House, The Rectory and the church. Moreover suburban fencing and non-native hedging installed recently along the boundary with Upper House is totally inappropriate in this context, and in breach of local and national guidelines. A potentially more acceptable solution would be to site the dwelling southeast of Jays Farm instead.

4.1.3 The access route is unsuitable as it involves crossing a small culvert prone to flooding, and passes very close to windows of both Upper House and Mill Cottage. An additional dwelling would involve a 50% increase in domestic traffic, whilst potential damage by heavy construction vehicles is an even greater concern. It is understood that there is no covenant by which the households served by this track are liable for its upkeep, despite the culvert's key role in channelling water away from the village. Such a covenant should be put in place before any planning application is considered, and furthermore the track should be resurfaced and equipped with proper drainage.

4.2 Shropshire Hills AONB Partnership – comment:

No site-specific comments. However this indicates neither objection nor lack of objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the AONB designation, planning policies concerned with protecting the landscape, plus the

statutory AONB Management Plan. The Partnership also reserves the right to make a further, detailed response.

4.3 Shropshire Council Flood and Water Management – comment:

Precise details of surface water and foul drainage systems should be secured by condition. Additionally, because the site is mapped as being at risk of pluvial flooding, the applicant should be advised to ensure that the new dwelling's finished floor level is set above any known flood level or at least 150mm above ground level.

4.4 Shropshire Council Historic Environment (Conservation) – comment:

The site is adjacent to the village conservation area and various listed buildings, including Upper House to the immediate west and the church beyond. Jays Farm itself should be regarded as a non-designated heritage asset.

4.4.1 The previous application for a dwelling here attracted objections on the grounds of its unsatisfactory standardised design, and the lack of a heritage impact assessment (HIA) as required under the National Planning Policy Framework (NPPF) and Policy MD13 of the Council's Site Allocations and Management of Development (SAMDev) Plan. This resubmission follows pre-application advice aimed at securing a more sympathetic scheme based on a single-storey barn-like structure that responds positively to the site's topography, reflects the rural setting and appears ancillary to the surrounding buildings. It is pleasing to see that this is reflected in the linear form, simple fenestration, stone plinth and timber clad-walls.

4.4.2 Furthermore this application includes a HIA which provides a detailed account of the potential impacts upon the settings of the relevant heritage assets, and, in line with NPPF guidance, considers the balance between the public benefits of an affordable dwelling and any harmful impact on the historic environment. It also notes the initial consideration given to different options for the building's siting, concluding that in the position proposed it will be cut into the hillside and set as low as possible. Inevitably it would have some impact, for example through incidental glimpses in long-range views from the church. However in general it is agreed that its impacts (including those on the immediately adjacent assets) would be negligible, subject to appropriate mitigation including planting new native hedges and using appropriate external finishes. These aspects should be controlled through conditions.

4.5 Shropshire Council Highways Development Control – comment:

No objection subject to the development being carried out in accordance with the approved details, and to relevant informatives.

4.5.1 The plans include adequate on-site parking and turning provision, whilst access would be via the existing track serving agricultural land. It should be noted that domestic vehicles have different visibility requirements to agricultural ones, generally 2.4 x 15-metre splays at 1.05 metres above ground level where traffic speeds are likely to be in the region of 10mph. The splays' inside boundary treatments should be maintained no higher than 900mm, or 600mm where adjacent to pedestrian footways or shared road space. In this instance the entrance would be onto a public bridleway.

