



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

Date: Monday, 2 February 2015

Committee:
South Planning Committee

Date: Tuesday, 10 February 2015
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Stuart West (Chairman)
David Evans (Vice Chairman)
Andy Boddington
Nigel Hartin
Richard Huffer
John Hurst-Knight
Cecilia Motley
Madge Shingleton
Robert Tindall
David Turner
Tina Woodward

Substitute Members of the Committee

Charlotte Barnes
Gwilym Butler
Lee Chapman
Heather Kidd
Christian Lea
William Parr
Vivienne Parry
Malcolm Pate
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 252738
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 10)

To confirm the minutes of the South Planning Committee meeting held on 13 January 2015.

Contact Linda Jeavons (01743) 252738.

3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

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 Land South West Of Bridge House, Stretton Road, Much Wenlock, Shropshire (14/01753/FUL) (Pages 11 - 22)

Construction of an attenuation pond designed to attenuate 12,000m³ of water.

6 Sytche Lane, Much Wenlock, Shropshire (14/01754/FUL) (Pages 23 - 36)

Construction of an attenuation pond designed to attenuate 4500m³ of water.

7 93 Damson Lane, Weston Heath, Shifnal, TF11 8RU (14/03090/FUL) (Pages 37 - 46)

Erection of a two-bedroom dwelling house and integral garage with ancillary development including a new access onto Damson Lane and a package treatment plant.

8 Land Adj 29 Sycamore Road, Broseley, Shropshire (14/04219/FUL) (Pages 47 - 64)

Erection of one dwelling and carport.

9 Proposed Residential Development South Of A49, Ludlow, Shropshire (14/04455/OUT) (Pages 65 - 108)

Outline application for residential development (up to 215 dwellings); public open space; highways works; access roads and pedestrian footbridges; and a Neighbourhood Store (Class A1 Retail) not exceeding 300 sq.m internal floorspace, associated engineering and accommodation works (Resubmission).

10 Land North of Henley Common, Henley Lane, Acton Scott (14/04930/FUL) (Pages 109 - 160)

Continued use of land for agricultural purposes and the installation of up to 5 MW of solar photovoltaic panels and ancillary works.

11 Hazeck, The Mines, Benthall, Broseley, TF12 5QY (14/05210/FUL) (Pages 161 - 168)

New chimney to existing roof.

12 Schedule of Appeals and Appeal Decisions (Pages 169 - 186)

13 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 10 March 2015 in the Shrewsbury Room, Shirehall.

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Committee and Date

South Planning Committee

10 February 2015

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 13 January 2015

2.00 - 4.31 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 252738

Present

Councillors David Evans (Vice Chairman), Andy Boddington, Nigel Hartin, Richard Huffer, John Hurst-Knight, Madge Shingleton, Robert Tindall, David Turner, Tina Woodward and Michael Wood (Substitute) (substitute for Stuart West)

103 Apologies for Absence

Apologies for absence were received from Councillors Stuart West (substitute: Michael Wood) and Cecilia Motley.

104 Minutes

RESOLVED:

That the Minutes of the South Planning Committee held on 13 January 2015 be approved as a correct record and signed by the Chairman, subject to the following being noted:

Minute No. 95

- With reference to planning application 14/02184/FUL, Councillor David Turner had not made a declaration of bias but had declared an interest as a local Ward Councillor. Accordingly, he made a statement and then left the room and took no part in the debate and did not vote; and
- With reference to planning application 14/03290/EIA, Councillor Nigel Hartin had declared an interest as a local Ward Councillor. Accordingly, he made a statement and then left the room and took no part in the debate and did not vote.

105 Public Question Time

There were no public questions.

106 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.

107 Lea Quarry, Wenlock Edge, Much Wenlock, TF13 6DG (14/02390/FUL)

The Principal Planner introduced the application and with reference to the drawings and photomontage displayed, he drew Members' attention to the location. He drew Members' attention to the Schedule of Additional Letters circulated prior to the meeting which informed Members of an impending appeal which had been lodged with the Planning Inspectorate regarding the non-determination of this application, and he reported that, in view of this appeal, the final decision on the application would now be taken by the Planning Inspectorate. The application was now before Members to inform them of additional information which had been provided by the applicant and with an amended recommendation of 'minded to approve'. Any decision made by this Planning Committee would inform the appeal process.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting detailing further comments from Shropshire Council's Planning Officer, the applicant, objectors and Much Wenlock Town Council.

Members had undertaken a site visit on a previous occasion and had viewed the site and assessed the impact of the proposal on the surrounding area.

In response to questions from Members, the Principal Planner provided clarification on the closure of the permissive footpath and the extent and impact of the proposed screening and fencing.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Full Council held on 27 February 2014, Councillor David Turner, as the local Ward Councillor, made a statement and then left the room and took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He drew Members' attention to his opening comments made at the November 2014 meeting, "The applicant had developed a successful business around renewable energy and had created a number of jobs locally - which he welcomed. However, on balance, planning applications for low-profile development that had been brought forward in support of the business's growth had been supported, but he believed this was one step too far.", and maintained his support for those words;
- He commented that the Officer's report had failed to mention that the Much Wenlock Neighbourhood Plan was opposed to "wind power in this location" and "that other alternative energy sources are more appropriate". Despite this being raised at the November meeting, this important facet of a statutory planning document had still been omitted from the Officer's report; and

- He drew attention to the many late representations both in favour and against the application, but he reiterated his own objection for the reasons cited previously, including scale, impact on the Area of Outstanding Natural Beauty (AONB) and the potential impact on tourism.

Mrs C Barr, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Would have detrimental impact on the landscape which played an important key role in the AONB;
- This was a commercial venture and not a genuine renewable energy project;
- Would have a detrimental impact on tourism; and
- Contrary to the Much Wenlock Neighbourhood Plan.

Councillor M Whiteman, representing Much Wenlock Town Council, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Much Wenlock Town Council had originally objected to two turbines but now supported this application for one turbine;
- Turbine would be sited in an industrial area and used for training/education purposes;
- Scheme supported renewable energy;
- Would be in accordance with the Much Wenlock Neighbourhood Plan;
- Views of the turbine would be limited by trees and topography;
- This was a good local company providing local employment who had undertaken much work in the area contrary to local opposition. Unsightly gantries had been removed, future plans would improve the visual aspect of the site, and flora and fauna had been and would continue to be improved; and
- He urged approval.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to comments and concerns, the Principal Planner provided clarification on potential energy production, the logistics and timings relating to the assembly and disassembly of the turbine and drew Members' attention to the amended Condition 6, which would require a separate planning application accompanied by an ecology report which demonstrated that there would be no impact on birds and bats, if the applicant was minded to run the turbine to generate electricity.

RESOLVED:

That following the submission of an appeal against non-determination, the Committee gave a resolution that, had a decision been required, they would have been minded to grant planning permission as per the Officer's recommendation and subject to:

- The conditions as set out in Appendix 1 of Annex 1 to the report;
- The amended Condition 4, including 4a and 4b, as set out in the report; and
- Condition 6 as set out in the report, subject to it being amended to ensure that the default position of the turbine shall be horizontal on the ground and that the turbine shall remain in this default position except for the purposes of training.

108 Shropshire Council Offices, Westgate, Bridgnorth, Shropshire, WV16 5AA (14/02693/OUT)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location. He provided a verbal update on comments received following the publication of the report relating to third party comments which had suggested alternative uses for the site and confirmed that Severn Trent Water had raised no objections to the proposal subject to an appropriate condition to ensure that surface water and flooding would be managed appropriately.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Full Council held on 27 February 2014, Councillor John Hurst-Knight, as the local Ward Councillor, made a statement and then left the room and took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He had offered and would be willing to work with the Bridgnorth Community Group (BCG) to explore possible funding avenues for this site, but, despite requests, no Business Plan had been proffered by the BCG;
- There were many other outlets and sites in the Bridgnorth area that could accommodate the suggested alternative uses for this site;
- Much money would have to be spent on the site to bring it up to health and safety standards; and
- Housing on this site would be appropriate, and housing, particularly affordable housing, was desperately needed in Bridgnorth.

Mr P Passant, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- No dialogue had been undertaken between the BCG and Cllr John Hurst-Knight;
- The site was situated in an affluent area of Bridgnorth so would not provide the much-needed affordable housing;
- He had met with the Leader and Officers of Shropshire Council who had afforded the BCG a further week to produce a Business Plan. There was already an architect and developer on board and the Business Plan was currently being processed; and
- On behalf of the community, he urged the Committee to give the BCG the opportunity to provide employment and affordable housing on the site as part of the business plan.

In response to questions from Members, Mr Passant explained that as part of the process the BCG would consider right-to-buy schemes and he envisaged that a timeline of six months would be required to explore and obtain funding.

Councillor J Gittins, representing Bridgnorth Town Council spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- There was a shortage of assets in Bridgnorth that could be used for community use;
- The leisure centre was in a poor state of repair and the youth centre, which was well-used by the community, was under the threat of closure;
- Bridgnorth Town Council had determined that the site should be retained for generating employment or commercial use;
- Up to 500 homes had been earmarked at Tasley as part of the Site Allocations and Management Development (SAMDev) Plan but no community asset had been identified. Drop-in surgeries, medical facilities, nurseries and primary schools were at bursting point; and
- Apart from the main building there were outbuildings that could be used as small starter units and Bridgnorth Town Council had offered to assist the BCG with their application.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members reiterated and noted that the application was at outline stage only and the use of the site and number and type of housing would be determined at a later stage and they hoped that any future proposal would meet the aspirations and needs of the local community. A Member expressed his support and offered to work with the BCG to help them put forward a scheme that would benefit the local area and to identify possible funding.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- Completion of a Memorandum of Understanding to secure affordable housing and maintenance of any public open space by an appropriate body through a Section 106 Legal Agreement; and
- The conditions as set out in Appendix 1 to the report.

(The meeting adjourned at 3.20 pm and reconvened at 3.25 pm.)

109 Land North West Of Stableford Hall, Stableford, Bridgnorth, Shropshire (14/04387/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location and elevations. He drew Members' attention to the additional information as set out in the Schedule of

Additional Letters circulated prior to the meeting which detailed further third party objection comments; comments from Severn Rivers Trust, which provided the background to the hardcore track; and confirmation that the building would be located outside of the Environment Agency flood risk zones.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Full Council held on 27 February 2014, Councillor Michael Wood, as the local Ward Councillor, made a statement and then left the room and took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- All residents living close to the site had raised objections;
- There had never been a track running through this part of the land;
- Would be unsuitable for keeping and rearing any sheep and the number of sheep proposed would not be viable;
- Proposal would be injurious to the Green Belt and contrary to the National Planning Policy Framework (NPPF);
- The proposal would be inappropriate, obtrusive, unnecessary, out of keeping and would impact on the tranquillity of the area; and
- If permitted, all conditions should be strictly adhered to.

Ms C Tildesley, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Eastern part of applicant's land was in the flood plain;
- She had lived in the area for the last 17 years and there had never been a track, roadway or vehicular access across this land;
- Submitted photographs had evidenced that part of the access track had been and would, at times, be submerged under water;
- The only way to alleviate flooding would be to alter the flood plain but this would have a detrimental impact on neighbouring properties and could put additional pressure upon the old road bridge;
- The rearing of sheep on this land would be contrary to the Good Practice and Duty of Care Regulations;
- The agricultural building would not be required. As the land would only be suitable for the keeping and rearing of minimal sheep the provision of sheep pens would not be required.

Mr T Branagan, representing the Environment Agency, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Continual use of the muddy track running parallel to the river might have a detrimental impact on the river. Accordingly, the creation of the hardcore track to the far end of the land would be beneficial to the environment; and

- The landowner had been generous with the land and had taken advice on tree planting and erosion protection.

Mr B Higginson, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- He had purchased the land approximately 18 months ago and because of holidays and commitments the submission of the application had been delayed;
- The formation and layout of the gated access would ensure that the car/trailer when accessing/egressing the site would not impact on highway safety;
- The fenced areas erected by the Severn Rivers Trust were superior to the original stranded barbed wire fencing; and
- The SRT had now agreed to help with the track which would be permeable and would not impact on the levels of the land.

In response to questions from Members, Mr Higginson and Mr Branagan provided clarification on the materials used in the construction of the access track.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to concerns, the Principal Planner explained that the final appearance of the track would be dealt with by conditions, but the Environment Agency would be consulted and would regulate if any adverse impact arose.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- The conditions as set out in Appendix 1 to the report; and
- The external surfaces of the roof of the agricultural building shall be BS18B29.

(At this juncture, Councillor Nigel Hartin left the meeting and did not return.)

110 Land East Of 30 To 31 East Castle Street, Bridgnorth, Shropshire, (14/04464/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, previously refused plans and the proposed plans and elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

By virtue of the amendment of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Full Council held on 27 February 2014, Councillor John Hurst-Knight, as the local Ward Councillor, made a statement and then left the room and took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- With reference to a previous application for this site, he reiterated his concerns regarding the loss of light which had been raised at a previous meeting and considered that this current application would continue to have a detrimental impact on nearby properties.

Mr F Latham, Director of F L Design Limited and representing local residents, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- His company had considered the impact of the development on the existing properties in the area and he provided an overview of his findings.

In the ensuing debate, Members considered the submitted plans, noted the comments of all speakers and unanimously voted to refuse the application. In response to comments and concerns regarding access and potential overdevelopment of the area, the Principal Planner drew Members' attention to the previous refusal decision for a previous application on this site which had made no reference to overdevelopment and access.

RESOLVED:

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

The proposed development by reason of the height, bulk and positioning of the building would result in a substantial loss of light to the existing properties on Castle Terrace and Bank Street that would be detrimental to the living conditions of those dwellings and the residential amenities of the area. The development would therefore be contrary to Shropshire Core Strategy Policy CS6.

111 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 13 January 2015 be noted.

112 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee be held at 2.00 p.m. on Tuesday, 10 February 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date
South Planning Committee
10 February 2015

Development Management Report

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

Summary of Application

<u>Application Number:</u> 14/01753/FUL	<u>Parish:</u>	Much Wenlock
<u>Proposal:</u> Construction of an attenuation pond designed to attenuate 12,000m ³ of water		
<u>Site Address:</u> Land South West Of Bridge House Stretton Road Much Wenlock Shropshire		
<u>Applicant:</u> Shropshire Council		
<u>Case Officer:</u> Thomas Cannaby	<u>email:</u> planningdmse@shropshire.gov.uk	

Grid Ref: 361073 - 299465



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application, along with application 14/01574/FUL (also on this committee agenda), is part of an action plan following an integrated urban drainage management plan assessment to understand and manage flood risk in Much Wenlock.
- 1.2 This application is for the construction of a 12000m³ attenuation pond on the upstream reach of Shylte Brook, which forms the main river running through Much Wenlock Town Centre.
- 1.3 An inlet headwall will be constructed part way along the existing 1050mm diameter culvert and the water will discharge into a retained through-flow water channel in the pond. The pond will have lagoons that spur off the main channel at varying water depths and will have 1 in 3 side slopes up to the existing topography that will fill up when baseflows are exceeded. There will be an outlet control structure which connects back into the existing 1050mm diameter culvert.

The pond extends approximately 200m by 150m at its widest point,, with a low earth bund surrounding the pond with a width of approximately 4m.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed attenuation pond would be situated to the south west of Much Wenlock town near Stretton Road, on the upstream reach of Shylte Brook. The site to establish the pond is 1.43 hectares (area of earth works and construction).
- 2.2 The land slopes down in an easterly direction, with Shylte Brook running in a north-easterly direction with a 1050mm diameter concrete culvert carrying the watercourse through the site, and the Shylte Brook continuing to be culverted beneath Stretton Road Industrial estate. There is also an existing 80mm diameter UPVC water main running adjacent to the Shylte Brook culvert through the proposed site. The proposed attenuation pond is at the approximate location of an old reservoir
- 2.3 The site is largely open, with some storage use, mainly constituting grassland with hedgerow boundaries. A public footpath runs adjacent to the site, but outside the area for development.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application is referred to committee for determination in line with the Council's adopted scheme of delegation as Shropshire Council is the applicant.

4.0 Community Representations

- Consultee Comments

Much Wenlock Town Council – supports application

Shropshire Council is asked to acknowledge the following key issues:

- ☐ The size of the attenuation areas compared to national guidance (1 in 30 risk as opposed to 1 in 100+Climate change).
- ☐ The risks when either area overtops or fails. What are the Exceedance routes? Will the risks be more or less than currently?
- ☐ Will the attenuation areas relieve the pressure on the escape area at The Pound? How can this be made safer?
- ☐ What can be done about the undersized culvert and the nuisance associated with the work undertaken in the 2000s?
- ☐ The risks of attenuation in a rapid response catchment. Reservoirs are a problem because of dam failure these areas are mostly below ground level with only limited banks.
- ☐ How will the attenuation areas be maintained? Who will be responsible?
- ☐ These attenuation areas are the first option in the Integrated Urban Drainage Management Plan(IUDMP). It is estimated they only reduce risk by 41%. What will the council say about reducing the risk further?

Shropshire Council:

Drainage – the FRA and the attenuation pond designed to attenuate 12000m³ of water are acceptable.

Rights of way – Public footpath 12 Much Wenlock runs through the development site but is not affected by the proposal.

Ecology – No objection subject to conditions.

- Public Comments

Much Wenlock Civic Society:

- ☐ Strongly supports effective measures to reduce the long established flooding risks in Much Wenlock.
- ☐ Local concerns over the precise operation of the attenuation ponds. Ponds will alleviate flooding of existing properties, not eliminate flood risks arising from approval of any additional development.

☐

Much Wenlock Community Flood Action Group – Supports application

- ☐ MWFLAG supports measures to reduce the risk of flooding in the town. We consider it is especially important that slowing measures to reduce the peak flows in the inadequate infrastructure of the town are implemented. These attenuation areas are a first step in the right direction because if operated and maintained properly they will provide some relief for two areas of the town that are especially vulnerable.
- ☐ While supporting the development of the attenuation areas the capacity has not been designed to nationally recommended levels. Attenuation within rapid response catchments does not work effectively if it fails or is overtopped. These basins are largely below ground level so the risk of catastrophic bank failure is limited. The overtopping issue is still present but flows should be less than currently because of the water storage in the basin.

There is concern about the exceedance route for the Stretton Road

attenuation basin which threatens the historic core of the town. Water from this attenuation area will be directed down Victoria Road where it will join
 ? water escaping from the Pound and run down the High Street and Back Lane.

? there is concern that actions within Much Wenlock must not increase the risk to people living downstream in Farley. Measures to increase capacity in the town must not increase flows downstream putting properties in Farley at risk. Provided these attenuation areas are taken further by the other IUDMP proposals, we support the applications

?