- 4.6 Shropshire Council Rights of Way – comment:
Access would be via a bridleway. Whilst the public right of way would not appear to be affected directly, it would need to be considered during the construction stage.
- 4.7 Shropshire Council Historic Environment (Archaeology) – no objection:
No comments in respect of archaeological matters.
- 4.8 Shropshire Wildlife Trust – no objection:
Although the nearby churchyard is designated a Local Wildlife Site, it is unlikely to be affected significantly. The Council's Ecology Team will advise on other issues, including the need for an ecological assessment and potential impacts on protected species.
- 4.9 Shropshire Council Ecology
28/6/18 – objection:
The site and its surroundings should be assessed by a suitably qualified and experienced ecologist before any permission is granted. This should include an inspection for badgers, which if present will necessitate the submission of a mitigation strategy and precautionary method statement.
- 4.9.1 3/12/18 – No objection:
The site has now been assessed by a licensed ecologist. Habitats were found to include semi-improved grassland, tall ruderal vegetation, a building, a semi-mature ash tree and a defunct species-rich hedgerow. The proposed layout shows the retention of the existing hedgerows plus supplementary tree and shrub planting, and any permission granted should include an informative advising on the use of native species plants of local provenance
- 4.9.2 The building on the site is a small metal-clad structure unsuitable for roosting bats. However the site and its boundary vegetation may be used by foraging and/or commuting bats. Thus, in order to minimise disturbance and enhance roosting opportunities, conditions should control external lighting and secure bat box provision.
- 4.9.3 The hedgerows, tree and building provide potential nesting opportunities for wild birds. Bird boxes should be secured by condition, and an informative should advise on the legal status of active nests.
- 4.9.4 No evidence of badgers was found on the site or on accessible land within 50 metres. However the site may occasionally be used by both badgers and hedgehogs for foraging and/or commuting. The consultant's report therefore recommends mitigation measures for these species, adherence to which should be ensured by a further condition.
- 4.10 Shropshire Council Affordable Housing:
4/7/18 – no objection:

The applicant has demonstrated strong local connections to the Hope Bagot local administrative area. After considering his housing needs and personal circumstances, it is confirmed that the requirements of the Council's Supplementary Planning Document (SPD) relating to the 'build your own affordable home' scheme are satisfied as follows:

- The applicant intends to construct a 100m² (max.) affordable dwelling for occupation as his long-term family home.
- The dwelling would be subject to a Section 106 agreement prescribing local occupancy criteria and restricting its potential future sale value.
- The applicant and his daughter currently live with family in the parish. As they have no home of their own, this arrangement is unsuitable for their current and future housing needs.
- The applicant relies on his parents for regular help with childcare, including taking his daughter to school and supervising her afterwards. They are also on hand to assist if the applicant is required to work away.
- In return, the applicant provides support to his parents. Only if they live close by is this mutual care and support possible.
- Since Hope Bagot is a small parish it has a 'parish meeting' rather than a full parish council. At the time of the applicant's affordable housing eligibility application in 2017 it was unclear when the next meeting would be held, and so instead a member of the local community confirmed the applicant's longstanding local connections. He is stated to have lived in the parish for fourteen years, and attended a local school.

The applicant has therefore demonstrated strong local connections and also a need to live in the local area. Moreover, due to issues of affordability and availability he is unable to meet his housing need through the open market.

4.10.1 11/10/18 – comment:

To clarify the previous comments, and with specific reference to the four key elements of the eligibility assessment:

- Housing need: The applicant does not own a home of his own, and, along with his daughter, currently lives with his parents in the parish. This is unsuitable for his long-term housing needs and aspirations, meaning a housing need has been established.
- Strong local connections: Although ideally an applicant's local connections would be confirmed by the Parish Council, this has not proved possible in every case. Instead the local connections have been verified by Shropshire Council's Housing Enabling Team, based on the supporting information provided. In this case the applicant's father had discussed plans to build an affordable home with the chair of the previous parish meeting, who had passed away by the time the applicant needed to submit his eligibility application. It was therefore unclear when the next meeting would be held, but in order to be proactive in making his case the applicant secured a letter from a prominent member of the community who has known him since childhood. His local connections have therefore been confirmed.
- Local Need: The applicant and his daughter already live in the parish. He and his parents mutually support each other, with the applicant's need arising from the fact that he is a single parent who works full-time, and his father requiring

assistance as a result of poor health. This need for care and support forms the basis of the applicant's eligibility application.

- Affordability and availability of alternative properties: The applicant has disclosed details of his income and savings. These show that, whilst other properties of lower value may be available in the wider local area, they are still unaffordable to him.

The Housing Enabling Team is very much aware of the problem that households have in securing properties in rural areas where housing supply is low and prices are high. Based on the policy criteria, in this case the applicant has established a need to build an affordable dwelling on a rural exception site.

Public comments

4.11 Fifty separate households and the Shropshire branch of the Campaign to Protect Rural England object on the following grounds:

- Hope Bagot is a small hamlet with few community services or facilities. The increased demand on what local infrastructure exists would be unsustainable.
- Anyone living in this remote village where property values are high would appear to rule themselves out of the need for an 'affordable' dwelling.
- The site is greenfield land outside the established built-up area of the village.
- The site is carved artificially out of a larger paddock. It would be impossible to prevent future expansion of the domestic curtilage beyond the 0.1-hectare policy limit, which would have the effect of enhancing the property's value.
- More suitable sites have been ignored, contrary to Paragraph 5.21 the Housing SPD which says only the most environmentally sustainable and appropriate site should be pursued. The Council should not have prequalified the proposed site, and no further consideration should be given to it.
- The Council has allowed the applicant to sidestep the policy requirement for his eligibility for an affordable home to be certified by the parish meeting. It is therefore unclear which qualifying criteria the applicant meets, and what substantiating evidence there is. Consequently this may be a purely speculative proposal to enhance the value of the land (even if it could only be sold to a qualifying local person), and where no exceptional circumstances apply.
- The fact that Hope Bagot has a parish meeting rather than a parish council is irrelevant, as the meeting is nevertheless an accountable body of appointed members which has existed and functioned throughout the duration of both this and the previous planning applications.
- The applicant's parents are currently marketing the Jays Farm bungalow, and land which may be more suitable for the proposed dwelling. Previously the entire holding was advertised for sale. The likelihood of the applicant's parents, or possibly the whole family, relocating undermines the stated need for an affordable dwelling in this location in order to ensure the availability of mutual care and support. Again this suggests the scheme is merely a ploy to enhance and profit from the value of the property as a whole, notwithstanding any restrictions on the sale of the development plot.
- There is a steady supply of existing homes in the local area (and no further from the applicant's daughter's school) being marketed at prices comparable to or

even lower than the likely construction costs of the proposed dwelling. Again this suggests there are no exceptional circumstances to justify the proposal.

- The scheme would have no wider public benefits, so there is nothing to outweigh its harmful effects.
- Attempting to make the new bungalow resemble a converted barn is misconceived. The land is no longer farmed, and in any event the separation between the development and the existing dwelling is such that they would look like two isolated bungalows rather than a coherent agricultural complex.
- Although the bungalow would be lower than the two-storey house proposed previously, its footprint is effectively twice as large and hence its bulk is also greater.
- Contrary to the Conservation Officer's comments this highly prominent, ugly and uncharacteristic bungalow, standing elevated in the middle of a field and surrounded by parked vehicles and other domestic paraphernalia, would detract from the settings of the surrounding, traditionally designed listed buildings.
- Although the Conservation Officer says the development would have a "negligible" impact on only long-distance views from the churchyard, as the church is Grade I-listed surely no new properties should be visible at all from any point within its setting.
- The HIA underestimates the impact on the church's setting, using a single photograph from a carefully selected viewpoint. In fact the development would be visible from all along the path up to the southern entrance, and from various individually listed memorials alongside.
- Impacts on the settings of Upper House, The Rectory and the village conservation area would be immediate and very damaging, and further planting would do nothing to avoid the development dominating Upper House in particular.
- The historic route of the adjacent bridleway, with its views towards the site channelled between the walls of Upper House and Mill Cottage, is integral to their setting and to the character of the conservation area.
- The development would be clearly visible from other footpaths across the fields to the north and east.
- Attempts to screen the development with further Leylandii bushes and cheap fencing, as already installed along the boundary with Upper House, would also be out of keeping with the historic environment and contrary to the SPD's guidelines on boundary treatments around affordable dwellings. In any event Historic England guidance advises that screening is no substitute for appropriately sited and well-designed development.
- The existing fencing and boundary vegetation is impermanent, unsightly and insufficient to screen the development, especially as it is outside the land which would transfer to the applicant. Already the Council has authorised the felling of several trees here.
- The existing stables between the site and Upper House are in poor condition and again provide no effective screening.
- The development would detract from the scenic quality, peace and tranquillity of the wider AONB, including striking views of the wooded hillside and horizon of Clee Hill.
- The development would reduce the area's appeal to tourists.