2 Comments in support:

? The proposal will add significantly to flood protection of vulnerable properties on that side of town. That it will be maintained by SC is reassuring.

? Attenuation areas first step in making Much Wenlock more resilient to flooding.

? Self draining, with continuous flow, not stagnant pools

? Alleviate the current situation for some smaller flood events, but not a solution for all events.

Providing these attenuation areas are equipped with suitable monitoring and overtopping measurement devices, the people of Much Wenlock will be able to collect sufficient data to support a future development program to bring

? these pools in line with what is needed to deal with the stated nationally recommended levels.

Consideration on the plans is not shown for excessive exceedance. The levels seem to indicate that a secondary area may be flooded in extreme circumstances. Whilst this is good (ie another area gets flooded before the town) the plans show no indication of any measurement device pre-leading the areas input point. At this point an extreme exceedance measurement device is need to indicate excessive failure of the system (should it occur).

?

1 Objection:

If the pond/s have no water flow, e.g. from a stream, stagnant water is the preferred habitat for mosquitoes. Their perambulations will not be limited to the land SW of Bridge House or the Industrial Estate. Unnecessarily living with mosquitoes will be objectionable, so I object before that occurs.

?

1 Comment:

Details flood history of the area
 Development cause of flooding, not climate change.

5.0 THE MAIN ISSUES

Principle of development
 Siting, scale and design of structure
 Visual impact and landscaping

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Much Wenlock town centre is naturally prone to surface water flooding due to steep

rural catchments and subsequent ponding in urban areas. The catchment is fast acting (short time-to-peak) and is prone to flooding particularly when soil saturation is high. Changes to land use are a contributing factor to the flooding issues in the town such as the draining of natural wetlands, changes to farming practices, urbanisation, quarrying and the historic industrial past of the area.

- 6.1.2 An Integrated Urban Drainage Management Plan (IUDMP)¹ for the town of Much Wenlock was undertaken by Shropshire Council to understand the flood mechanisms and the effects of flooding. An Action Plan for managing flood risk in the long term was agreed by the key stakeholders (Shropshire Council, Severn Trent Water and Environment Agency). A preferred option has been taken forward by Shropshire Council to construct an attenuation pond on the upstream reach of Shylte Brook (main river through Much Wenlock town centre).
- 6.1.3 Policy CS18 of the Shropshire Council Core Strategy aims to promote sustainable water management, both in existing development and for new proposals. The proposed attenuation pond would seek to mitigate flood events and to alleviate the impacts of flooding on the town in a sustainable manner, and as such would comply with the objectives of policy CS18.
- 6.1.4 The site is identified in the Much Wenlock Town Plan as being an allocated area for an attenuation pond in line with policy RF5 of that document, with any other form of development prohibited on this land. As this application would be for the provision of the attenuation pond for which the land is reserved, the application is considered to be in compliance with the policies set out in the Much Wenlock Town Plan.
- 6.1.5 Some third party comments and the Town Council have questioned why the attenuation pond is designed for a 30year return period and not a 100 year return period. It is understood that as part of the design process, pond sizes for the 100 year return period event were also calculated and were found to be considerably larger. The flood outlines were not found to change significantly between the 30 year and 100 year design events, therefore large additional spend for the construction of larger ponds would not provide a significantly larger benefit. This is further compounded by the level of flood risk from other sources. The 30 year return period proposed was therefore considered to be the optimum solution for cost and benefit.
- 6.1.6 During a flood event of greater magnitude than a 30 year return period, the attenuation pond will fill up and, eventually, overtop. The pond is designed to overtop in a controlled manner, via an engineered spillway, and the route of the resulting exceedance flow would then be the same as it is today. The exceedance flow would travel overland via the industrial estate and into the short open reach of Shylte Brook before it enters the 'town culvert'. It should be noted that, even during an event such as this, the pond would bring benefit since it will have filled up and stored flood water, reducing the peak flows downstream.
- 6.1.7 The Town Council has queried if the proposed development would improve the pressure on the escape area at The Pound. The Council's drainage officers have commented that attenuation pond would reduce the likelihood of floodwater escaping at The Pound. The maximum allowable discharge from the pond has

been calculated taking the capacity of the channel and culvert at The Pound into account. The proposed scheme involves no physical works at The Pound.

- 6.1.8 The Scheme is designed to relieve 'pressure' on the drainage systems, including the culvert installed in the early 2000s, which serve the town. By temporarily storing water upstream and reducing flows within the town culvert, the drainage systems in the town will have a better chance of coping since they will be able to discharge more freely.
- 6.1.9 The stability of the slopes being constructed as part the proposed Shylte Brook pond formed part of the detailed design. A reinforced concrete 'spillway' forms part of the design so the structure will overtop in a controlled manner during an extreme event and a layer of geotextile reinforced grass is to be installed at the dry side of the slope to prevent erosion. Part of the ongoing maintenance of the site will include regular inspection to ensure that the structure is functioning as it is designed.
- 6.1.10 Not all of the flood water stored by the attenuation pond will be above natural ground level. Indeed, the volume that can be stored above natural ground level (i.e. that which is 'held back by the dam') is such that the structure will not be classed as a large raised reservoir.
- 6.1.11 Shropshire Council will be responsible for the ongoing maintenance of the proposed structure.
- 6.1.12 This planning application is for the Stretton Road attenuation pond only. A wider action plan to combat flooding in the area exists, with the current application represents the implementation of part of this. Shropshire Council, as Lead Local Flood Authority, will be continuing to work to further reduce flood risk in Much Wenlock.
- 6.2 Siting, scale and design of structure
- 6.2.1 In terms of visual impact the proposed attenuation pond would be dry above the through-flow channel for the majority of the time not in use, and so the visual impact would be limited to the low earth bund surrounding the pond. This would be grassed over and is not considered to have a significant impact on the visual amenity of the site or its surroundings.
- 6.3 Other issues
- 6.3.1 The application has been subject to ecological surveys, which have discovered the potential for protected species to be impacted by the proposals to a limited degree. The Council's ecologist has not objected to this development, subject to conditions to ensure that protected species and their habitats are safeguarded during the construction process and the operation of the attenuation pond.
- 7.0 CONCLUSION
- 7.1 The proposed attenuation pond would be fulfilling the allocation of the land as set out in the Much Wenlock Neighbourhood Plan, and would be part of the delivery of the action plan resulting from the Integrated Urban Drainage Management Plan which aims to reduce flooding and mitigate the impacts of flood events in the area.

As such the development complies with Core Strategy policy CS18. The visual impact of the development would be limited and impacts on protected species can be satisfactorily addressed via condition.

7.2 For the reason above it is recommended the Committee approve the application, subject to conditions as set out below.

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 three months after the grounds to make the claim first arose.

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

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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

National Planning Policies:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks
CS18 Sustainable Water Management

Supplementary Planning Guidance:
Much Wenlock Neighbourhood Plan.

RELEVANT PLANNING HISTORY:

12/02218/FUL Formation of new agricultural access GRANT 11th July 2012

11. Additional Information

View details online:

<http://planningpa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Design and Access Statement
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr David Turner
Appendices APPENDIX 1 - Conditions

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

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 strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The external materials and their colour shall be as shown on the deposited plan and as specified in the submitted documents, no alterations shall be made to these materials or colour without the express consent in writing of the Local Planning Authority.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development to which this consent applies. A detailed badger survey must be carried out in the period May to mid-September prior to the commencement of works by an experienced ecologist and a report submitted to and approved in writing by the Local Planning Authority, including any necessary mitigation.

Reason: To ensure the protection of badgers

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

5. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Shylte Attenuation Pond survey dated by Robert Mile to 4th September 2014 review.

Reason: To ensure the protection of great crested newts, a European protected species and reptiles

6. All existing trees, shrubs and hedgerows within and bordering the site, except as specifically referenced in the approved documents, shall be protected, retained and maintained for the duration of any development works and for 5 years thereafter.

Reason: To safeguard the visual amenities of the area.

Informatives

1. Policies material to the determination of this application:

National Planning Policies:

NPPF, NPPG

Shropshire Core Strategy:

CS6, CS17, CS18

Supplementary Planning Guidance:

Much Wenlock Neighbourhood Plan.

2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
3. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

4. Trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
5. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

6. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

-



Committee and date
South Planning Committee
10 February 2015

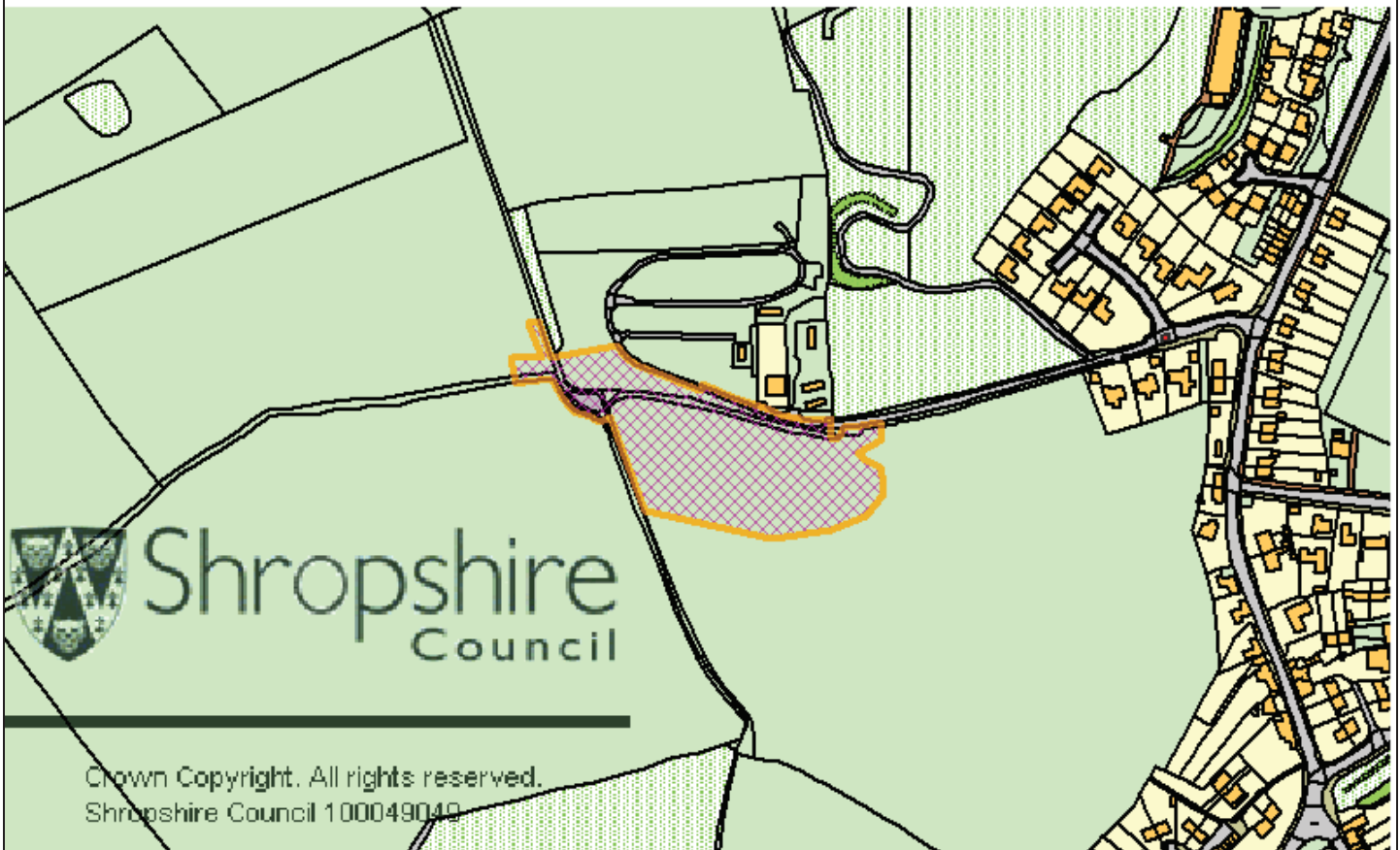
Development Management Report

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

Summary of Application

<u>Application Number:</u> 14/01754/FUL	<u>Parish:</u>	Much Wenlock
<u>Proposal:</u> Construction of an attenuation pond designed to attenuate 4500m ³ of water		
<u>Site Address:</u> Sytche Lane Much Wenlock Shropshire		
<u>Applicant:</u> Shropshire Council		
<u>Case Officer:</u> Thomas Cannaby	<u>email:</u> planningdmse@shropshire.gov.uk	

Grid Ref: 362156 - 300462



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 This current application, along with application 14/01573/FUL (also on this committee agenda) are part of an action plan following integrated urban drainage management plan assessment to understand and manage flood risk in Much Wenlock.
- 1.2 This application is for the construction of a 4500m³ attenuation pond on the upstream reach of Sytche Brook, which runs through Much Wenlock and on to the Farley Brook downstream.
- 1.3 The open watercourse will be diverted along a short channel and the water discharged into a retained through-flow water channel in the pond. The pond will have lagoons that spur off the main channel at varying water depths and will have 1 in 3 side slopes up to the existing topography that will fill up when baseflows are exceeded. There will be an outlet control structure connected to a 600mm diameter pipe culvert which will discharge back to the existing open channel.

The pond extends approximately 180m by 80m at its widest point, with a low earth bund surrounding the pond with a width of approximately 4m.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed attenuation pond will be situated to the north west of Much Wenlock town near Sytche Lane, on the upstream reach of Sytche Brook. The site to establish the pond is 0.74 hectares (area of earth works and construction).
- 2.2 Sytche Brook runs in an easterly direction and is an open channel watercourse through the proposed site. Sytche Brook then continues as a steep open channel adjacent to Sytche Lane with a few short culverts (allowing access to properties). It then enters a 400m long pipe culvert under Sheinton Street (A4169) and Station Street. There are some short open channel reaches before it passes through an arch culvert under an old railway embankment. It continues to be open channel until it discharges into the "town culvert" near St Milburga's Priory.
- 2.3 The site is cultivated farmland fields with hedgeline nearby. There are no heritage assets or conservation areas in the local vicinity. There are a few houses on Sytche Lane approximately 75m to the east and a caravan park in the adjacent fields to the north. There are 2 public rights of way footpaths which run adjacent to the site which will need to be temporarily diverted during construction.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application is referred to committee for determination in line with the Council's adopted scheme of delegation as Shropshire Council is the applicant.

4.0 Community Representations

- Consultee Comments

Much Wenlock Town Council – supports application

Shropshire Council is asked to acknowledge the following key issues:

- ☐ The size of the attenuation areas compared to national guidance (1 in 30 risk as opposed to 1 in 100+Climate change).
- ☐ The risks when either area overtops or fails. What are the Exceedance routes? Will the risks be more or less than currently?
- ☐ Will the attenuation areas relieve the pressure on the escape area at The Pound? How can this be made safer?
- ☐ What can be done about the undersized culvert and the nuisance associated with the work undertaken in the 2000s?
The risks of attenuation in a rapid response catchment. Reservoirs are a
- ☐ problem because of dam failure these areas are mostly below ground level
- ☐ with only limited banks.
How will the attenuation areas be maintained? Who will be responsible?
These attenuation areas are the first option in the Integrated Urban Drainage Management Plan(IUDMP). It is estimated they only reduce risk by 41%.
What will the council say about reducing the risk further?

Shropshire Council:

Drainage – the FRA and the attenuation pond designed to attenuate 4500m³ of water are acceptable.

Ecology – No objection subject to conditions.

Archaeology - recommend that an archaeological inspection be made a condition for the proposed development.

Conservation – no comments to make on application.

Rights of Way - Footpaths 20 and 19 are affected by the proposal and, as noted, these public footpaths will have to be temporarily diverted during construction.

- Public Comments

Much Wenlock Civic Society:

- ☐ Strongly supports effective measures to reduce the long established flooding risks in Much Wenlock.

Local concerns over the precise operation of the attenuation ponds.

Ponds will alleviate flooding of existing properties, not eliminate flood risks arising from approval of any additional development.

☐

Much Wenlock Community Flood Action Group – Supports application

MWFLAG supports measures to reduce the risk of flooding in the town. We consider it is especially important that slowing measures to reduce the peak flows in the inadequate infrastructure of the town are implemented. These attenuation areas are a first step in the right direction because if operated

- ☐ and maintained properly they will provide some relief for two areas of the town that are especially vulnerable.

- ☐ While supporting the development of the attenuation areas the capacity has not been designed to nationally recommended levels.

Attenuation within rapid response catchments does not work effectively if it fails or is overtopped. These basins are largely below ground level so the risk of catastrophic bank failure is limited. The overtopping issue is still

- ☐ present but flows should be less than currently because of the water storage in the basin.

There is concern about the exceedance route for the Stretton Road attenuation basin which threatens the historic core of the town. Water from this attenuation area will be directed down Victoria Road where it will join

- ☐ water escaping from the Pound and run down the High Street and Back Lane.

there is concern that actions within Much Wenlock must not increase the risk

- ☐ to people living downstream in Farley. Measures to increase capacity in the town must not increase flows downstream putting properties in Farley at risk. Provided these attenuation areas are taken further by the other IUDMP proposals, we support the applications

- ☐

3 Comments in support:

- ☐ Supports application, consideration should be given to minimise disruption to area during construction and not restrict access.

- ☐ Proposal will add significantly to flood protection of vulnerable properties on that side of town. Maintenance by Shropshire council is reassuring.

- ☐ The proposal will add significantly to flood protection of vulnerable properties on that side of town. That it will be maintained by SC is reassuring.

- ☐ Attenuation areas first step in making Much Wenlock more resilient to flooding.

- ☐ Self draining, with continuous flow, not stagnant pools

- ☐ Alleviate the current situation for some smaller flood events, but not a solution for all events.

Providing these attenuation areas are equipped with suitable monitoring and overtopping measurement devices, the people of Much Wenlock will be able to collect sufficient data to support a future development program to bring

- ☐ these pools in line with what is needed to deal with the stated nationally recommended levels.

Consideration on the plans is not shown for excessive exceedance The levels seem to indicate that a secondary area may be flooded in extreme circumstances. Whilst this is good (ie another area gets flooded before the town) the plans show no indication of any measurement device pre-leading the areas input point. At this point an extreme exceedance measurement device is need to indicate excessive failure of the system (should it occur).

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Much Wenlock town centre is naturally prone to surface water flooding due to steep rural catchments and subsequent ponding in urban areas. The catchment is fast acting (short time-to-peak) and is prone to flooding particularly when soil saturation is high. Changes to land use are a contributing factor to the flooding issues in the town such as the draining of natural wetlands, changes to farming practices, urbanisation, quarrying and the historic industrial past of the area.

- 6.1.2 An Integrated Urban Drainage Management Plan (IUDMP)¹ for the town of Much Wenlock was undertaken by Shropshire Council to understand the flood mechanisms and the effects of flooding. An Action Plan for managing flood risk in the long term was agreed by the key stakeholders (Shropshire Council, Severn Trent Water and Environment Agency). A preferred option has been taken forward by Shropshire Council to construct an attenuation pond on the upstream reach of Sytche brook.
- 6.1.3 Policy CS18 of the Shropshire Council Core Strategy aims to promote sustainable water management, both in existing development and for new proposals. The proposed attenuation pond would seek to mitigate flood events and to alleviate the impacts of flooding on the town in a sustainable manner, and as such would comply with the objectives of policy CS18.
- 6.1.4 The site is identified in the Much Wenlock Town Plan as being an allocated area for an attenuation pond in line with policy RF5 of that document, with any other form of development prohibited on this land. As this application would be for the provision of the attenuation pond for which the land is reserved, the application is considered to be in compliance with the policies set out in the Much Wenlock Town Plan.
- 6.1.5 Some third party comments and the Town Council have questioned why the attenuation pond is designed for a 30year return period and not a 100 year return period. It is understood that as part of the design process, pond sizes for the 100 year return period event were also calculated and were found to be considerably larger. The flood outlines were not found to change significantly between the 30 year and 100 year design events, therefore large additional spend for the construction of larger ponds would not provide a significantly larger benefit. This is further compounded by the level of flood risk from other sources. The 30 year return period proposed was therefore considered to be the optimum solution for cost and benefit.
- 6.1.6 Should a flooding event greater than the 30 year annual return period occur over the catchment, then the application documents state that the exceedance route of flows in the vicinity has been considered. There is a bund overflow notch with reinforcement at a level of 173.5mAOD. The additional water will overflow this notch and continue down the proposed concrete overflow channel which is positioned at ground level above the 600mm diameter culvert. The exceedance route is then similar to what occurs at present when the Sytche Brook Proposed Attenuation Pond existing channel capacity is exceeded, based on anecdotal evidence taken from the report produced by Telford & Wrekin Council in September 2009 and the 200 year surface water flooding map. The exceedance flow spills out of Sytche Brook open channel and goes overland down Sytche Lane and ponds at the bottom where it meets Sheinton Street (A4169). The capacity of the 400m culvert under Sheinton Street is very limited (pipe diameter is 360mm) so exceedance flow goes overland towards Much Wenlock town (to the south) and the Station Street area (to the east). It should be noted that, even during an event such as this, the pond would bring benefit since it will have filled up and stored flood water, reducing the peak flows downstream.
- 6.1.7 The Town Council has queried if the proposed development would improve the

pressure on the escape area at The Pound. The Council's drainage officers have commented that attenuation pond would reduce the likelihood of floodwater escaping at The Pound. The maximum allowable discharge from the pond has been calculated taking the capacity of the channel and culvert at The Pound into account. The proposed scheme involves no physical works at The Pound.

- 6.1.8 The Scheme is designed to relieve 'pressure' on the drainage systems, including the culvert installed in the early 2000s, which serve the town. By temporarily storing water upstream and reducing flows within the town culvert, the drainage systems in the town will have a better chance of coping since they will be able to discharge more freely.
- 6.1.9 The stability of the slopes being constructed as part the proposed Sytche Brook pond formed part of the detailed design. A reinforced concrete 'spillway' forms part of the design so the structure will overtop in a controlled manner during an extreme event and a layer of geotextile reinforced grass is to be installed at the dry side of the slope to prevent erosion. Part of the ongoing maintenance of the site will include regular inspection to ensure that the structure is functioning as it is designed.
- 6.1.10 Not all of the flood water stored by the attenuation pond will be above natural ground level. Indeed, the volume that can be stored above natural ground level (i.e. that which is 'held back by the dam') is such that the structure will not be classed as a large raised reservoir.
- 6.1.11 Shropshire Council will be responsible for the ongoing maintenance of the proposed structure.
- 6.1.12 This planning application is for the Sytche Lane attenuation pond only. Shropshire Council, as Lead Local Flood Authority, will be continuing to work to further reduce flood risk in Much Wenlock.
- 6.2 Siting, scale and design of structure
- 6.2.1 In terms of visual impact the proposed attenuation pond would be for the majority of the time not in use, with only a small flow occurring through the channel during normal operation, the pond would be filled only during flood events, and drain rapidly after such events end. Therefore the visual impact would be limited to the low earth bund surrounding the pond. This would be grassed over and is not considered to have a significant impact on the visual amenity of the site or its surroundings. Additional boundary hedgerows are proposed to further enclose the site and reduce access and visibility to the proposed works.
- 6.3 Other issues
- 6.3.1 The application has been subject to ecological surveys, which have discovered the potential for protected species to be impacted by the proposals to a limited degree. The Council's ecologist has not objected to this development, subject to conditions to ensure that protected species and their habitats are safeguarded during the construction process and the operation of the attenuation pond.

The proposed development site is located adjacent to Sytche Lane, Much Wenlock (HER PRN 21044) a possible post medieval routeway connecting the Shrewsbury

Road to the Buildwas Road in an elevated location above the medieval town of Much Wenlock. The site may therefore have some archaeological potential. The Council's archaeologist has recommended an archaeological inspection of the site be made a condition of any development occurring.

7.0 CONCLUSION

7.1 The proposed attenuation pond would be fulfilling the allocation of the land as such as set out in the Much Wenlock Neighbourhood Plan, and would be part of the delivery of the action plan resulting from the Integrated Urban Drainage Management Plan which aims to reduce flooding and mitigate the impacts of flood events in the area. As such the development complies with Core Strategy policy CS18. The visual impact of the development would be limited and impacts on protected species can be satisfactorily addressed via condition.

7.2 For the reason above it is recommended the Committee approve the application, subject to conditions as set out below.

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8.1 Risk Management

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

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First Protocol Article 1 requires that the desires of landowners must be balanced

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

Design and Access Statement

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Turner

Appendices

APPENDIX 1 - Conditions

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

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

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The external materials and their colour shall be as shown on the deposited plan and as specified in the submitted documents, no alterations shall be made to these materials or colour without the express consent in writing of the Local Planning Authority.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development to which this consent applies. A detailed badger survey must be carried out in the period May to mid-September prior to the commencement of works by an experienced ecologist and a report submitted to and approved by the Local Planning Authority, including any necessary mitigation.

Reason: To ensure the protection of badgers

5. No development approved by this permission shall commence until a scheme to allow access to any archaeologist nominated by the Local Planning Authority to observe the excavations and record items of interest, has been submitted to and approved in writing by the Local Planning Authority.

Reason: The area is of archaeological potential and it is importance that any archaeological features and finds are properly recorded.

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

6. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the sytche Attenuation Pond survey dated by Robert Mileto 4th September 2014 review.

Reason: To ensure the protection of great crested newts, a European protected species and reptiles

7. All existing trees, shrubs and hedgerows within and bordering the site, except as specifically referenced in the approved documents, shall be protected, retained and maintained to the satisfaction of the local planning authority for the duration of any development works and for 5 years thereafter.

Reason: To safeguard the visual amenities of the area.

Informatives

1. Policies material to the determination of this application:

National Planning Policies:
NPPF, NPPG

Shropshire Core Strategy:
CS6, CS17, CS18

Supplementary Planning Guidance:
Much Wenlock Neighbourhood Plan.

2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
3. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

4. Trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
5. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

6. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

7. The applicant is reminded that confirmation of a Diversion Order for the public right of way may be required prior to development being commenced. The commencement of development prior to such confirmation may lead to legal complications and/or possible infringement of existing public rights and thus conflict with other legislation.

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Committee and date

South Planning Committee

10 February 2015

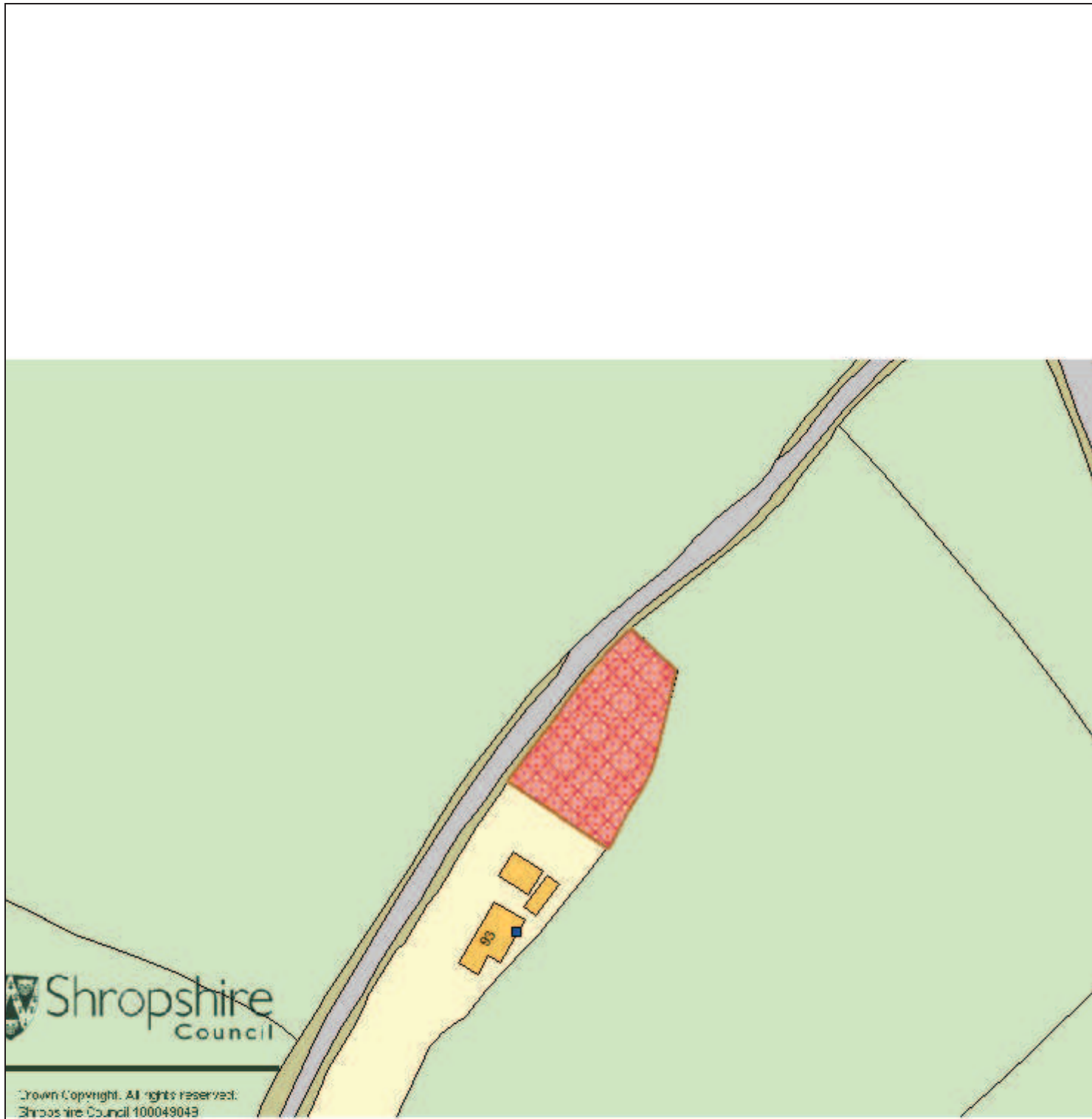
Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 14/03090/FUL	<u>Parish:</u>	Sheriffhales
<u>Proposal:</u> Erection of a two-bedroom dwelling house and integral garage with ancillary development including a new access onto Damson Lane and a package treatment plant		
<u>Site Address:</u> 93 Damson Lane Weston Heath Shifnal TF11 8RU		
<u>Applicant:</u> Mr Andy Grubb		
<u>Case Officer:</u> Thomas Cannaby	<u>email:</u> planningdmse@shropshire.gov.uk	
<u>Grid Ref:</u> 377643 - 313724		



Recommendation:- Refuse**Recommended Reason for refusal**

The proposed development is located within an area of defined as open countryside where new dwellings are only permitted where required to accommodate key agricultural, forestry or other essential countryside workers or to meet a local need for affordable housing / accommodation. No such need has been demonstrated in this case and the proposal would lead to sporadic and unsustainable development. Accordingly the proposal fails to comply with adopted policies CS4, CS5, CS6, and CS17 of the Core Strategy; and Government advice contained in the National Planning Policy Framework (in particular paragraph 55).

REPORT**1.0 THE PROPOSAL**

- 1.1 The proposal is for the erection of a two storey detached dwelling on land to the north eastern side of number 93 Damson Lane. The proposed dwelling would have a rectangular footprint, with an attached garage, and would have a short two storey gable front projection, with other first floor windows comprising of a semi-dormer to the front elevation and two semi-dormers to the rear elevation. It would provide a dining kitchen, hallway and wc and lounge on the ground floor, with two bedrooms (one ensuite) and a bathroom at first floor level. The external facing materials would comprise of red brick with a plain tiled dual pitched roofs to the dwelling and attached garage .
- 1.2 The dwelling would be located adjacent to a proposed hedgerow along the south western site boundary, which would separate the new dwelling from the existing property. The plans show an area of garden land to the rear and side, with the latter being the location for the proposed sewage treatment plant. Access directly off Damson Lane, at the southern end of the site road frontage, with a parking/turning area in front of the dwelling.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in the countryside, but not within the green belt as stated in third party comments. The site is approximately 270m from the cluster of buildings that form Weston Heath to the southeast, 1km from Heath Hill to the west, and 1.8km to the northeast of Sheriffhales. The site is accessed off Damson Lane, a narrow rural lane along which runs a public footpath, with open land to the rear and surrounding the existing property.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application is referred to committee following correspondence between the Case officer and Ward Member, and referral to the Chair of the planning committee

in line with the Council's adopted scheme of delegation.

4.0 Community Representations

- Consultee Comments

Sheriffhales Parish Council – Will only support application if access improved.

Shropshire Council:

Ecology – No objections, conditions could be attached to decision notice if permission granted.

Highways – No objections, applicant would require Section 184 licence for new access if planning permission approved.

Drainage – No objection. Drainage details could be conditioned if permission were to be approved.

Public Comments

1 Objection:

Clearly a case of “garden grabbing” of land in the green belt. Would set precedent for additional development if permitted.

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Other issues

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The development plan for Shropshire is the Council's Adopted Core Strategy, the associated 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and 'saved' policies from the preceding local plans; in this case, the Bridgnorth District Local Plan. The Council is also in the process of producing a Site Allocations and Management of Development Plan (SAMDev). Since the adoption of the Council's Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given significant weight in the determination of planning applications.

6.1.2 Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- ☐ the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- ☐ 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
- ☐ the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 6.1.3 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case, however this is only attached limited weight as the SAMDev documents are currently under examination and the inspector has not yet returned a judgement.
- 6.1.4 The Council is satisfied it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev document and through provision of housing across the county through the community hub and cluster approach. The Council there considers the housing policies contained within the Core Strategy up to date and should be attached full weight.
- 6.1.5 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people. The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen. Such designations are being made via the SAMDev Plan, currently under examination.
- 6.1.6 The application site is located outside of any settlement which has opted into the community hub/cluster designation, and the site would therefore be classified as 'countryside' for planning policy purposes, where new development is strictly controlled in accordance with national and local planning policies. New housing would therefore only be permitted in exceptional circumstances in accordance with Policies CS5 and CS11 of the Council's Core Strategy.
- 6.1.7 Policy CS5 of the 'Shropshire Local Development Framework: Core Strategy' (Adopted March 2011) states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. The policy goes on to state that proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. In relation to new housing proposals, the policy identifies specific types of development including dwellings for agricultural, forestry or other essential countryside workers or other affordable housing / accommodation to meet a local need. The proposal is for an open market property. Therefore neither of these policy exceptions are relevant to the development applied for in this case.
- 6.1.8 The National Planning Policy Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances (paragraph 55).
- 6.1.9 The applicant puts forward the argument that the settlement of Weston Heath is a loose-knit but distinct named settlement is part of a cluster of settlements, hamlets and farmsteads that surround and look to the village of Sheriffhales at the hub of

this cluster. That these are very much part of Sherifffhales Parish and rely on the services and facilities provided by the Village Hall, School, Church and playing fields within Sherifffhales itself. Weston Heath also included a currently closed local pub serving the Parish. The application argues that whilst Sherifffhales has not put itself forwards as a community hub or cluster, it nevertheless has the character of such a designation and should be considered as such. The application is accompanied by a planning statement which details the applicant's case as to why this development should be considered sustainable development, which is viewable with the application documents on the Council's website.

- 6.1.10 Its is acknowledged that there is a, somewhat limited, range of services and facilities available in the local area of Weston Heath and Sherifffhales including a church, playing fields, village hall, primary school, nursery school and visits by a mobile library. In terms of sustainable transport connectivity, although the application site is close to Weston Heath it is separated from that settlement and access is via the narrow Damson Lane, and then onto the busy A41. Other settlements at Heath Hill and Sherifffhales are further away, approximately 1km and 1.8km respectively. Although the site may be within walking distance of Weston Heath, there are no pavements or streetlights along the highway at this point, which is a single track narrow lane. It is therefore considered unlikely that future occupants would choose to walk or cycle to that settlement, or to other settlements further away. This is because future occupants would be highly unlikely to perceive walking or cycling along unlit, narrow country lanes on dark winter mornings as a desirable or safe option.
- 6.1.11 Weston Heath is also served by a regular bus service, twice daily on Monday-Friday and once on Saturdays, to and from Sherifffhales (7mins), Shifnal (15mins) and beyond to Bridgnorth (approx 1hr) which leaves and drops off on the A41 at the Countess Arms, Weston Heath. However, occupants would need to travel to this service, which as already noted above, would involve walking along Damson Lane with its limited width and lack of lighting. The twice daily service offers little flexibility in terms of travel times and any occupants would be reliant on private motor vehicles for journeys outside of the times provided for by this service or for journeys to other destinations. Whilst this does not mean that the application site should necessarily be considered 'remote', it does mean that future occupants of the development proposed would be more likely to be reliant on the private car.
- 6.1.12 Whilst the provision of a dwelling would provide some support to local services, and to the provision of housing across the county, this would by the nature of the proposal be limited as only a single dwelling is proposed. Therefore the impact of the development in supporting services and addressing housing supply in the county can be given only limited weight.
- 6.1.13 For the reasons given above it is considered that the site cannot be regarded as a sustainable location for new development, and that the site is in a location deemed inappropriate for new development by the policies contained in the adopted core strategy.
- 6.2 Siting, scale and design of structure
- 6.2.1 In terms of design the dwelling is of a scale and character which reflects the proportions and design of the existing adjacent property, and would not be out of

keeping with the character of the area. A dwelling would inevitable have an impact on the rural character of the area, but given the size of the dwelling, and its position on a relatively generous curtilage, the proposal is not considered to have a detrimental impact on the visual amenity of the area nor on the amenities of nearby dwellings by reason of its design, scale or massing.