- Upper House and The Rectory would be overlooked by the development.
- Neighbours would suffer increased traffic noise. Already this has proved antisocial.
- Local residents were not consulted before the application's submission.
- Access to the site is via a narrow unmade bridleway which runs over a weak culvert and between two existing dwellings, one of them listed. Passage by large construction vehicles would be almost impossible without damaging these structures, blocking access and endangering walkers and horse-riders. The track is not publicly maintained, and neither do the applicant or his family contribute to its upkeep.
- It is unclear that any established rights to use the track/bridleway for vehicular access would also apply to a new dwelling.
- Already the applicants have obstructed the bridleway and a prescriptive right of way.
- The development would increase traffic on and hence further damage the already poor local road network.
- The plans show the septic tank and soakaways on ground higher than the development site, which may be impracticable.
- The development would exacerbate flooding of the access track, both by increasing run-off and blocking the culvert beneath it.
- No proper ecological survey has been completed.
- The site is surrounded by numerous ecologically important habitats supporting rare and protected species, including badgers, plus bats and spotted flycatchers which roost/nest in neighbouring buildings. Destroying the feeding and breeding habitats of these species is illegal, and furthermore they would be affected by increased noise and light pollution.

4.11.1 Two members of the public support the application for the following reasons:

- Many of the public objections follow the same format and appear to have been instigated by one or two individuals. Any personal issues with the applicant's family are irrelevant.
- The applicant is a local man with a young daughter, both of whom have disabilities and need to live in a quiet and safe environment where family members are available to support them.
- Government policy encourages the provision of affordable homes to enable young, local people to establish themselves on the property ladder.
- This would be one small house sited unobtrusively.

5.0 THE MAIN ISSUES

- Principle of development
- Layout, scale, design and impact on historic environment/landscape
- Residential amenity
- Access and highway safety
- Drainage and flood risk
- Ecology

6.0 OFFICER APPRAISAL

6.1 **Principle of development**

- 6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in the SAMDev Plan. Isolated or sporadic development in open countryside (i.e. outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.
- 6.1.2 One of the exceptions mentioned under Core Strategy Policy CS5 and SAMDev Policy MD7a is where named individuals with strong local connections and who are in demonstrable housing need wish to build their own 'affordable' home. Detailed guidance on this initiative, including definition of the terms 'strong local connections' and 'housing need', can be found in the SPD referenced by the Housing Enabling Officer (Paragraph 4.10.1), who in this case is satisfied that those two aspects of the policy are met. Any permission granted would be subject to prior completion of a legal agreement to control the property's initial and future occupancy and cap its resale value, excluding any additional land subsequently transferred to it.
- 6.1.3 In response to the Parish Council's and other objectors' points on housing need:
- The Housing Enabling Officer's further comments (Paragraph 4.10.1) clarify that the applicant satisfies at least two of the local connections criteria (listed on Page 33 of the SPD) in that he currently lives in the local area, attended a local school, and he and his parents (who also currently live at Jays Farm) require each other's mutual support and care.
 - It is acknowledged that the applicant has not obtained formal written confirmation of his local connections from the Hope Bagot Parish Meeting. However, aside from the debate about whether or not the parish meeting has the same statutory powers as a parish council, the SPD does not explicitly require such confirmation, merely saying that "applicants are expected to be proactive in obtaining [it]". Ultimately the assessment of the applicant's eligibility is a specialised role undertaken by Shropshire Council's Housing Enabling Team, by whom the local planning authority is guided. It is also emphasised that in this instance the assessment was informed partly by confirmation from an upstanding member of the local community familiar with the applicant's circumstances.
 - The Housing Enabling Officer is aware of the recent marketing of the existing Jays Farm bungalow, but understands that, for personal reasons, the applicant's parents are seeking to move to another property nearby. Clearly the Council cannot ultimately control such matters, and there is also some possibility of the applicant securing planning permission and then marketing the plot or the completed dwelling. However the same would be true in any other case, and even if it did happen there would still be the wider public benefit of increasing the local stock of affordable homes whose occupation is restricted to eligible people in perpetuity.
 - Should the applicant's parents in fact end up wishing to move into the new dwelling, with or without their son, it is likely that they too would meet the relevant

criteria, and the situation would be comparable with affordable housing schemes elsewhere where current homeowners have sought to downsize.