6.3 Other issues

- 6.3.1 The Parish Council has expressed concerns regarding the access to the site, however the Council's highways development control officers have considered the application and raised no objection to the development, other than to point out that if permission were to be granted a Section 184 licence would be required for any new access that is installed, which is dealt with separately from any planning decision.
- 6.3.2 The Council's ecologist has raised no objection to the development, but if the Committee were minded to approve the application has requested that conditions to secure wildlife enhancement of the site in the form of the installation of bat boxes on site be attached to any consent, along with informatives regarding potential impact on protected species should these be discovered on site during implementation.
- 6.3.3 Likewise the Council's land drainage officers have raised no objection in principle to a dwelling on this site, but if Committee were minded to approve the application, would require full details of foul and surface water drainage, and where appropriate soak away tests, to be submitted for approval via a planning condition.
- 6.3.4 Should the committee be minded to approve the application, the core strategy policy CS11 would require the completion of a section 106 agreement to secure a payment towards affordable housing before any consent were to be issued. Any decision to permit should be subject to such an agreement being completed.

7.0 CONCLUSION

The proposed development is located within an area of defined as open countryside where new dwellings are only permitted where required to accommodate key agricultural, forestry or other essential countryside workers or to meet a local need for affordable housing / accommodation. No such need has been demonstrated in this case and the proposal would lead to sporadic and unsustainable development. Accordingly the proposal fails to comply with adopted policies CS4, CS5, CS6, and CS17 of the Core Strategy; and Government advice contained in the National Planning Policy Framework (in particular paragraph 55).

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 three months after the grounds to make the claim first arose.

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

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:
National Planning Policy Framework
National Planning Practice Guidance

Core Strategy and Saved Policies:
CS 4 Community Hubs and Community Clusters
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management
D6 Access and parking

SPD on the Type and Affordability of Housing

11. Additional Information

View details online:

<http://planningpa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Kevin Turley

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Committee and date

South Planning Committee

10 February 2015

Development Management Report

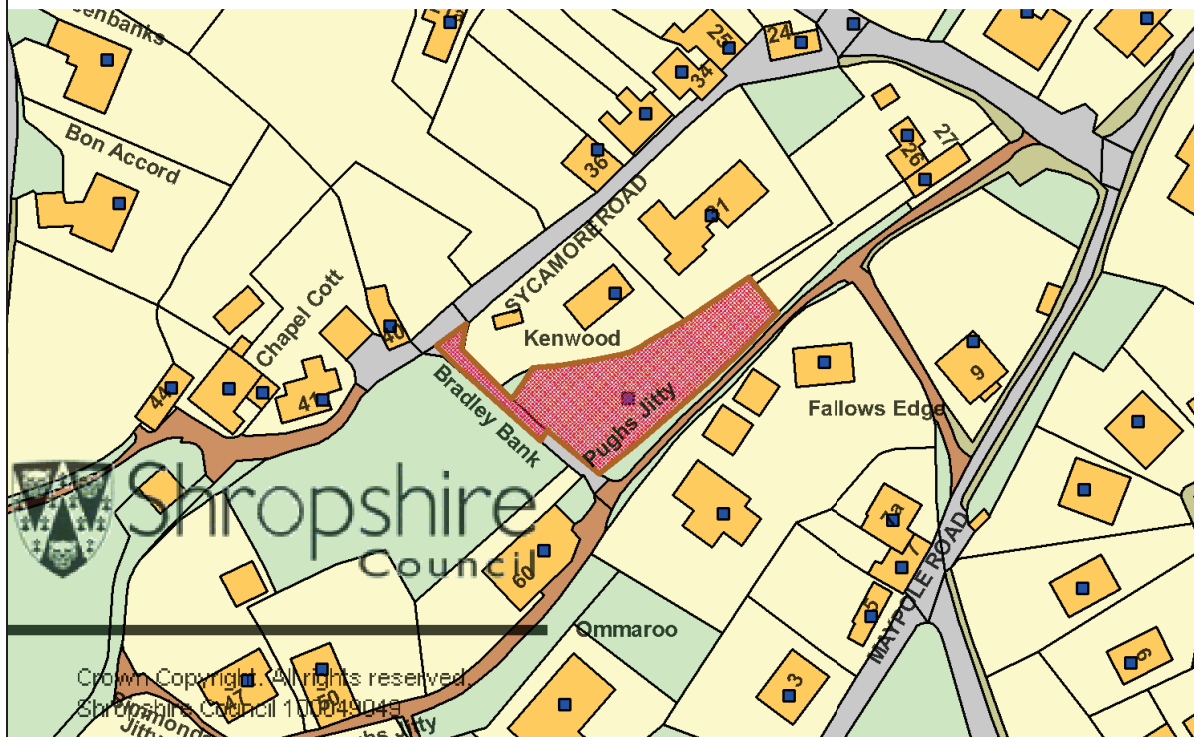
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/04219/FUL	Parish: Broseley
Proposal: Erection of one dwelling and carport	
Site Address: Land Adj 29 Sycamore Road Broseley Shropshire	
Applicant: Mr T Potts	
Case Officer: Lynn Parker	email: planningdmse@shropshire.gov.uk

Grid Ref: 367218 - 302770



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Recommendation:- Grant Permission subject to the completion of a Section 106 Agreement in respect of affordable housing contribution and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application is for the erection of one open market dwelling on the site of a former dwelling destroyed by fire approximately 38 years ago at 29 Sycamore Road, Broseley. Accommodation is proposed over 2 floors as a cottage style property with dormer windows at eaves level and a car port attached to the north west facing side elevation. The ground floor is indicated to comprise a hall, living room, dining/kitchen and cloaks plus a small porch canopy over the front door. The first floor will accommodate bedroom 1 with an ensuite, 2 further bedrooms and a bathroom. The proposed dwelling will measure 8.9m wide x 6.4m in depth x 7m to ridge height, 3.9m to eaves, and the car port 2.6m wide x 5m in depth x 4.85m to ridge height, 2.33m to eaves. The cottage design of the dwelling includes exposed rafter ends, ladder casements with reconstituted stone cills under brick segmented arches, roof lights and a chimney. The car port would be open on 3 sides, have a tiled duo pitched roof with exposed rafter feet to match the main dwelling, and would be supported by timber posts and gallow brackets. The gable of the roof would be finished with horizontal timber boarding on a timber frame.

1.2 Materials including facing brick, small tiles, ladder casements, conservation type roof lights and outside paving stones would be to LPA approval. An access point of 2.5m would be created and a minimum of 2 parking spaces available within the frontage driveway/car port/turning area. Boundaries would comprise a combination of mature hedging, low brick retaining wall and timber panel fencing. Foul sewage would be disposed of to the mains sewer, surface water to a new soakaway. No trees or hedges are affected by the development.

1.3 An Affordable Housing Contribution Proforma has been submitted agreeing to pay a financial contribution of £12,992.40 towards off site affordable housing provision as the internal floorspace is identified as being 96.24m² (0.15 x 96.24m² x 900 = £12,992.40).

1.4 Certificate D has been issued in respect of this application as the owner of the site is not known, and confirms that measures have been taken to try and identify the owner as follows:

- o Land Registry website searched and matter discussed with Land Registry Officer.
- o Discussed with SC Highways and PROW Officers who confirmed that Bradley Bank has no legal status and the owner is not known.
- o Notice Under Article 11 dated 17th September 2014 published in the Shropshire Star and Express And Star.

- 1.5 During the course of the application, the agent has submitted an email which discusses the stability and drainage issues brought up by public representation. Additionally a Coal Mining Risk Assessment dated December 2014 has been submitted in response to Officers' concerns, which can be viewed in full online, however Section 6 Summary and Recommendations is reproduced below:
1. The site of the former 29 Sycamore Road, Broseley Wood lies within a former mining area where past underground workings for red clays and for coal are known to be widespread.
 2. Whilst there are no recorded shallow clay or coal workings beneath the site there is an assessed risk of such workings being present. This report sets out proposals to investigate for possible shallow workings by the drilling of new rotary boreholes. Should shallow workings be proven, and should there be insufficient rock cover overlying those workings, then the report also sets out how those workings would be dealt with by drilling and pressure grouting.
 3. There are no recorded mine entries within influencing distance of the site. The proposed development should therefore be allowed to proceed without the need for any specific precautions for mine entries.
 4. It is concluded that the site adjacent to 29 Sycamore Road, Broseley Wood, on the basis of all the information available by way of this desk study, carries several risks normally associated with building in a former mining environment. Those risks are capable of being evaluated and properly addressed by the application of conventional site investigation and remediation procedures. On this basis see no reason why this development should not proceed, fully in accordance with the requirements of the National Planning Policy Framework.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is within the Key Centre of Broseley to the north of the Town Centre and is accessed via minor roads from the B4375 which runs through the town. This part of Broseley is characterised by its tangle of streets and lanes and mix of dwellings on irregular plots, linked by pathways and flights of steps known as the jitties, as the land is essentially the eastern slope of a valley side. The growth of the settlement was instigated in the late 16th Century when the Lord of the Manor, James Clifford allowed miners to build cottages on plots in the unenclosed commons and wastes north of the ancient village. The site falls within Broseley Conservation Area.
- 2.2 The plot itself is roughly triangular in shape tapering to the north east at the rear. The land slopes upwards from the south west to the north east so that Pugh's Jitty which runs along the south eastern boundary and the dwellings beyond are set at a higher level. The adjacent bungalows to the north on Sycamore Road are therefore at a lower level. The site has been mown over the summer months and contains the concrete pad which formed the foundation of the former bungalow. Its perimeter is defined by mature hedging which is wider in some places than others. Access to the site from Sycamore Road is via a straight unadopted track of patchy hardsurfacing, the plot entrance being approximately 14m along it.

2.3 There are adjacent neighbouring dwellings around the plot. The property to the north at 'Kenwood' is a modern hipped roof bungalow with a north facing frontage onto Sycamore Road. Its south facing rear elevation is in close proximity to the side boundary of the plot, particularly as it has benefitted from a conservatory spanning the full width of its rear elevation. This conservatory largely fills the gap between the original rear elevation and the boundary hedge which screens the plot and the conservatory. The gardens of this neighbour are primarily located on its north and west elevations. Access is via the corner of the access track to the plot with Sycamore Road.

The neighbour across the access track to the south is also a modern bungalow which has a split level front elevation with integral garage at ground floor level. The majority of the bungalow is therefore elevated and it is positioned in the corner of its plot set back from the road by 7m. Its outside amenity space is located to its rear in the south west. There are 2 storey properties to the east of the plot across Pugh's Jitty which are of more recent construction (c.2002). These are also set at a higher level and have side gables without any openings which face north west towards the site. The property to the rear of the plot is not visible and located approximately 30m beyond the rear boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications where the Parish Council submit a view contrary to officers based on material planning reasons the following tests need to be met:

- (i) These contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions: and
- (ii) The Area Manager or Principal Planning Officer in consultation with the Committee Chairman or Vice Chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Broseley Town Council - Object

Councillors are concerned that the plans submitted do not seem to represent the area as they know it. The two storey development would overshadow at least one of the neighbouring properties. Access over Bradley Bank would need to be clarified.

4.1.2 SC Conservation - No conservation objections. The proposed development by virtue of its design and form is considered acceptable and not considered to have any detrimental impact on the conservation area.

4.1.3 SC Archaeology - No comments to make on this application with respect to archaeological matters.

- 4.1.4 SC Drainage (30-09-14) – Surface water drainage and soakaway details, plan and calculations could be conditioned if planning permission were to be granted. Standard advice supplied in relation to the encouragement of measures listed to minimise the risk of surface water flooding.

SC Drainage (14-10-14) - In light of the new concerns on the above application raised by public representation, could you please request the applicant to investigate and provide a report on the groundwater and ground stability problems on this site and measures to address the ground stability problems in addition to my drainage comments dated 30 September 2014.

SC Drainage (21-10-14) - The following drainage details, plan and calculations could be conditioned if planning permission were to be granted:

1. Details and structural calculations of the proposed retaining wall should be submitted for approval taking into account any groundwater and ground stability issues on this site.

Reason: To ensure that the retaining wall is structurally sound.

2. Our Drainage Comments dated 2 October 2014 could be conditioned.

- 4.1.4 SC Ecology – Condition recommended in relation to the provision of a bat box, and informatives relating to bats and nesting wild birds.

- 4.1.5 SC Public Protection - Having considered the location, no comment on this application.

- 4.1.6 The Coal Authority - Confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial

works identified by the site investigation are undertaken prior to commencement of the development.

The Coal Authority considers that the contents and conclusions of the Coal Mining Risk Assessment Report are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objections to the proposed development subject to the imposition of a condition or conditions to secure the above.

4.1.7 SC Affordable Houses - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.2 - Public Comments

4.2.1 Eight letters of representation have been received from six different contributors which can be viewed in full online, however the concerns expressed are præcised below:

- o The site has an historic problem with flooding from both the nearby underground well and land drainage from the upper slope above the site.
- o The application site still floods and the bank above is not stable.
- o There is potential for the development to cause land to slip into our property.
- o The site is contaminated by asbestos from the original fire destroyed bungalow.
- o Whilst the developer has made suggestions of dealing with the asbestos by condition, this would not protect residents once potentially harmful spores have been released into the air.
- o The access route off Sycamore Road is unadopted and solely maintained and used by us. The development could cause further damage to the already poor state of the road and we would like assurances over its future upkeep. It is also a public footpath.
- o The width of Sycamore Road at 2m bordered by walls is not suitable for emergency vehicles.
- o Bradley Bank is unsuitable for construction traffic and additional domestic traffic.
- o The traffic using the access road will be greater for the proposed dwelling than for a bungalow.
- o How will materials and equipment reach the site?
- o The proposed plans are not in keeping with the original building.
- o The proposed property is double the size of the existing.
- o The original bungalow was set further away from our property and was much lower in height.

- o The application states that the proposed dwelling would not be visible from the rear of 'Kenwood', but at 7m in height I must disagree.
- o The proposed height and close proximity of the development would completely overlook our bungalow giving us no privacy and would block light for most of the day. We will clearly be able to see the development from our windows.
- o The increased height will severely impact on surrounding properties in terms of light and privacy.
- o Our gable elevation containing numerous windows and a glass conservatory will look out directly onto the gable wall and upper windows of the proposed dwelling.
- o The developer had not taken into consideration the many existing conservatories and their large expanses of glass.
- o For how long will the build take place?
- o It is clear that this dwelling is not an affordable one.
- o The hedge that runs along Pughs Jitty is an existing nesting area for a variety of local birds and wildlife.
- o There are regular sightings of hedgehogs, badgers and foxes within gardens surrounding the plot and on the plot itself.
- o This area is also used regularly as a flight path for bats.

5.0 THE MAIN ISSUES

- o Principle of development
- o Design, scale and character
- o Impact on Broseley Conservation Area
- o Impact on neighbours/residential amenity
- o Access
- o Drainage
- o Land contamination/stability

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The proposed site falls within the Key Centre of Broseley in which the principle of erecting open market dwellings is supported by LDF Core Strategy Policy CS3 – The Market Towns and Other Key Centres, as a more sustainable form of development. Bridgnorth District Local Plan 'Saved' Policy H3 identifies Broseley as a key settlement where residential development will be permitted provided the site is appropriate. The Market Towns and other Key Centres are identified in LDF Core Strategy Policy CS1 – Strategic Approach as maintaining and enhancing their traditional roles in providing services and employment and accommodating around 40% of Shropshire's residential development over the plan period. Greater self-containment is the key objective of the Market Town revitalisation programme.

6.1.2 The 'appropriateness' of the site can be considered as the perceived interaction between the proposed and existing visual and physical factors involved. Both the

National Planning Policy Framework (NPPF) and LDF Core Strategy Policies CS6 and CS17 direct that a high quality development should be created whilst contributing to local character, and protecting and enhancing the natural, built and historic environment.

- 6.1.3 Broseley Town Plan supports new housing within its development boundary and within its Conservation Area, provided that proposals offer a conservation gain, either by sympathetic restoration of a heritage feature or property, or via an infill development or conversion with a design that compliments the surrounding townscape (Policy H.3). Additionally, the Broseley Design Statement which forms part of the Town Plan, but which can be taken as a separate document, requires proposed designs to be in keeping with the form and materials that define the town's heritage (DS.1), and blend in with the town vernacular, including in DS.2:
- a) Floor area, roof pitch and roof height
 - b) Size of windows and facades
 - c) Style and colour of brickwork and roof tiles
- 6.1.4 Therefore the principle of developing the proposed plot for residential is considered acceptable due to its 'appropriateness', as it is positioned within the development boundary of the Key Centre Broseley, the plot has been previously residential, and the proposed dwelling is not an excessive size, and the surrounding environment is residential.
- 6.1.5 LDF Policy CS11 seeks to meet the diverse housing needs of Shropshire residents now and in the future and to create, mixed, balanced and inclusive communities by securing a financial contribution from a single residential unit proposal to provide for affordable housing within the Shropshire Council jurisdiction. Accordingly an affordable housing contribution proforma indicating the correct contribution has been submitted with this application.
- 6.2 Design, scale and character
- 6.2.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. . It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets.
- 6.2.2 It is felt that the accommodation proposed can be described as sympathetic to the more traditional properties within the area. The proposed materials and design of the dwelling are typical of those found widely throughout Broseley. The use of facing brick and a tiled pitched gable roof with exposed rafter ends to LPA approval is felt wholly appropriate. Features have been included in the design such as a

chimney and ladder casements with reconstituted stone cills under brick segmented arches, and dormer windows at eaves height which are prevalent within this historic environment. Additionally, the development of the site is entirely in keeping with the non-conformist pattern and layout of the existing settlement i.e. a mix of dwellings on irregular plots, served by a tangle of streets, lanes and jitties.

6.2.3 The scale of the dwelling is not considered excessive as a 3 bedroom, 2 storey property and is appropriate to its plot size. Whilst there are bungalows adjacent, there are also 2 storey properties on higher ground, therefore this proposed dwelling with accommodation in the roof is felt to be an appropriate medium height in comparison to the surrounding buildings.

6.3 Impact on Broseley Conservation Area

6.3.1 For the reason given above in paragraph 6.2.2, it is considered that the design, scale and positioning of the dwelling will protect and enhance the high quality and local character of this part of the Broseley Conservation Area and will not adversely affect the heritage value and function of this historical environment.