- In discounting homes available on the local market, the Housing Enabling Officer establishes the applicant's inability to secure a mortgage against properties in that price bracket. The ability to finance a new-build is not explored, as obviously there are many unknown factors. However it should be noted that build costs can often be staggered, or free or cheap labour can be arranged.
- It is recognised that homes in this desirable location generally command high values. However this is a key part of the applicant's problem, as it effectively prices him (and indeed other young local people on relatively low incomes) out of the market. This is precisely what the affordable housing policy is intended to help address, initially by assisting specific individuals who have land available, but longer-term by increasing the stock of homes whose value is capped at a percentage of their market value.

6.1.4 Returning to the issue of location, even affordable homes on rural exception sites must be within or adjoining "recognisable named settlements" (although there is no particular requirement for the settlement to be 'sustainable' in the sense of having a full range of services and facilities). The SPD says that settlements comprise a group of houses occupied by households from different families, with the group becoming a settlement on account of the number dwellings and their proximity. It explains that a settlement's limits are defined by where the relationship between its various properties peters out, which varies from settlement to settlement. For example, a site a short distance from a scattered or loose-knit settlement may be considered to adjoin it, whereas a site a similar distance from a tightly clustered or nucleated settlement would not.

6.1.5 Although Hope Bagot is a small and quite widely dispersed village, it is a long-established and clearly identifiable settlement nucleated around the church, where there is an obvious sense of arrival. Claims that the application site is greenfield land are undisputed, but it does lie reasonably close to both the Hays Farm bungalow and Upper House, on the eastern edge of the main grouping, to which it would relate visually (see Section 6.2). Moreover there is already a wider scatter of properties off farm tracks, for example to the northeast and southwest of the village. In this context the site can comfortably be said to adjoin the settlement.

6.1.6 Regarding the objectors' comments about alternative sites, the SPD does indeed encourage early discussions with the local planning authority to establish any preference. Ultimately, however, the applicant is entitled to submit an application for whichever site he chooses, and the Council has a statutory duty to determine it. In any event officers are not persuaded that developing land southeast of Jays Farm would be necessarily more policy-compliant or indeed feasible, as it too has rising levels, is further from the village nucleus, would utilise the same access route, is in fact partially occupied by a large extension behind the original bungalow, and has extensive tree cover at its far end.