6.4 Impact on neighbours/residential amenity

6.4.1 Various issues have been raised by public representations including concerns in relation to overbearing, loss of light and overlooking, in addition to access and drainage which are discussed below. The proposed dwelling has been carefully positioned so that it is not directly facing the property opposite to the south, its front elevation would look out onto an uncultivated green plot. In fact there would be approximately 16m between the frontages of the dwellings. Similarly, the relative position of the proposed dwelling in relation to the bungalow to the north at 'Kenwood' has also shown consideration in that whilst some overshadowing may occur as it is directly to the south of the bungalow, the single storey car port is the closest element. Also, the proposed dwelling is set at a right angle to 'Kenwood' so that the full width of its shadow will only fall into its own rear gardens at the front and rear. Very few windows are proposed at first floor level on the rear elevation of the dwelling and are designated as a landing window and 3 roof lights serving an ensuite and bathroom. These would all face directly down the garden, and it is not felt essential that they are obscure glazed. There would be a distance of approximately 5m between the corner of the proposed car port and the conservatory at 'Kenwood'. As this is the closest point of the proposed dwelling to a neighbouring property, and other dwellings are over 15m away, it is considered that there would be sufficient space around it for it to have a minimal overbearing or overlooking impact.

6.5 Access

6.5.1 Access to the site is via a track which serves one further dwelling and is not wholly tarmacked, however, it is straight and a relatively short distance at approximately 14m from Sycamore Road to the north west. The local road network and access to the site would be capable of safely accommodating the type and scale of traffic likely to be generated by a single dwelling, complying with saved Local Plan policy D6.

6.5.2 In relation to the concerns expressed over construction traffic, Broseley is a town in which much residential and householder development takes place, even given the difficulties presented by the characteristic tangle of streets and the narrowness of its lanes and jitties. A construction method statement could be conditioned on any approval issued.

6.6 Drainage

6.6.1 Surface water drainage and flooding issues have been highlighted by neighbours and SC Drainage was contacted directly by them in this matter. It is felt that the details and structural calculations required in relation to the proposed retaining wall taking into account any groundwater and ground stability issues and the proposed soakaway details can be dealt with by the application of suitable conditions.

6.7 Land Contamination/stability

6.7.1 In their consultation response, SC Public Protection have not raised any issues for the site. Concerns have been raised over the potential for asbestos to be present at the site. If asbestos is located during construction it will be dealt with by the correct procedures monitored by Part D of Building Regulations. The agent has confirmed in the submitted Planning Statement at paragraph 7.7, that in almost 40 years, there is no evidence of pollution on the site. However, if during any development material is found that could be problematic, this would be dealt with appropriately by a licensed competent contractor, and any contaminated material would be removed and remediated accordingly.

6.7.2 Having reviewed the available coal mining and geological information within the submitted Coal Mining Risk Assessment, the Coal Authority are satisfied that the report has been informed by an appropriate range of sources of information. They have no objections to the proposed development subject to the imposition of a condition or conditions to secure the site investigation works described within the report prior to the commencement of development, and if shallow mine workings require treatment that remedial work is also undertaken prior to the commencement of development.

7.0 CONCLUSION

7.1 It is considered that this proposal is not contrary to adopted policies as it is of a high quality design on an appropriate site which by its scale, appearance and plot size respects the context of the surrounding built and historic environment. Satisfactory separation distances exist between the proposed development and surrounding buildings for residential amenity to not be adversely impacted on. Additionally, access to and drainage of the site can be satisfactorily achieved. Any impact on European Protected Species present can be suitably mitigated and any shallow mine workings discovered at the site can be made safe and stable.

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 three months after the grounds to make the claim first arose.

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

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:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 Market Towns And Other Key Centres
CS6 Sustainable Design And Development Principles
CS11 Type And Affordability Of Housing
H3 Residential Developments In Main Settlements
D6 Access And Car Parking

Type and Affordability Of Housing SPD

Broseley Town Plan 2013-2026

RELEVANT PLANNING HISTORY:

BR/86/0521 – Erection of a dwelling at Mayfield, Sycamore Road, Broseley. Granted 28th August 1986.

BR/81/0104 – The erection of a bungalow to replace a fire damaged bungalow at Mayfield, off Sycamore Road, Broseley. Granted 1st January 1981.

11. Additional Information

View details online: <http://planningpa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>.

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

Design and Access Statement dated 1st September 2014

Planning Statement dated September 2014

Agent email dated 16th October 2014.

Coal Mining Risk Assessment dated December 2014

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Turner

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****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 strictly in accordance with the deposited plan numbers

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

4. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. Prior to the commencement of development a Groundwater and Ground Stability Report shall be submitted to and approved in writing by the Local Planning Authority. All ground works shall be carried out in accordance with the approved measures.

Reason: To ensure satisfactory ground stability for the sustainability of the site.

6. The proposed retaining wall shall be constructed in accordance with details and structural calculations which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the retaining wall is structurally sound.

7. No development approved by this permission shall commence until details of existing levels and proposed finished floor levels have been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved details.

Reason: In the interest of maintaining the amenity value of the area.

8. Site investigation works as detailed within the submitted Coal Mining Risk Assessment dated December 2014 and prepared by Telford Mining and Geological Services shall be carried out prior to the commencement of the development in order to establish the exact situation regarding coal mining legacy issues on the site and whether remedial works will be required. No development should be carried out prior to details of the site investigation carried out being submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from the coal mining legacy in the area to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other off site receptors.

9. In the event that the site investigation confirms that there is a need for remedial works to treat the areas of shallow mine workings and ensure the safety and stability of the proposed development, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared, submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable for works and site management procedures.

Reason: To ensure that any remedial works identified by the site investigation are undertaken satisfactorily and prior to the commencement of the development.

10. No development approved by this permission shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- Means of enclosure
- Hard surfacing materials
- Planting plans
- Written specifications (including cultivation and other operations associated with plant and grass establishment)
- Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

11. All hard and soft landscape works shall be carried out in accordance with the approved details and in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

12. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning

Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

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

13. The development hereby permitted shall not be brought into use until the car parking shown on the approved plans has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

14. Demolition or construction works shall not take place outside 08:00 hours to 17:00 hours Mondays to Fridays and 09:00 hours to 13:00 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.

Reason: In order to maintain the amenities of the area.

15. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

16. 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
- hard surfacing
- container for the storage of oil
- satellite antenna
- fences, gates or walls
- any windows or dormer windows

Reason: 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.

17. No windows or other openings shall be formed in the north west facing side elevation of the dwelling hereby approved without the prior consent of the Local Planning Authority.

Reason: To preserve the amenity and privacy of adjoining properties.

Informatives

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

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

3. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.
4. The advice of SC Drainage is attached for your information
5. Consent is required from the service provider to connect into the foul main sewer.
6. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

7. Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet Bats and Lighting in the UK.
8. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

9. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
10. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework

LDF Core Strategy Policies:
CS3 Market Towns And Other Key Centres
CS6 Sustainable Design And Development Principles
CS11 Type And Affordability Of Housing

Bridgnorth District Council 'Saved' Local Plan Policies:
H3 Residential Developments In Main Settlements
D6 Access And Car Parking

Type and Affordability Of Housing SPD

Broseley Town Plan 2013-2026

11. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.



Committee and date

South Planning Committee

10 February 2015

Development Management Report

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

Summary of Application

Application Number: 14/04455/OUT	Parish:	Bromfield
Proposal: Outline application for residential development (up to 215 dwellings); public open space; highways works; access roads and pedestrian footbridges; and a Neighbourhood Store (Class A1 Retail) not exceeding 300 sq.m internal floorspace, associated engineering and accommodation works (Resubmission)		
Site Address: Proposed Residential Development South Of A49 Ludlow Shropshire		
Applicant: Tesni Properties Ltd		
Case Officer: Julie Preston	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 350861 - 275980



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Recommendation:- Grant Permission subject to a Section 106 Agreement to secure affordable housing and the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This is an identical application to that refused by the South Planning Committee on 22 July 2014 reference 13/03862/OUT. The application was refused against recommendation for the following reason:

The proposed development, through the close proximity and the associated dangers of the A49, River Corve and the railway, noise from road traffic and train movements, and the potential for an increased number of train journeys in the future would detract from the living conditions and be detrimental to the amenities and safety of residents. The site has poor accessibility and is considered to be an unsuitable location for residential development contrary to Policy CS6 Sustainable Design and Development Principles of the Council's adopted Core Strategy and Paragraph 17 (point 4) of the NPPF. These adverse impacts would significantly and demonstrably outweigh the benefits in terms of the site contributing to the supply of housing land in Shropshire.

The refusal is the subject of an appeal which will be heard at a Public Inquiry over three days later in the year. The appeal will be withdrawn if this application is granted permission.

1.2 The re-submitted outline planning application is for:

- ☐ Up to 215 dwellings (illustrative plans show 200 dwellings - a mix of 44 no. 2 bedroom, 100 no. 3 bedroom, 53 no. 4 bedroom dwellings and 3 no. 5 bedroom)
- ☐ Public open space (approximately 3 ha in size and forming a riverside park)
- ☐ Access roads (including a new roundabout on the A49 and an access to Bromfield Road to serve development west of the railway line).
- ☐ Highway works
- ☐ Pedestrian footbridges over the River Corve and railway line
- ☐ Neighbourhood store (Class A1 Retail) not exceeding 300 sq m.

The means of access is a matter for consideration at this stage but all other details of the scale, layout, appearance and landscaping would be the subject of a 'Reserved Matters' application. The application was the subject of a consultation exercise with the Town Council and local residents prior to submission.

1.3 The application is accompanied by a comprehensive set of reports dealing with flood risk, traffic impact, heritage assets, landscape impact, traffic noise, ecology and trees. The application has been amended in the course of negotiations with the Highways Agency to propose access to the site from a new roundabout on the A49 rather than slip roads on either side of the road. An additional plan has been submitted with this application detailing a cross section through the northern corner of the site showing

the relationship of houses to the railway line.

- 1.4 The proposal has been advertised as a major application and as a departure from the development plan. Site notices have been posted and over 70 letters sent to neighbouring properties.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The application site is located on the north western fringes of Ludlow and is contained by the A49 embankment to the north and Bromfield Road and the railway to the west. The River Corve adjoins to the eastern and southern boundaries. The site is around 12 ha in size and comprises a small enclosed paddock fronting Bromfield Road and a much larger triangular shaped parcel of grazing land to the east of the railway line, with vehicular access via an unmanned level crossing off Bromfield Road.
- 2.2 The south eastern portion of the site lies in flood zones 2 and 3 of the River Corve. There are no Public Rights of Way within the site and no other relevant constraints or designations.

3.0 **REASON FOR DELEGATED DETERMINATION OF APPLICATION**

- 3.1 The application is a major departure from the development plan and in the opinion of the Planning Services Manager, it should be determined by the Planning Committee.

4.0 **Community Representations**

4.1 **Consultee Comments**

4.1.1 **SC Public Protection – Specialist**

Having reviewed the Environmental Noise and Vibration Assessment prepared by noise.co.uk dated 27th August 2013 report number 14151-1 I and the update reference: 14151A-2, I have the following comments.

Vibrations have been measured and found to be below the threshold that is likely to generate any complaints. As a result I have no further comment however I would note that I would recommend that in future PPV readings are also supplied with any application.

Having considered the updated noise report it is noted that the relevant target level (30dB LAeq) can be met by the suitable glazing in line with the evidence based guidance document on noise produced by the World Health Organisation titled Guidelines on Community Noise.

Suitable ventilation is required in order to ensure that windows can be kept closed where necessary allowing glazing specifications noise reductions noted in the above named report to be realised in practice.

I recommend that conditions are placed on any permission requiring the submission of a scheme of noise mitigation and ventilation.

In regards to air quality with any residential development this service would advocate the inclusion of electric vehicle charging points to be located into proposed residential properties. This encourages sustainable transport uptake by future occupants which will help to reduce air pollution wherever those vehicles may travel.

4.1.2 **SC Conservation (Historic Environment) – No Objection**

The proposed development site sits outside of and to the north of the town and Conservation Area of Ludlow. The site is also a distance away from listed buildings.

However due to the large scale of development here and it being prominent in terms of accessing the historic town, appreciation should be taken into account of the views in to the town and to iconic features in the historic landscape, specifically the Church and the skyline of the buildings in the town. Development at access and entry points should be of high quality design and materials, picking up on the local vernacular and interesting details seen on other buildings in this area.

4.1.3 **SC Highways DC**

Principle of Development

Shropshire Council as Highway Authority has no objection in principle to a residential development at the proposed location. It is considered that the proposed development is located within reasonable close proximity to Ludlow Town Centre, and local amenities including the local Primary School and Leisure Centre.

However, Shropshire Council as Highway Authority would raise concerns with regard to the restricted vehicular access to the site, with the majority of the development being accessed off the Trunk Road Network and the desirability of the proposed pedestrian and cycle accesses to the site.

Proposed Vehicular Access – A49

All technical details associated with the proposed access off the A49 are subject to the approval of the Highways Agency and will not form part of these comments.

Proposed Vehicular Access – Bromfield Road

Shropshire Council as Highway Authority would raise no objection to the proposed access off Bromfield Road. However, it has been agreed with the applicant that all details should be submitted and approved prior to commencement of works on site, and subject to a Section 278 Agreement and associated Safety Audit process.

Pedestrian and Cycle Access 1 (Bromfield Road)

The proposed inclusion of the above mentioned pedestrian access is welcomed by the Highway Authority in order to promote sustainable travel from the site. In view of the proposed vehicular access to the site, it is anticipated that the proposed link over the railway will provide a useful link, making the proposed development more acceptable in Highway terms.

However, it is recommended that consideration is given to ensuring that this route is of sufficient width and is adequately light to ensure that the use of the route is maximised.

The link should be constructed and open for use prior to first occupation.

Pedestrian and Cycle Access 2 (Fishmore View)

The proposed inclusion of the above mentioned pedestrian access is welcomed by the Highway Authority in order to promote sustainable travel from the site. It is anticipated that the proposed link across the River Corve will provide a useful link and makes the proposed development more acceptable in Highway terms. It is recommended that the construction of the proposed link is extended across the River to Fishmore View to ensure that the route is suitable for use throughout the year, not just in dry weather.

Construction details of this scheme are submitted prior to commencement of the development, any pedestrian and cycle route should be adequate light, to ensure that the route is used to its full potential. The link should be constructed and open for use prior to first occupation.

Passenger Transport Links

Section 4 of the submitted Transport Assessment identifies the existing Public Transport Services within the vicinity of the site. The Transport Assessment recommends that further consideration should be given to enhancing the Town Centre Circular Service 704.

Passenger Transport within the Ludlow area and throughout Shropshire is currently under review. It is considered that there would be sufficient benefit in considering extending the existing bus service to incorporate the proposed development, to promote sustainable travel to and from the site, and encourage residents to use local amenities within Ludlow.

However, the enhancement of any services should be considered as part of an overall review of Passenger Transport within the Ludlow area. Potential funding may be available through the Community Infrastructure Levy allocated for Strategic Improvements.

Reserve Matters Application.

In the event the submitted Planning Application is successful, and a Reserve Matters Application is submitted, details of the proposed type of housing and levels of proposed parking should be submitted.

Further details will be required with regard to the proposed Commercial and Retail units with regard to deliveries and levels of proposed parking.

Conditions

It is recommended that three conditions are attached to any permission granted and these are included in the recommendation.

4.1.4 **SC Ecologist – No Objection subject to conditions and informatives**

Protected sites and Environmental Networks

Off-site approximately 1220m downstream to the south east the River Corve flows into the River Teme SSSI. Natural England has commented that the proposed development will not damage the SSSI. The amended Site Layout Plan A537-07G now excludes the proposed road crossing of the River Corve, replacing this with a roundabout on the A49. From an ecology perspective this reducing the possible impacts on the river and on species using it, including otters and white-clawed crayfish.

In respect of Environmental Networks, the revised layout now shows a wide buffer to the River Corve with additional planting intended. There will be a loss of the existing plantation beside the A49, but Atmos (2014) recommend minimising tree removal and seeding areas with a wildflower mix to maintain connectivity.

It is recommended that at Reserved Matters stage environmental protection measures are proposed to prevent impacts on the river during construction. A condition to this effect is recommended.

Bats

The updated Ecological Assessments (November 2013 and March 2014) now assesses the roosting potential of structures and trees on site. Eight trees were considered to have moderate-high potential to support bat roosts. (T1, T16, T21 and T22). The March 2013 indicative layout indicates retention of these trees. In addition, the underside of the A49 flyover bridge could be potentially used by crevice-dwelling bat species, however it is understood that modification of the flyer is no longer necessary.

A condition on control of lighting to prevent impacts on bats will be required. Bat boxes or bat bricks could be included within development proposals to provide roosting opportunities for common bat species such as pipistrelles.

Otters and water vole

An otter survey is reported in the updated Ecological Assessments. Two old otter spraints were noted approximately 10m upstream of the A49 bridge. No field signs for water vole were found and the River Corve is sub-optimal for this species close to the application site.

Due to the removal of the original access road proposal immediately adjacent to the river, Atmos (March 2014) consider the development is unlikely to affect either species. However the impact of installing a new pedestrian bridge over the river should be assessed. It may be necessary to mitigate potential impacts on otters by restricting hours of work to avoid their active period.

White-Clawed Crayfish

Atmos (March 2014) acknowledge that white-clawed crayfish are known to use the River Corve in close proximity to the site but that the banks under the bridge where the proposed access road was to be located are unsuitable for the species. They are constructed of concrete with no crevices that white-clawed crayfish could burrow into.

Due to the removal of the original access road proposal immediately adjacent to the river, Atmos (March 2014) consider the development is unlikely to affect white-clawed crayfish. However the impact of installing a new pedestrian bridge over the river should be assessed. It may be necessary to mitigate potential impacts on white-clawed crayfish.

Nesting birds

The trees and hedgerows on the site are likely to be used by nesting birds. A condition and informative are recommended:

4.1.5 **SC Affordable Housing**

If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The size, type and tenure of the affordable homes will need to be agreed in writing with the Housing Enabling Team and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme..

4.1.6 **SC Archeology (Historic Environment)**

Background to Recommendation:

The proposed development site lies to the north of Ludlow on land adjacent to the River Corve approximately 750m before its confluence with the River Teme. There are no known heritage assets within the proposed development boundary, however, the Site of a chapel c100m north of the Electricity Sub Station (HER PRN 01773) dated to the 12 -14century, lies just outside the boundary with tithe map evidence within the development boundary supporting these findings. Additionally land north-west of the proposed development located between the Rivers Teme and Corve contains evidence of Bronze Age settlement and funerary practice.

The applicant has commissioned an archaeological desk based assessment and heritage impact assessment (ARS Ltd Report 2013/106) for the development proposal. The assessment concluded that, in terms of the setting of heritage assets, there would no adverse impacts on the setting of designated heritage assets resulting in loss or harm to their significance. It also identified four examples of archaeological remains within the site that are of local significance only and provide evidential value of post-medieval agricultural practice, some of which could be retained within an area of public open space.