6.1.7 Given the above the scheme is considered acceptable in principle.

6.2 Layout, scale, design and impact on historic environment/landscape

- 6.2.1 The SPD prescribes a maximum plot size of 0.1 hectares and a maximum floor space of 100m² for owner-occupied affordable homes on rural exception sites, to help ensure their onward affordability. It also requires a particularly high standard of design sympathetic to the rural setting. Meanwhile Core Strategy Policies CS6 and CS17 and SAMDev Policy MD2 require all new development to reinforce local distinctiveness in terms of building forms, scale and proportion, heights and lines, density and plot sizes, materials, architectural detailing, and safeguarding the historic and natural environment.
- 6.2.2 Under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority must pay particular regard to the desirability of preserving the special architectural or historic interest and setting of listed buildings, and preserving or enhancing the character and appearance of conservation areas. This is reflected by NPPF Part 16 and SAMDev Policy MD13, which attach great weight to conserving designated heritage assets. According to the NPPF, where a development would cause substantial harm to such an asset it should be refused permission unless that harm is necessary in order to achieve, and would be outweighed by, substantial public benefits, whilst less than substantial harm should be weighed against any public benefits. Additionally, Part 15 of the NPPF requires great weight to be given to conserving landscape character and scenic beauty in certain designated areas, including AONBs.
- 6.2.3 In this case the plans observe the relevant size limits. The floor space restriction is reinforced by Conditions 10 and 11 (the latter removing 'permitted development' rights for extensions and outbuildings), whilst the block plan shows the extent of the domestic curtilage delineated with new and existing hedges. Any future expansion of the plot would constitute a change of use requiring a further planning permission, and as mentioned already any future valuation would be based on the value of the dwelling itself.
- 6.2.4 Design is to some extent a subjective matter, but committee members may agree with the Conservation Officer that there is merit in the concept of a low, linear building resembling a converted barn. Whilst its disposition to other buildings might not follow a typical working farmstead layout, its form and materials would reflect the wider agricultural vernacular and officers consider the design appropriate given the rural setting, the variety amongst the surrounding dwellings, and the structure's considerably lower height than the two-storey house proposed previously. Neither are its bulk and massing felt to be excessive given the low eaves and ridgeline, and narrow gable ends.
- 6.2.5 It is acknowledged that there is a degree of inter-visibility between the site and the church, and that Upper House also features in these views. However the development's visibility would not necessarily amount to harm, and indeed the Conservation Officer endorses the submitted HIA's findings that its impact would be negligible. It is fair to say that the new dwelling would not be seen extensively throughout the churchyard, and where it is, it would be only partially visible through a narrow gap between Upper House and its outbuilding, and protruding just above

the latter. Its different orientation and darker finishes mean the form, construction and historic character of Upper House would remain clearly distinguishable, and furthermore its ridge would be set well below the skyline. In fact the arrangement would be broadly similar to the established juxtaposition of Upper House, its outbuilding and Mill Cottage, with their variety of construction, materials and roof lines forming a characterful, attractive and not unduly prominent grouping against the backdrop of the wooded hillside.

- 6.2.6 The fencing installed recently along the paddock's boundary with Upper House is barely discernible from the churchyard, and in any event is outside the application site and so of no direct relevance. However officers agree with objectors that the new boundary treatments around the site itself should comprise more sympathetic native hedging, and this can be ensured under a standard landscaping condition. Conditions can also be used to secure precise details of the external finishes and of ground and floor levels.
- 6.2.7 Heading up the access track and bridleway, the development should be largely concealed by existing buildings and vegetation until reaching the entrance to Jays Farm. Even from there it would be nestled fairly unobtrusively between the higher ground in the foremost part of the paddock and the established hedges to the north and northeast, and again set against the backdrop of the hillside beyond. Entering the paddock itself the church tower is discernible above the western boundary fence and Upper House, but this is a fleeting glimpse from private land, facing away from the development area.
- 6.2.8 Looking back from the footpaths to the north and east, the development would be set down behind, and largely concealed by, the field hedges. It would not obstruct any views of the church, Upper House, Hope Court Farm House, The Rectory or indeed other heritage assets, including the conservation area as a whole.
- 6.2.9 It is acknowledged that the development would be visible from Upper House itself. Again, however, these are not public views, and neither would that building's setting be compromised given that the views from its primary windows would be oblique, that there would be a generous separation of around 40 metres, and that the paddock containing the application site is and always has been separate physically, functionally and in ownership. Issues of residential amenity are discussed separately below.
- 6.2.10 Visual impacts aside, there is no reason to believe that, following some inevitable construction noise, normal day-to-day domestic activity on this site would have a greater impact on the area's tranquillity than does any other household in the village. Neither is the development likely to have any perceptible impact on the area's tourist appeal.
- 6.2.11 For these reasons it is suggested that the scheme would not demonstrably harm either the settings of the adjacent heritage assets or the essentially open character and scenic beauty of the wider landscape. Certainly if there were any harm to the historic environment it would be less than substantial, and, in the view of officers,

outweighed by the public benefit of securing an affordable dwelling for occupation by qualifying local people in perpetuity.

6.3 **Residential amenity**

6.3.1 For similar reasons as those discussed in Paragraph 6.2.9, it is judged that Upper House would suffer no significant overlooking, overshadowing or overbearing impact, despite the development being visible to some extent. Hope Court Farm House and The Rectory are even further away, and well screened.

6.3.2 As also mentioned already noise from people and traffic is unlikely to prove problematic long-term. Meanwhile any physical damage caused to neighbouring property during the construction stage would be a civil matter, as is responsibility for maintaining the shared access track. Furthermore, although the Council encourages applicants to discuss their proposals with the local community in advance, this is not a statutory requirement.

6.4 **Access and highway safety**

6.4.1 From a highway safety perspective the means of access is satisfactory, especially bearing in mind that the use of the track by two existing households plus agricultural/equestrian vehicles is established. The legality of driving along the bridleway is subject to other legislation, of which the applicant can be advised through an informative. Further informatives would emphasise the need to avoid obstructing any public or private rights of way, whilst refuse collection and deliveries should be no more problematic than they are for numerous other rural properties served by long and/or shared driveways.

6.4.2 The proposed parking and turning arrangements are also acceptable, and Condition 9 would ensure their completion before the dwelling is occupied. It is noted that the Highways Development Control Team raises no concerns regarding the capacity of the local road network.

6.5 **Drainage and flood risk**

6.5.1 The submitted plans indicate the position of the proposed septic tank and its drainage field, whilst the application form specifies further soakaways for surface water drainage. There is no obvious reason why the septic tank system would not work if it were to be installed at a lower level than the house or else equipped with a pump. Nevertheless it is considered reasonable to secure precise drainage details by condition, bearing in mind the topography and the risk of surface water flooding, including along the access track.

6.5.2 Any damage to or blockage of the culverted watercourse would be a civil matter and/or subject to other controls outside the planning system.

6.6 **Ecology**

6.6.1 As noted above the site and its surroundings have now been assessed by a licensed ecological consultant, and the Council's Ecology Team is satisfied that direct impacts on protected and priority species are unlikely provided the proposed mitigation measures are adhered to. This can be reinforced by Condition 8, whilst other

conditions would secure the Ecology Team's suggested enhancements and control external lighting. Informatives setting out the relevant wildlife legislation would provide a further safeguard.

7.0 CONCLUSION

7.1 Although Hope Bagot is a small rural village not designated for new open market housing, this particular scheme is acceptable as an exception since the site adjoins the settlement and the new dwelling would be designated affordable to meet a specific local need. Its scale, design and siting are satisfactory, and whilst it would inevitably be visible from some aspects, it would not demonstrably harm the settings of the surrounding heritage assets or the character and scenic quality of the wider landscape. Furthermore there are no undue or insurmountable concerns regarding residential amenity, access, drainage or ecology. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to prior completion of a legal agreement to ensure that the property remains 'affordable' in perpetuity, and to conditions to reinforce other critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

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

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

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

8.2 Human rights

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the community.

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

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

8.3 **Equalities**

8.3.1 The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 **FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications if the decision and/or imposition of conditions are challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 **BACKGROUND**

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

SAMDev Plan Policies:

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Supplementary Planning Documents:

Type and Affordability of Housing

Relevant Planning History:

16/05675/FUL – Erection of an affordable dwelling (single plot rural exception site); installation of septic tank (withdrawn March 2017)

11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=P98F3HTD07V00>

List of Background Papers: Application documents available on Council website
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Members: Cllr Richard Huffer
Appendices: Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out in strict accordance with the approved plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. No development shall commence until precise details of existing and proposed ground levels, plus the finished floor level of the dwelling hereby permitted, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

4. No development shall commence until precise details of the means of surface water and foul drainage have been submitted to and approved in writing by the Local Planning Authority. These shall include:
- Percolation test results and sizing calculations for any surface water soakaways, and provision for a silt trap or catch pit upstream of the drainage field
 - Details of other/alternative means of surface water drainage, to include measures to avoid run-off onto adjacent highways
 - Sizing calculations and a specification for any existing or proposed package treatment plant or septic tank
 - Percolation test results and sizing calculations for any foul water drainage field, or details of any alternative means of discharge
 - Details of any alternative foul drainage system
 - A drainage layout plan

The approved scheme(s) shall be implemented in full prior to the first use/occupation of the development, and shall thereafter be retained thereafter.