In respect of previously undiscovered archaeology, the report identified a moderate to high potential for archaeological remains to be present within the development boundary based on its location and other archaeological sites in the surrounding area. The report suggested that further investigation by geophysical survey and trial trenching would establish if any previously undiscovered archaeological remains survive within the site.

A programme of geophysical survey has been undertaken within the site boundary that has identified some anomalies likely to be associated with agricultural practice and two additional unresolved anomalies that may have more archaeological significance but which are limited in extent.

I confirm that the archaeological desk based assessment (ARS Ltd Report 2013/106) and the subsequent geophysical survey provides a satisfactory level of information about the archaeological interest of the site to permitted post determination mitigation of the archaeological interest.

In view of the above, and in relation to Paragraph 141 of the NPPF, I recommend that a programme of archaeological work, be made a condition of any planning permission for the proposed development. An appropriate condition is included in the recommendation

4.1.7 **SC Drainage - No Objection subject to a conditions and informative**

The Outline Surface Water Strategy July 2014 is acceptable in principle and Flood Risk Assessment Addendum confirms that the site is outside of Flood Zones 2 and 3 and pluvial flooding area. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Full details, calculations and layout of the proposed surface water drainage system should be submitted for approval once the final layout is confirmed.

Drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is to be granted.

4.1.8 **SC Rights Of Way – No Objection**

The proposal does not affect any recorded public rights of way.

4.1.9 **SC Planning Policy**

To avoid repetition, the comments of the Policy Team are incorporated into the text of the officer's appraisal and the conclusion of their comments is presented here.

The application is for residential development north of the town but adjacent to the existing (and emerging) development boundary. There are clearly a number of challenges presented by the site and these will have to be overcome within the application to demonstrate that a proposal here is sustainable.

Residential development in this location is not in accordance with the Development Plan (Core Strategy and South Shropshire Local Plan) or the emerging SAMDev Plan. Although the SAMDev Plan has reached the Examination stage this needs to be treated with caution along with other relevant material considerations including the presumption in favour set out in the NPPF. The Plan is prepared in the strategic context of a number of site options and consideration of overall residential requirements, but the individual merits of particular, specific proposals in particular locations put forward through planning applications must be considered on their merits at the time of decision making.

It is clearly important to establish whether the proposal would give rise to any adverse

impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development and the aim of significantly boosting housing supply (following the NPPF). It should be recognised that, as this proposal will be for an outline application, a detailed assessment of the sustainability of the site's layout and design is difficult. However, the detailed means of vehicular access is to be included within the application and the implications for future residents and existing users needs careful consideration.

4.1.10 **SC Trees – No Objection subject to conditions**

1 The plans statements and particulars submitted with this outline application indicate a willingness to retain trees and other valuable landscape and natural environment features, which is commendable; and in Principle subject to the following considerations being addressed the Shropshire Council Tree Service has no sustainable objection to the principle of development at this site.

2 HEDGEROWS

There are a number of mature hedgerows at site, the indicative plan shows elements of these being incorporated into the landscape of the development proposal this has some merit but the longevity of these native species hedgerows in domestic gardens is questionable. The incorporation of new sections of native species hedgerow abutting the retained open space would be beneficial.

3. INDIVIDUAL TREES

As identified in the tree survey report (ref. 20600/R2/Rev2) There is only a small number of significant trees on site, of these trees T1, T3 T5 & T21 are of particular importance and merit retention within any development at this site.

3.1 T1 & T3 are key roadside trees at the entrance to Ludlow, they play a present and future role as gateway trees and therefore merit every measure to ensure their sustainable retention. Tree T5 (DBH 93cm – RPA 408m/sq / radius 11.4m) is a good specimen with long-term amenity potential. It is identified on the indicative layout in a space probably appropriate for its sustainable retention. Tree 21 is a veteran tree and a historic asset worthy of retention in an appropriate space.

3.1.1 (T1 - DBH of 106cm). This mature tree has would require a minimal root protection area (RPA) of 5.19m/sq as a circle this area would initially have a radius of 12.9m. Taking the position of the tree with a main road on its west and open pasture to its east it is predictable that it has an asymmetric rooting habit that favours the more hospitable open ground to the east. The indicative layout shows parking bays close up to the base of this tree; a situation that does not reflect the advice given in the applicants tree report (Ref.20600/R2/Rev4) and does not provide a sustainable design.

Any final revised design must incorporate a modified site layout that integrates and protects this tree in a sustainable way. This will require a realistic assessment of the arboricultural Implications to provide sustainable short & long-term protection of an appropriate rooting zone around this to serve as a functional growing medium for the tree's long-term good health.

3.1.2 T3 (DBH 84cm – RPA 327cm/sq – r10.2m). The proposed development of apartments 1-7 (Bromfield Road development) has revised the layout submitted with application 13/03862/OUT giving this tree ample room. Further revision of this plot could move these houses in order to allow a sustainable no construction zone around tree T1.

3.1.3 T21 (DBH 146cm – BS 5837 RPA 770m/sq – R 15m) this tree is a magnificent specimen in the region of 300+ years old. As a remnant of a previous landscape it is not only an important natural asset but a historic asset as well with potential through good design to be a key site feature. The indicative site plan shows the tree being retained. But the space identified for its retention appears to be considerably less than the RPA as identified in the applicant's tree survey. Retention of this tree is highly desirable but in a space and situation where it is not a burden and the public are not openly invited into the hazard target area.

The tree service therefore recommend that specific arboricultural recommendations are sought and submitted for this tree, that include the trees retention in a minimum RPA of 15m radius this to be during and after development at the site. To ensure the long-term retention of this tree it needs to be incorporated into a no access landscape area on the periphery of the open space the tree service would recommend that the tree hazard target area (where people might get hurt) be surrounded by Cheshire railings with a ring of spikey shrubs growing around the railings.

4 LANDSCAPE

4.1 The indicative plan shows almost every property with a tree in the front garden. In the tree services experience sustainable planting is better served by having a few key landmark trees set in a bespoke space appropriate for their eventual full growth. Numerous small trees crammed into front gardens frequently become seen as a nuisance and are removed as soon as their crowns start to be of a size where they start to add to the areas amenity.

4.2 A full landscape plan, planting schedule and tree planting specification needs to be a condition of any approved plan. To ensure that the landscape proposal is sustainable all tree, shrub and hedge planting included within that specification shall be referenced to and carried out in accordance with good practice as set out in BS8545:2014 -Trees: from nursery to independence in the landscape: recommendations.

5 RECOMMENDATIONS

In Principle the tree service has no objection to some form of development at this site, subject to a revised site layout that sustainably addresses the issues associated with trees T1 and T21 that are highlighted above and that were raised during consultation on application 13/03862/OUT, failure to address these issues around protected trees will meet with a recommendation of refusal from the Tree Service.

6 Further to the standard landscape conditions and a revision of the site layout around trees T1 & T21, the Tree Service recommends three conditions to ensure the trees are protected.

4.1.11 Network Rail – No Objection subject to a condition and informative.

22/10/2014 - After studying the details submitted and consultation with our Level Crossing Manager, Network Rail submits a holding objection to the above proposal, pending confirmation that the pedestrian level crossing (known as Feltons) will be closed. We have concerns that there have been instances that vehicles involved in the planning stage (drilling boreholes) have crossed the line without permission from the Signaller. At no stage either pre-development or at development stage are vehicles to use the crossing.

In order for Network Rail to withdraw its holding objection to the above proposal, the level crossing (known as Feltons) will need to be closed before any development takes place. Should the level crossing not be closed then our holding objection to this application will remain.

We note in paragraph 3.2 of the planning statement states:-

“A pedestrian footbridge over the railway line will replace an existing pedestrian level crossing and if considered desirable and appropriate, a new pedestrian footbridge could be constructed to extend from the eastern part of the site, to link with the existing open space adjacent to Fishmore View”. Details of this will need to be included with this planning application.

The footbridge over the railway requires an easement and is also subject to the necessary license agreement and clearance process from Network Rail, until the easement and license agreements are in place, Network Rail will not allow any works to take place on its property.

30/10/2014 - Further to our email dated 22nd October with a holding objection to the above proposal, after further details received from Andy Williams of Advance Land & Planning Limited advising that the applicant is prepared to accept a suitably worded planning condition regarding the closure of the level crossing.

I can confirm that Network Rail will formally withdraw its holding objection provided that an appropriately worded planning condition is placed upon any planning approval that the level crossing is to be closed before any development commences; all other comments supplied in our response of 22nd October remain.
[These are included in an informative in the recommendation.]

4.1.12 Highways Agency West Midlands – No Objection subject to a condition and informative

We understand the application is a resubmission of a previous application (13/03862/OUT), which the Highways Agency has previously reviewed. At the time, the Agency did not raise any concern with the proposed development, following the satisfactory completion of a road safety audit.

The HA has reviewed the details of the resubmitted application. Based on the information it is considered that the proposals are unlikely to adversely affect the safety and free flow of the strategic road network. This position is based on the negligible changes, in highway terms, to the design of the site since the last application. Whilst we have no objection to the principle of the development, however,

please find the attached TR110 directing a condition in respect of the proposed access in order to ensure the continued efficient and safe operation of the A49 Trunk Road adjacent to the site

As was previously advised, the application involves works to the strategic road network; therefore we have included an Informative advising that a Section 278 agreement will have to be drawn up between the developer and the HA. [The condition and informative are included in the recommendation]

4.1.13 **Natural England – No Objection**

Natural England have not responded to the consultation on the present application but previously advised as follows:

Wildlife and Countryside Act (1981) as amended & Conservation of Habitats and Species Regulations (2010) as amended

Designated Sites - No objection

This application is in close proximity to the River Teme Site of Special Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

Protected Species

Natural England has not been provided with copies of any ecological reports and are therefore unable to make substantive comments, however, we have produced protected species standing advice to help local planning authorities understand the impact of particular developments upon protected species where impacts to them or their habitats are likely to result from a proposal. In particular, we would draw your attention to the decision tree within the standing advice which provides guidance on which habitats and features are associated with specific protected species. The standing advice also sets out when, following receipt of survey information, local planning authorities should undertake further consultation with Natural England.

You should note that the notified features of the River Teme SSSI include the presence of otters and white clawed crayfish and that as the application site includes a stream which flows into the SSSI there is a reasonable likelihood of these species being present on the development site.

Given the information which has been provided in support of the application, we advise your authority to ensure that the relevant species have been considered and confirmed as not being affected by this development before determining this application.

Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other

possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at Wildlife and Countryside link.

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or priority species on the site, the authority should request survey information from the applicant before determining the application. The Government has provided advice¹ on priority and protected species and their consideration in the planning system.

¹ Paragraph 98 and 99 of ODPM Circular 06/2005

Natural England Standing Advice for Protected Species is available on our website to help local planning authorities better understand the impact of development on protected or priority species should they be identified as an issue at particular developments. This also sets out when, following receipt of survey information, the authority should undertake further consultation with Natural England.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

4.1.14 Environment Agency – No Objection subject to a condition and informative

We have no objection to the proposed development and would recommend the following comments and conditions be applied to any permission granted.

Flood Risk: According to our 'indicative Flood Zone Map' the site covers all three

Flood Zones, with the eastern and southern portion by the River Corve in Flood Zone 3 ('high risk', 1% annual probability of fluvial flooding) and a narrow band beyond that in Flood Zone 2 ('medium risk', 0.1% annual probability of fluvial flooding). However, the majority of the site, including the proposed residential development and associated access road, are wholly within Flood Zone 1 (low risk).

Flood Risk Assessment (FRA): Although supportive of the previous submission we did raise concerns with regards to a potential second vehicular access road under the A49. As stated in the Flood Risk Assessment Addendum (ref: w1366-140327-FRA) and the Indicative Layout Plan (ref: A537-7, Rev. G) this element of the development has been removed.

Safe Development: All proposed dwellings are to be built in Flood Zone 1 and floor levels are to be set at a minimum of 86.61m Above Ordnance Datum (AOD), which will be 300mm above the 0.1% event and 930mm above the 1% plus climate change event. These are acceptable levels. There is safe, dry pedestrian access from the site via a footbridge over the railway exiting onto Bromfield Road. As stated above pedestrian and vehicular access is available from the site on to the A49 North (completely within Flood Zone 1).

Surface Water: Your Flood and Water Management Team, as the Lead Local Flood Authority (LLFA), will comment on the surface water management.

Foul Drainage: We would have no objection to the connection of foul water to the mains foul sewer, as proposed. The LPA must ensure that the existing public mains sewerage system has adequate capacity to accommodate this proposal, in consultation with the relevant Sewerage Utility Company.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at:
<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Export & Import of wastes at site: Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

4.1.15 **Severn Trent Water – No Objection subject to a condition**

The Water Company received a Development Enquiry for the Bromfield Road site from Waterco Ltd in March 2013 for a development of 200 to 250 dwellings and at that time they were advised as follows:-

Foul water would be best discharged to the 675/900mm dia trunk sewer just off Bromfield Road near Corve Street to save crossing the River Corve, but a development of this size could have not only a significant impact on the existing gravity sewerage system, as there is a Combined Sewer Overflow (CSO) to the River

Corve just downstream of Coronation Way, but also the local Sewage Pumping Station (SPS) at Fishmore View if chosen as an outfall point, therefore modelling of the sewerage network is recommended.

The first option for surface water is to utilise soakaways, but if soakaways prove to be unsuitable the second option would be a discharge to the River Corve.

Modelling work was not initiated by the Developer for this site and therefore the impact upon the sewerage network is currently unknown. As modelling of the sewerage network has not been requested for the Bromfield Road site and the Modelling Report for Foldgate Lane requires further consideration, coupled with the fact that Ludlow STWorks is overloaded, Severn Trent MAY request the Planning Authority to apply a 'Grampian Style' planning condition to both of these developments to give the Water Company time to investigate whether improvements to the foul system are necessary, for the individual or combined developments and if they are, reasonable time for the Company to provide the reinforcements.

If after the initial modelling and investigatory work is completed reinforcements are either minor or not needed the 'Grampian Style' planning condition could be released.

As it is not always known what the final extent of development is likely to be in a small town or village, modelling for the cumulative impact of developments is best carried out when more firm development proposals are known.

As I'm sure you are aware Severn Trent Water Ltd. will endeavour to meet Developers requirements for sewerage, in line with our regulatory obligations, but investment will only be committed once a planning decision has been given, in order to avoid abortive expenditure at the expense of other areas where development proposals are more definite.

4.16 **Ludlow Town Council - Object**

Object to the proposal because Shropshire Councils decision reasons are still valid. LTC supported Shropshire Councils decision to refuse the application.

5.0 **Public Comments**

- 5.1.1 Seven letters of objection have been received from local residents and one 'neutral' letter. The points of concern are set out below and include comments made in response to the earlier application when 19 letters of objection were received.

Location and poor access to town

I am concerned about the proposal to include a footbridge from the development on to the land adjoining Fishmore View. This is not on any logical route into the town centre. It will be dangerously near to the often fast-flowing River Corve, and will attract children to a potentially hazardous place.

There will be serious potential problems regarding entry and exit from the development onto already heavily used Bromfield Road.

As the section of by-pass designated to accommodate the changed lay-out is straight – and particularly fast moving – the proposed changes will either increase the risk of further accidents or, with speed restrictions, slow traffic down and create further

congestion.

People (including children) would be very likely to take a short cut to the new estate across the farm land at Coronation Road and then underneath the railway bridge which passes directly by our house (although we are on the other side of the river Corve). The only other access is by bridge across the railway line at the other end of the Bromfield Road, or via a footbridge close to the children's playground at Fishmore View. The proximity of a neighbourhood store and entrances to the school. Leisure centre and housing would be dangerous to pedestrians.

Councillors turned down the previous scheme because a site between a river that floods, the A49 and a railway was an unsuitable location for housing and would result in a very poor standard of living environment.

Danger and security issues relating to the footbridge to Fishmore View

There are already frequent problems with parts of the open space adjoining Fishmore View being used for underage drinking and drug use, and general anti-social behaviour, and I feel that the provision of this bridge, whilst serving no clear purpose from the point of view of communications, will encourage more gatherings of this kind.

There are safety issues for young children in the proposed "park", which will run down steeply to the river.

Many residents of the road are concerned about possible security implications resulting from the provision of this bridge and associated footpath.

Flooding

I think the effects of flooding by the River Corve on the proposed development area have been considerably underestimated. The flood line in the plans are extremely inaccurate and flooding occurs in a far wider area than shown

Flooding occurs on the opposite side of the river from the development between the River Corve and Summerfield housing estate and in the lower part of Fishmore Play area, the entrance to Summerfields Brook Cottage and up to Fishmore Road. The design has not been constructed within the context of the area and the effects on the wider area and history of flooding have not been taken into account.

The run off water from rain of a development of this size will be considerable and because the A49 and its embankment to the north means that run off water will only travel to the east and south towards the Corve causing water to accumulate more quickly in the river and flood planes making a huge increase in the volume of flood water which already accumulates here.

Fishmore Brook runs into this area and already floods on a regular basis. The flood plain in this area has been diminished considerably through the embankment along which Fishmore Road runs up to the Fishmore Road Bridge. It acts as a dam in times of flooding and water accumulates flooding the lower part of the Fishmore play area, the entrance to the Summerfield estate making the road impassible and is extremely dangerous. The Mayfields development also has been built in recent years and the ground level raised considerably which has lessened the natural food plain.

The construction of the footbridge and its embankment from the proposed development over the Corve to the Fishmore play area will create a barrier on the flood plain and a "pinch point" for flood water will be created causing water to back up and higher flood levels will be created. The A49 embankment to the north will trap the flood water causing water levels to rise rapidly spreading eastward over the flood plain next to Summerfield, the lower Fishmore Play Area and beyond. We have already seen the dreadful effects when water is blocked during the 2007 flood in Ludlow when Corve Bridge became blocked.

No contour lines have been used on the maps which makes it look as though the ground level is the same throughout the area. There is a huge difference in ground levels on the east side of the river.

Following the disastrous 2007 flooding the new bridge was built in Coronation Avenue and a considerable amount of work carried out to the water course and flood escape route under the road and through Boiling Well Meadow.

In the 10 years that I have lived at in Summerfields there have been 2 serious floods which have seriously damaged the house of a neighbour and have encroached on my garden.

The flooding is caused by the backup of water from the river Teme which in turn backs up to cause the river Corve and Fishmore Brook to burst their banks.

The additional surface run-off from the proposed 200+ properties in this development will worsen this scenario unless the developer is caused to provide run-off catchment holding ponds or similar to hold excess water until the rivers have cleared and then to release it.

When anyone wishes to buy here and a search is done, we are literally condemned because of our proximity to the river. So if the houses are built and they are on a much lower plain, insurance and saleability will be much worse.

I think that we should be listened to, we have lived here and experienced the flooding. If a buffer is built, it will push the water onto the next estate which has already experienced flooding and the land drain goes underneath their houses.

The river floods here several times each year (we have lived here for 22 years) and at these times it would be extremely dangerous for anyone taking this route. The river comes up very quickly and rages under the bridge, making it impossible and treacherous should anyone attempt to get through this way. We would of course also be concerned about any alterations made to the land which could make the river come higher up on our side when in flood. Also of concern is that a shortcut could also be taken along the railway line itself.

Not in accordance with the Development Plan

The proposal lies outside the areas suggested for housing in the SAMDev plan.

Impact on local services

With St Laurence's primary school and the County Junior school at full capacity and the doctors surgeries at full stretch and the abandonment of the new hospital project and the fact that a development for 95 homes in Fishmore Road has already been passed I wonder if the towns infra structure will be sufficient to cope with so many families.

Ludlow is a medieval market town and not structured to cope with continual expansion. If the hospital was unfit for purpose 13 years ago and is only guaranteed to be usable for a 2 – 5 years how will residents medical needs be catered for? Doctors complain their surgeries are inadequate and students have to travel up to 30 miles to find suitable courses to study. Coder Road refuse site is due to close. Car parking and park and ride is not up to standard. Will schools be able to cope?

The sewerage system on Bromfield Road has problems. Periodically at the junction of Felton Close and Bromfield Road the sewage comes up through the cover and on one occasion this occurred for five hours. It is wrong to add any more development to a system that is obviously full to capacity.

The Planning Authority must ensure that the developer adopts and pays for a long term solution to the whole question of sewage disposal.

Impact on ecology

Otters inhabit the waters in this area and are a protected species There are several holts along the river in the banks and in nearby fields. Any construction work will destroy their habitat.

It seems such a shame to build on this plot which is home to a variety of wildlife including, we understand, otters which are protected. We trust that no trees will be disturbed along the river banks.

Proximity to railway

Network Rail often have to work on the line and safety advice is in place while work is carried out.

5.1.2 A letter of support has been received from the The Wrekin Housing Trust stating:

The Wrekin Housing Trust has been in discussion with Tesni Properties Ltd regarding the need for additional affordable housing in Ludlow and the potential that this scheme has to deliver a proportion of homes that we can acquire and allocate to people from the Council's Housing Register (Shropshire HomePoint).

We can confirm that there is a significant and unmet need for affordable housing in the town. The Trust therefore supports this Outline proposal and would encourage early formulation of a viable detailed scheme, which both addresses the technical site constraints and delivers the required percentage of affordable homes as determined through Council policy.

6.0 THE MAIN ISSUES

- Principle of development
- Location and sustainability
- Impact on landscape and heritage assets
- Highway safety and accessibility
- Flooding and drainage
- Ecology and trees
- Residential amenity – noise impact on neighbours
- Impact on local services
- Affordable housing and CIL

7.0 OFFICER APPRAISAL

7.1 Principle of development

7.1.1 Development Plan:

CS3: Market Towns and Key Centres sets out the policy for the development of the identified towns and key centres. Ludlow is a market town and is seen as the focus for the development of services and facilities for the wider hinterland with balanced housing and employment growth. The application site is outside the town's development boundary as identified in Policy S1: Housing Development of the South Shropshire Local Plan. CS5: Countryside and Green Belt seeks to strictly control new development in the countryside requiring development to maintain and enhance the countryside's character and vitality, and improve the sustainability of rural areas.

CS6: Sustainable Design and Development Principles seeks to ensure the delivery of high quality sustainable development that takes account of its setting, context and local character. CS6 also seeks to safeguard residential and local amenity. CS7: Communications and Transport seeks to ensure sustainable communication and transport solutions by improving accessibility and managing the need to travel. CS17: Environmental Networks ensures that all development protects and enhances the high quality of the natural, built and historic environment and that development does not have a significant adverse impact on Shropshire's environmental assets.

National Planning Policy Framework:

The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF specifically aims to 'boost significantly the supply of housing' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

Emerging policy:

Shropshire Council submitted the SAMDev Plan for Examination on 1 August. Although the programmed hearing sessions closed on 18 December there are some outstanding matters that may require additional limited hearing time. Even if further sessions are not required the Examination does not formally close until the Council has received the Inspector's Report.

As set out in paragraph 216 of the NPPF, the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. The Plan is clearly at an advanced stage in the terms of para 216, but there are unresolved objections to some aspects of it, so the SAMDev Plan policies can be given some weight, but limited weight (depending on the policies being referred to) pending the outcome of the Examination.

Of particular relevance are Policies S10: Ludlow area and MD3: Managing housing development. S10 sets out the emerging approach to the future development in the town supplementing adopted Policy CS3. The residential growth requirement for Ludlow is for around 875 dwellings from 2006 to 2026. Since 2006 around 511 dwellings have been completed or have planning permission leaving a residual requirement from now up to 2026 of around 364 dwellings. The Submission version of the Plan includes draft allocation proposals at Rocks Green (around 200 dwellings) and a mixed use site east of the Eco Park (for around 80 dwellings). MD3 sets out the overarching approach to consideration of housing development proposals. It should be noted that there are outstanding objections that will be resolved through the outcome of the Examination following consideration by the appointed Inspector.

Housing supply:

At November 2014, using data up to 31st March 2014, Shropshire Council considers that it can demonstrate a 5 year supply of housing land. The Five Year Housing Land Supply Statement prepared for the SAMDev Plan Examination shows 5.43 years' supply for Shropshire, which includes the 20% buffer for 'persistent under delivery' and catching up for past delivery shortfall within five years (around 2000 houses). It is already clear from the SAMDev Plan Examination Inspector's Interim Note (<http://shropshire.gov.uk/media/1283086/Inspectors-Interim-Note-1-Strategy.pdf> dated 2 December 2014) that the Core Strategy housing requirements are considered to apply to the SAMDev Plan and to the calculation of the 5 years supply i.e. the question of the 'objectively assessed need' for housing does not need to be reconsidered at this time.

Assessment of proposal:

The application site is outside, but directly adjacent to, the development boundary of Ludlow as defined in the adopted South Shropshire Local Plan (S1: Housing Development). This policy forms part of the Development Plan until replaced by policies in the SAMDev Plan and remains the starting point for consideration of housing proposals and some weight can be attached to it. The site therefore falls under Policy CS5: Countryside and Green Belt which restricts the development of new market dwellings allowing only new build affordable or agricultural dwellings that meet an identified local need. This policy framework, along with the fact the site is not included as a draft allocation within the emerging SAMDev Plan, does not establish the principle of open market residential development in this location. The site is beyond the defined development boundary of Ludlow, and therefore residential development here would represent a departure from the Local Plan. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is necessary to consider whether material considerations, such as the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply (which apply in any event), in this instance warrant a departure from

the Local Plan.

Ludlow is identified as one of the market towns and other key centres in Policy CS3 of the Core Strategy. The Core Strategy states that “balanced housing and employment development” within development boundaries and on allocated sites will help key centres “maintain and enhance their roles in providing facilities and services to their rural hinterlands, and [in] providing a foci for economic development and regeneration”. CS3 identifies that Ludlow will provide a focus for development in Southern Shropshire, whilst respecting its historic character and includes an indicative level of residential development of 500 to 1000 houses over the Plan period (2006-26). Submitted SAMDev policy S10 provides greater detail to the strategy for Ludlow and proposes a housing guideline of around 875 dwellings in the Plan period and allocates a number of sites for development. The application site is one of a number of sites considered during preparation of the SAMDev Plan but is not identified as a draft allocation for future development within the submission version. The applicants have only fairly recently resolved the access arrangements reflecting some uncertainty over suitability of access during preparation of the plan. Alternative options were chosen instead reflecting a potential long term direction for growth in the town.

The proposed development has the scope to significantly boost housing supply in Ludlow but, in doing so, would also mean development in excess of the town’s emerging SAMDev Plan housing guideline figure. However, as noted earlier, the housing requirement itself forms part of the emerging SAMDev Plan and has to be treated with caution. Submitted SAMDev Policy MD3 indicates that the cumulative impacts of development can be a relevant policy consideration, however, in the context of the limited weight that can be attached to this policy pending the outcome of the Examination, it is considered that MD3 should not be given significant weight in this instance. In this context, the benefits arising from the development, and the impacts of the development, must be considered within the context of the presumption in favour of sustainable development (these considerations are also part of emerging MD3).

Due to the location, a clear concern with the site is the creation of appropriate access arrangements. The applicants have demonstrated a solution to gaining access from the A49 that has evolved from that initially presented in the original application (this access is subject to agreement from the Highways Agency due to being from a ‘trunk road’). Although the entrance/exit from the A49 now provides a roundabout, rather than the convoluted left in/left out arrangement originally presented, this still presents concerns for vehicular traffic in relation to the connections to the town’s local road network for future residents. To drive into the town, future residents will have to either go via the A49 to the north to reach the junction with B4361 to turn right across the A49 southwards on to Bromfield Road or, alternatively, they will head east along the A49 and go into town along Henley Road via the roundabout at Rocks Green. This effectively doubles the length of journey using the private car into the town compared to walking. The proposed non-vehicular bridge over the railway onto Bromfield Road is therefore a fundamental part of the scheme to enable pedestrian/cycle access to the site which is not achievable via the A49. The proposal also includes a potential bridge over the River Corve connecting to Fishmore View.

There are also other matters which need to be considered when determining the application. The site assessment that has informed production of the emerging SAMDev Plan recognises that there are some merits to the site. Although the Landscape Sensitivity and Capacity Study did not cover this site, the SAMDev assessment drew on the Shropshire Landscape Character information which identified 'low' landscape value. The applicant should demonstrate that any impacts on the landscape can be mitigated (notwithstanding the detailed design is a reserved matters).

The overall site area contains a significant amount of land within Flood Zones 2 and 3. The proposed residential development lies outside these areas of highest flood risk. The original proposal included access arrangements that required a road under the bridge over the River Corve carrying the A49 and it is noted that the proposed access arrangements remove the requirement to access the site via this route. Consideration will need to be given to open space provision. The scheme includes a large amount of public open space along the River corridor (because of the flood risk in this area). Other than the 'riverside park' the public open space on the indicative layout is centrally located but appears fairly small. Consideration will be need to be given to the internal layout at reserved matters should the application be granted permission.

The proposal also includes a retail unit west of the rail line. Policy CS15 allows for provision of "neighbourhood based local shopping and other community facilities" that "help to consolidate and improve existing provision" or "serve significant new developments". The development of 215 houses in Ludlow would represent significant development and this location may potentially be appropriate for a small neighbourhood store to serve the proposed development and also existing residents in the area. As the store is not over 300 sqm it is considered that it complies with Policy CS15 with regards support for 'neighbourhood based local shopping

Conclusion

The application is for residential development north of the town but adjacent to the existing (and emerging) development boundary. There are clearly a number of challenges presented by the site and these will have to be overcome within the application to demonstrate that a proposal here is sustainable.

Residential development in this location is not in accordance with the Development Plan (Core Strategy and South Shropshire Local Plan) or the emerging SAMDev Plan. Although the SAMDev Plan has reached the Examination stage this needs to be treated with caution along with other relevant material considerations including the presumption in favour set out in the NPPF. The Plan is prepared in the strategic context of a number of site options and consideration of overall residential requirements, but the individual merits of particular, specific proposals in particular locations put forward through planning applications must be considered on their merits at the time of decision making.

It is clearly important to establish whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development and the aim of significantly boosting housing supply (following the NPPF). It should be

recognised that, as this proposal will be for an outline application, a detailed assessment of the sustainability of the site's layout and design is difficult. However, the detailed means of vehicular access is to be included within the application and the implications for future residents and existing users needs careful consideration.

8.2 Location and sustainability

8.2.1 The site is located approximately 1.2Km to the north west of Ludlow which has the range of community services and facilities that you would expect to find in a market town. It is the last large, undeveloped area of land contained within the by-pass. The railway line to the west prevents vehicular access to Bromfield Road for all but a small portion of the site and a new roundabout to the A49 is proposed. New ramped bridges are proposed over the railway and River Corve for pedestrians and cyclists to provide access to the town from Bromfield Road and Fishmore View via Fishmore Road. Bus services operate along Bromfield Road and services could be extended to include the site if the development goes ahead. The housing density, excluding the Public Open Space, is around 32 dwellings per hectare which is neither excessive nor a profligate use of the land available.

9.2.2 The site is in a sustainable location with good access to local services, leisure facilities and schools. Development of the site is considered to meet the sustainability objectives of Policies CS1, CS3 and CS6 of the Core Strategy.

9.3 Impact on landscape and heritage assets

9.3.1 The application is accompanied by a comprehensive Landscape and Visual Appraisal which systematically analyses the impact of the development on the landscape setting of the town and the visual effects from twelve key viewpoints around the area.

9.3.2 The site is low lying in relation to the rest of the town and is well screened by trees along the A49 embankment and the south bank of the River Corve. The nature of the surrounding topography, roads, railway line and landscape features, all serve to ensure that the site is well contained and generally well screened from wider views. It relates well to the built form of the town and does not extend into open countryside. The study concludes:

This report highlights that development would create a very low level of both visual and landscape impact, and negligible levels of visual impact from any viewpoint in open countryside.

The proposed site offers an opportunity to provide a significantly-sized development with unusually low levels of either landscape or visual impact. The site has a low landscape sensitivity. Whilst development would result in a large magnitude of change the most sensitive area, towards the River Corve, is well protected and actually offers an opportunity for significant landscape and ecological enhancements within an overall landscape scheme. Beyond the site boundary, following a short-term slight impact on the landscape character of a small area to the north of the site, landscape mitigation proposals will ensure the long-term landscape impact of the proposed roundabout will be negligible. Other opportunities exist, within front gardens the sizeable open space buffer and boundary planting, to further mitigate any landscape impact through the introduction of native planting in keeping with the landscape character of the area.

In terms of visual impact, compared to other sites within the Ludlow Housing Sites Assessment, this site would cause the least impact by far. Whilst it is beyond Ludlow's existing development boundary, it is clearly within the confines of the town. It sits low against the town, is

contained by the by-pass and is extremely effectively screened by both local landform and vegetation. Practically no views from open countryside exist within a 5km range and if they do, are fleeting and the site associates extremely well with the existing built form of the town. From the most sensitive viewpoints, the site is not visible.

Officers agree with these conclusions and consider the impact on the landscape character of the area to be acceptable.

- 9.3.3 The applicant has commissioned an archaeological desk based assessment and heritage impact assessment for the development proposal. The assessment concluded that, in terms of the setting of heritage assets, there would no adverse impacts on the setting of designated heritage assets resulting in loss or harm to their significance. It also identified four examples of archaeological remains within the site that are of local significance only and provide evidential value of post-medieval agricultural practice, some of which could be retained within an area of public open space.
- 9.3.4 In respect of previously undiscovered archaeology, the report identified a moderate to high potential for archaeological remains to be present within the development boundary based on its location and other archaeological sites in the surrounding area. A programme of geophysical survey has been undertaken within the site boundary that has identified some anomalies likely to be associated with agricultural practice and two additional unresolved anomalies that may have more archaeological significance but which are limited in extent.
- 9.3.5 The Historic Environment Officers are satisfied that the impact on heritage assets has been properly assessed and there are no fundamental objections to development of the site subject to a condition requiring a further programme of archaeological work to be undertaken prior to development commencing. The proposals are considered to be in line with the requirements of Policy CS17 of the Core Strategy.
- 9.4 **Highway safety and accessibility**
- 9.4.1 Access to the site has been a major issue and is probably the reason why the site has not been developed at an earlier date. Vehicular access from Bromfield Road to the main part of the site is precluded by the railway line to the west. To demonstrate that a safe vehicular access can be achieved from the A49 to the east, the applicant has commissioned a detailed Transport Assessment, including forecasts and modelling, Travel Plan and engineering details. A new full sized roundabout is proposed midway along the frontage of the site along the A49. It will have a single spur off the embankment into the site. The Highway Agency has been involved in discussions over access direct from the A49 and has accepted that the provision of a new roundabout on the A49 is both feasible and acceptable in terms of highway safety.
- 9.4.2 Access is not a reserved matter and through the TR110 response, the HA have directed that a condition be placed on any forthcoming permission to ensure that access arrangements are in place before building commences on site. This condition is included in the recommendation.
- 9.4.3 A small portion of the site lies to the west of the railway and will have an access to Bromfield Road. The revised illustrative layout shows seven instead of thirteen

dwellings on this side of the railway and a neighbourhood shop served by the access. In consultation with the Highways Officer, drawings have been submitted showing the existing arrangement and proposed access from Bromfield Road in the vicinity of the neighbourhood shop. The present unmanned level crossing providing access to the field across the railway would be closed. A bridge for pedestrian and cyclist access over the railway will be constructed to provide a convenient link to the leisure centre and schools. A bridge over the River Corve is also proposed to link the development with open space adjacent to Fishmore View. This bridge has to span a significant increase in height from the site to the southern bank of the Corve but will be a useful cycle link between the estate and the town.

- 9.4.4 The bridge over the River Corve is not popular with local residents but from a highways and planning perspective the proposed footway/cycle link forms a significant element of the development proposals and provides a useful link between the proposed development site and local amenities. It is an alternative route to the town centre and a pleasant route from houses on the eastern side of the town to the leisure centre and Ludlow High School.
- 9.4.5 The applicant is willing to remove the bridge from the proposal and would amend the proposals accordingly on request. But the development site is already restricted in terms of pedestrian and cycle links. The bridge increases the sustainability of the proposal and Officers would be very concerned if this link was removed from the scheme.
- 9.4.6 Ultimately if the scheme was amended to delete the bridge, it is not considered that an argument that the bridge is essential on highway safety or sustainability grounds could be sustained on appeal. Notwithstanding the concerns of local residents that people would park in Fishmore View to walk dogs, the bridge increases the sustainability of the site and would be a valuable community asset serving a large number of people. The opportunity to provide the link would be lost. This is a case where the public benefit should prevail.
- 9.4.3 The Highways Officer has no objection to the proposals subject to conditions and the access arrangements are considered to meet the requirements of Policy CS6 of the Core Strategy.