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

5. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of landscaping, which shall include:
- Survey of all existing trees and hedgerows on the site and along its boundaries
 - Identification and measures for the protection of existing trees and hedgerows which are to be retained
 - Schedules/densities of proposed planting
 - Details of any other boundary treatments/means of enclosure and any other fences, walls or retaining structures
 - Details/samples of hard surfacing materials
 - Timetables for implementation

The works shall be completed in accordance with the approved details. Thereafter, all fences, walls, hardstandings and other hard landscaping shall be maintained in accordance with the approved details in the absence of any further specific permission in writing from the local planning authority, whilst any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or

diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, and to help safeguard the visual and residential amenities of the area, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

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

6. No above-ground development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure that the external appearance of the development is satisfactory, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

7. Prior to the first use or occupation of the new dwelling hereby permitted, artificial roosting opportunities for bats and nesting opportunities for wild birds shall be provided at the site in accordance with details which shall first be submitted to and approved in writing by the local planning authority. This provision shall include:
- A minimum of one external Woodcrete bat box or integrated bat 'brick' suitable for nursery or summer roosting by small crevice-dwelling bat species
 - A minimum of one artificial 'nest' suitable for sparrows (i.e. 32mm hole, terrace design), starlings (42mm hole, starling-specific design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups)

These shall be retained thereafter for the lifetime of the development.

Reason: To maintain/enhance roosting opportunities for bats and nesting opportunities for wild birds, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

8. All works associated with the development hereby permitted, including demolition and site clearance works, shall be carried out in accordance with the recommendations set out in Sections 16 and 18 of the 'Ecological Constraints Assessment' report prepared by Star Ecology, referenced JBBD/2083/18.1, dated 12th November 2018 and received by the Local Planning Authority on 14th November 2017.

Reason: To safeguard protected and/or priority species and habitats, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

9. Prior to the first use or occupation of any part of the development hereby permitted, vehicle parking and turning areas shall be laid out and completed in accordance with the approved plans. These shall thereafter be retained for the lifetime of the development.

Reason: In the interests of highway safety, in accordance with Policies CS6 and CS7 of the Shropshire Local Development Framework Adopted Core Strategy.

10. At no time shall the gross internal floor space of the dwelling hereby permitted exceed 100 square metres, and to this end no additional habitable space beyond that shown on the approved plans shall be formed through external or internal alterations without prior written approval from the local planning authority.

Reason: To ensure that the dwelling remains of a size which is 'affordable' to local people in housing need, in accordance with Policy CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

11. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no garage, car port, extension or other building/structure shall be erected within the curtilage of the dwelling hereby permitted without the prior written consent of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area, and to ensure that the dwelling remains of a size which is 'affordable' to local people in housing need, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

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

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

INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015 a fee (currently £116) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

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

2. This permission should be read in conjunction with the legal agreement under Section 106 of the Town and Country Planning Act 1990 which refers specifically to this development.
3. This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (including any footway or verge);
 - carry out any works within the publicly maintained highway;
 - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or
 - disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>.

Please note that Shropshire Council requires at least three months' notice of the developer's intention to commence any works affecting the public highway, in order to allow time for the granting of the appropriate licence/permit and/or agreement of a specification and approved contractor for the works.

4. If the new vehicular access and/or parking/turning areas hereby permitted would slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water to drain onto the public highway or into highway drains.
5. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.
6. This consent does not convey any right of vehicular access over any public right of way, and it is a road traffic offence to drive a motor vehicle on a public footpath, bridleway or restricted byway without lawful authority. Any person intending to use a right of way for vehicular access should first satisfy themselves that such a right exists, if necessary by taking legal advice.
7. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any public right of way, temporarily or otherwise. Before carrying out any such operation you should consult Shropshire Council's Outdoor Recreation Team and obtain any closure order or further consents which may be required.
8. This planning permission does not authorise any right of passage over, or the obstruction, realignment, reduction in width, resurfacing or other alteration of, any private driveway or right of access. Before carrying out any such operation you should first satisfy yourself

that you have the necessary consent from the landowner(s) and any other affected party, if necessary by taking legal advice.

9. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.
10. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework Paragraph 38.