9.5 **Flooding and drainage**

- 9.5.1 Flooding is a major concern of local residents following the flood events of recent years. The application site is primarily located in Flood Zone 1 but the southern portion of the site, adjacent to the river, falls in Flood Zones 2 and 3 of the River Corve and as a consequence a comprehensive Flood Risk Assessment (FRA) and hydraulic modelling based on the latest available data has been provided which includes hydraulic modelling of flood scenarios. The illustrative layout has been designed to demonstrate that houses and the vehicular access can be accommodated outside the high risk area. The public open space occupies the area most at risk of flooding. The Environment Agency has assessed the FRA and has no objection to the proposal.
- 9.5.2 The proposed development increases the impermeable area of the site by

approximately 40%. This increase in impermeable area results in an increase in peak rate and volume of the run-off for the site. The agent has provided a strategic drainage scheme to illustrate how surface water will be dealt with on site. Essentially rainwater run off will be no greater than at present and water holding facilities in the form of a tank and large pipes together with flow control will ensure that water runs off at the same rate as at present. Conditions are proposed to ensure that details are submitted with the reserved matters application. It is important to note that both the Council's Flood Risk Management Team and engineers at the Environment Agency have vetted the figures and do not object to the proposals. The Flood and Water Management Team have advised that details of the proposed surface water drainage can be conditioned and submitted for approval at the reserved matters stage.

- 9.5.3 Foul drainage will be taken to the main sewer. The submitted Planning Statement states that development may have a significant impact on the existing gravity sewerage system which already has capacity issues. Therefore developer funded hydraulic modelling of the sewer system has been requested in order to establish whether (a) the development is expected to have no detrimental impact or (b) that in order to accommodate the additional flows, capacity improvements will be required. Following investigations, a pumping station is proposed with discharge to one of 3 routes - over the footbridge to Corve View; over the footbridge to Bromfield Road or under the A49 for a stretch to make a connection south of the site. Severn Trent Water (STW) has been consulted on the latest position and their comments are reproduced in paragraph 4.1.15. If improvements are needed these will be funded by the developer and further details are required at the Reserved Matters stage by a condition.

9.6 Ecology and trees

- 9.6.1 The site is not subject to statutory or non-statutory designations and the pasture land is generally of low ecological value. However, the river bank and mature trees are of ecological interest and important for biodiversity. An ecological assessment of the site has been carried out including a Phase 1 Habitat Survey and additional bat, crayfish, otter and water vole surveys. The County Ecologist is satisfied that the proposal will not have a detrimental impact on the natural environment provided conditions are imposed requiring a method statement for the construction of the bridge over the river and the provision of bat and bird boxes. There will be opportunities to enhance the biodiversity of the site through additional planting along the river bank in the area of public open space.
- 9.6.2 The majority of trees on the site are in groups or areas of young woodland around the margins of the site and will not be affected by the development. However, there are four significant oak trees within the site that require protection and conditions are suggested to ensure they are retained and protected if development goes ahead. These are landmark trees at the northern gateway to Ludlow and their presence has high amenity value. To this end, a Tree Preservation Order has been made to reinforce their importance and protection.
- 9.6.3 Officers are satisfied that the proposal will protect and enhance the natural resources of the site in accordance with Policy CS 17 of the Core Strategy.

9.7 Residential amenity

- 9.7.1 The eastern side of Bromfield Road contains mature properties situated in large gardens and a small group of houses at Felton Close with industrial premises and a farm yard towards the bottom of the road. The rear gardens of these properties back onto the railway line and some have views over the site from upper floor windows. Across the river on higher ground is Fishmore View; comprising a cul-de-sac of modern houses. There is a children's recreation area off Fishmore View that contains a play area and informal open space.
- 9.7.2 No issues of overlooking will arise between the existing and proposed houses. However, residents of Fishmore View are concerned that access through their estate to the Public Open Space proposed over the bridge and along the river will encourage groups to gather and result in anti-social behaviour. This may or may not occur but it can be minimised by 'designing out crime' and this will be considered when Reserved Matters are submitted. More serious issues would be tackled through community policing. The benefits of access across the river for the wider community out-weighs the risks of misuse of the area.
- 9.7.3 The proposed houses will be subject to some noise and vibration from the A49. An Environmental Noise Assessment has been conducted and this concludes that suitable mitigation measures can be specified in order to achieve the 'reasonable' standard set out in BS8233 for internal noise levels in living rooms and bedrooms. The measurements of vibration dosage values (VDV) provides evidence to suggest that environmental vibration levels are not likely to give rise to an adverse living environment for future residents. The Council's Public Protection Officers have considered the studies and have no objection to the proposal subject to the submission of further details when the Reserved Matters application is submitted.
- 9.7.4 Core Strategy policy CS6 seeks to safeguard residential and local amenity. It would be at the Reserved Matters stage when details of the layout, scale and appearance of the development are available that the residential amenities of the development can be assessed. At this stage there is no cause for concern about the impact of noise from the A49 on proposed residents or the impact of the proposal on the living environment of nearby houses.

9.8 Impact on local services

- 9.8.1 Local residents have raised concerns about the capacity of local schools and health services to cope with the additional demand arising from a further 215 houses being built. The Education and Health Authorities are involved at a strategic level in local planning and develop their services in accordance with projected increases in population. Health services are currently the subject of a public consultation exercise in Ludlow following the decision not to proceed with the new hospital. In both cases it is the duty of the services involved to respond to increased demand in line with Government requirements.
- 9.8.2 The proposals include the construction of retail unit of up to 300 sq m in size with an access from Bromfield Road. The provision of local services is encouraged by policy

CS8 of the Core Strategy.

9.9 Affordable housing and CIL

9.9.1 Core Strategy policies CS9 and CS11 require new residential developments to make a contribution to affordable housing and infrastructure costs. The proposal will deliver affordable housing at the prevailing rate (currently 15%) to comply with policy CS11 and the associated Type and Affordability of Housing SPD. The delivery of the contribution will be secured through a section 106 Agreement, with the amount being determined at the Reserved Matters stage in the event that outline planning permission is granted. In addition, a Community Infrastructure Levy will be chargeable based on the resulting floorspace of market houses (currently £40 per sq m). These are substantial benefits arising from the development.

10.0 CONCLUSION

10.1.1 At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF states (para. 14) that 'where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted'.

10.1.2 The proposal would involve the development of up to 215 houses and a neighbourhood shop on the north west side of Ludlow on a site within the by-pass. Residential development in this location is not in accordance with the Development Plan (Core Strategy and South Shropshire Local Plan) or the emerging SAMDev Plan. Although the SAMDev Plan has reached the Examination stage it has to be treated with caution as there are unresolved objections and the five year supply of housing land is disputed. In line with the presumption in favour of sustainable development set out in the NPPF, SAMDev policy MD3 acknowledges that subject to meeting specific criteria, sustainable housing development should be granted permission in addition to sites allocated in SAMDev.

10.1.3 The test to apply is whether the benefits outweigh the adverse impacts of the proposal. These issues should be considered in the context of the three dimensions of sustainable development set out in the NPPF.

10.1.4 Environmental Benefits and Impacts

The site lies within the built form of Ludlow and is contained within the by-pass. Due to its low lying nature, the development of this land would not significantly detract from the wider landscape setting of Ludlow or the immediate locality. Neighbour amenity would be safeguarded and there are no ecological, archaeological or drainage reasons that would justify a refusal of outline planning permission.

The Highway Agency and the Council's Highways Officer have considered the Transport Assessment and confirmed that the design of the roundabout on the A49 and junction on Bromfield Road will be safe for residents and road users. The Public Protection Officer is satisfied that background noise from the road and railway is

within acceptable limits and will not result in a poor residential environment. There are many examples of houses in similar proximity to the A49 and railway throughout the town.

In terms of impacts, grade 3 agricultural land development will be developed and the urban area of the town extended.

It is concluded that the proposals are capable of complying with Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy and there are no overriding environmental impacts.

10.1.5 Economic Benefits and Impacts

All housing schemes have benefits to the local economy from building employment and investment in local construction services. The occupants of such properties would also spend money in the wider area on local goods and services, thereby supporting the vitality of the local community. In accordance with Policies CS9 and CS11 of the Core Strategy, the proposals provide affordable housing and CIL funding at a rate of £40 per m². The New Homes Bonus paid to local authorities and ongoing community charge revenue would also provide economic benefits.

There would not be any obvious adverse economic impacts and overall the economic effects of the proposals would be positive.

10.1.6 Social Benefits and Impacts

In the context of the NPPF the provision of market housing should be given substantial weight as it is the Government's policy to significantly boost the supply of housing to meet the identified needs of the population. The site will make a significant contribution to the supply of housing land available in the town over and above the proposed SAMDev allocations.

Residents of Fishmore perceive problems from anti social behaviour associated with providing a bridge from the site to Fishmore View. The bridge is an important element in the sustainability of the site and Officers strongly recommend its retention as part of the scheme. It will provide a safe and convenient link to the schools and leisure centre from housing on the east side of the town.

10.1.7 The site is in a sustainable location in relation to the town of Ludlow. The principle of residential development would accord with the environmental, social and economic dimensions of sustainable development set out in the NPPF. The balance weighs heavily in favour of granting planning permission subject to appropriate conditions and a legal agreement to deliver the affordable housing. Detailed technical aspects of the scheme would be fully assessed in relation to the development scheme submitted at the reserved matters stage.

10.1.8 Officers appreciate the concerns of members to provide a good quality of living environment for future residents. However, members are urged to re-consider their earlier decision on this development. The site is close to the A49, the River Corve and the railway but their dangers can be dealt with by appropriate fencing and landscaping to prevent access. There are many existing dwellings in similar locations in the town. It would be very difficult to demonstrate to a Planning Inspector that the

noise and safety considerations, location and accessibility are such that a refusal of planning permission is justified.

11.0 **Risk Assessment and Opportunities Appraisal**

11.1 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.

11.2 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.

11.3 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 1970.

12.0 **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.

13.0 **Background Information**

13.1 **Relevant Policies**

Central Government Guidance:

National Planning Policy Framework

Part 1: Building a strong, competitive economy

Part 2: Ensuring the vitality of town centres

Part 4: Promoting sustainable transport

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 8: Promoting Healthy Communities

Part 10. Meeting the challenge of climate change, flooding and coastal change

Part 11. Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Core Strategy:

CS1 Strategic Approach

CS3 The Market Towns and other Key Centres

CS6 Sustainable Design and Development Principles

CS9 Infrastructure Contributions

CS10 Managed Release of Housing Land

CS11 Type and Affordability of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

Saved South Shropshire Local Plan Policies

SD3 Settlement Strategy

SPD on the Type and Affordability of Housing

Open Space Interim Planning Guidance

13.2 Relevant Planning History

13/03862/OUT Outline application for residential development (up to 215 dwellings); public open space; highways works; access roads and pedestrian footbridges; and a Neighbourhood Store (Class A1 Retail) not exceeding 300 sq.m internal floorspace, associated engineering and accommodation works. REFUSE 30th July 2014

Appeal

15/02192/REF Outline application for residential development (up to 215 dwellings); public open space; highways works; access roads and pedestrian footbridges; and a Neighbourhood Store (Class A1 Retail) not exceeding 300 sq.m internal floorspace, associated engineering and accommodation works. INPROG

14.0 **Additional Information**

14.1 List of Background Papers

Planning file: 14/04455/OUT

<http://planningpa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NCTQPGTD07U00>

14.2 Cabinet Member (Portfolio Holder)

Cllr M. Price

14.3 Local Member

Cllr Andy Boddington

Appendix 1 – Conditions

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

1. Details of the scale, layout, appearance and landscaping of the development; (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. Nothing in this permission shall be construed as giving approval to the housing layout shown on the plans accompanying this application as such details indicated on the plans accompanying the application are for illustration purposes only.

Reason: To define the permission and to retain planning control over the details of the development

5. No construction works associated with the development, on land on the northern side of the railway line requiring access from the A49 (hatched red in drawing J244 Figure 1), shall commence until the access proposals have been completed to the satisfaction of the local planning authority in consultation with the Highways Agency, as shown in drawing T17113-120, or in accordance with any design changes approved by the planning authority in consultation with the Highways Agency.

Reason: Directed by the Secretary of State for Transport to enable the A49 Trunk Road to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10 (2) of the Highways Act 1980 and to protect the interests of road safety.

6. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in

writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7. No development shall take place until the level crossing, known as Feltons, adjoining the site is permanently closed to vehicles and pedestrians in accordance with details that shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety.

8. With the exception of work to provide the roundabout on the A49, construction works shall not take place outside the following times:
 - Monday to Friday 07:30hrs to 18:00hrs
 - Saturday 08:00hrs to 13.00hrs
 - Nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of the amenity of the occupants of surrounding residential properties.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

10. No development shall take place until details of 'Pedestrian and Cycle Access 1 - the bridge over the railway line' and 'Pedestrian and Cycle Access 2 - the bridge over the River Corve' including the layout, design and construction have been submitted to and approved by the Local Planning Authority. The approved scheme shall be completed before the first house is occupied or in accordance with a timetable to be agreed with the Local Planning Authority.

Reason: To ensure that suitably designed bridges are provided for pedestrians and cyclists at the earliest opportunity.

11. No development shall take place until details of the means of access to Bromfield Road, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before any of the houses or retail unit to the west of the railway line are commenced.

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

12. No development shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

13. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

14. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) that makes provision for a series of trial trenches that targets anomalies identified in the geophysical survey and tests a proportion of the non-responsive areas to determine the presence or absence of un-recorded archaeological deposits. This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works. Findings from the evaluation may determine that additional archaeological mitigation would be necessary and a further programme of archaeological work would then need to be undertaken to fulfil the condition.

Reason: The area is of archaeological potential and it is important that any archaeological features and finds are properly recorded.

15. No development shall take place until a scheme for the insulation of the houses in respect of noise and vibration has been submitted to and approved by the Local Planning Authority. The approved scheme shall be completed prior to the first occupation of the house and shall thereafter be retained.

Reason: To protect the amenities of occupiers of nearby properties from excessive noise from the A49.

16. No ground clearance, demolition, or construction work shall commence until a scheme has been approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The submitted scheme shall include the provision of a tree protection plan that reflects the guidance given in to BS5837:2012. The approved scheme shall be retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area.

17. Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works will be carried out, shall be submitted and agreed in writing by the Local Planning Authority. The AMS shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.

Reason: To ensure that permitted work within an RPA is planned and carried out in such a manner as to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

18. All amendments' and modifications to the approved plans and particulars; or plans and particulars issued for the delivery of reserved matters; or establishment of services or special engineering measures that will require encroachment into the tree protection zone(s) identified in the approved tree protection plan will be supported by a supplementary arboricultural impact assessment and method statement; and the proposed amendments' / works will not be enacted upon without the written approval of the Planning Authorities.

Reasons: To ensure that works supplementary or in variance to the approved plans and particulars cause no damage to retained trees and/or hedgerows on site during the development.

19. No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);
 - d. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;

- ii) Compliance with planning conditions relating to nature conservation;
- iii) Installation of physical protection measures during construction;
- iv) Implementation of sensitive working practices during construction;
- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
- vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

20. No demolition or construction works will commence on site until the applicant or their agent has notified the Local Planning Authority of the full establishment of the tree protection measures and received written confirmation from the Planning Authority that the measures have been established / implemented satisfactorily.

Reasons: In order that the Planning Authority has an opportunity to ensure that the Tree Protection has been adequately established in accordance with the Tree Protection Plan.

21. No development shall take place until details of a phased drainage scheme, that has been informed by an assessment of the hydrological and hydrogeological context of the development in relation to the disposal of surface water and an assessment of the need for improvements to the public foul sewerage system necessary to ensure that there is sufficient capacity within the public sewerage system to accommodate the development, has been submitted to and approved in writing by the local planning authority.

No dwelling hereby permitted shall be first occupied until the drainage scheme approved by the local planning authority has been implemented and the works completed in accordance with the approved details and until confirmation of such, in respect of the foul sewerage system improvements have been obtained from Severn Trent Water Limited and a copy of that confirmation has been provided in writing to the Local Planning Authority.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

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

22. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small,

privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason: In the interests of the visual amenities of the area and to ensure the maintenance of open space areas in perpetuity.

23. Prior to the first occupation of the dwellings details of ten woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

24. Prior to the first occupation of the dwellings details of ten woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

25. Prior to occupation of any dwelling, details of ventilation to rooms requiring protection from noise as detailed in report reference 14151A-2 submitted with this application shall be submitted for approval in writing by the Local Planning Authority. Approved plans and details shall be implemented on site in full.

Reason: To protect the health and well-being of future residents.

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

26. Other than the details shown on the approved plans, there shall be no new structures (including gates, walls and fences) or raising of ground levels on land below 85.71m AOD, within the 1% plus climate change floodplain, or within 8metres of the top of bank of the River Corve (Main River) inside or along the boundary of the site, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent any impact on flood flows and flood risk elsewhere.

27. The Travel Plan Measures (ref: DTPC report no. J244/FTP dated September 2013) shall be implemented within one month of the first occupation of any part of the residential development. The Travel Plan measures shall relate to the entirety of the development, and reflect the phasing of occupation as appropriate.

Reason: In order to minimise the use of the private car and promote the uses of sustainable modes of transport, in accordance with section 4 of the NPPF.

Informatives

1. The land referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure affordable housing.
2. Electric Charging Points

The Council encourages the installation of electric vehicle charging points in new housing development. As they are relatively inexpensive, all dwellings with off road parking and/or garages on a development of this size should be provided with this facility. In this way the development can increase its sustainable credentials. Electric vehicle charging points typically require a 16 amp power supply and are relatively inexpensive to put into a garage or onto a driveway when a dwelling is built however can be a considerable cost if trying to retro fit a building in future.

3. Bats

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

4. Nesting Birds

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

5. Drainage Advice

The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.

Confirmation is required that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

The use of large diameter pipes and crate storage together with a large number of chambers is likely to prove to be an expensive solution in terms of both construction and maintenance. The sites topography lends itself well to the use of true SuDS. Opportunities for permeable paving, attenuation basins and filter strips exist within the development site which could be explored to make the drainage system more sustainable. The Management Train Approach should be central to the surface water drainage strategy of the proposed site. The main objective is treatment and control of runoff as near to the source as possible protecting downstream habitats and further enhancing the amenity value of the site aiming to incrementally reduce pollution, flow rates and volumes of storm water discharging from the site. SuDS should link with the individuals plot structure, planting, public open space requirements and amenity areas, gaining multiple benefits from a limited area of land.

Please provide information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility.

If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

The applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Greywater recycling system

Consent is required from the service provider to connect into the foul main sewer.

6. Highways Agency Informative

All roads in connection with the proposed roundabout, including the spur to access the site, are considered to be part of the access arrangements.

The highway mitigation works associated with this consent involves works within the public highway, which is land over which you have no control. The Highway Agency therefore requires you to enter into a suitable legal S278 agreement to cover the design check, construction and supervision of works. Contact should be made to the Highways Agency's Section 278 Service Delivery Manager David Steventon to discuss these matters on david.steventon@highways.gsi.gov.uk

The applicant should be made aware that any works undertaken to the Highways Agency network are carried out under the Network Occupancy Management policy, in

accordance with HA procedures, which currently requires notification/booking 12 months prior to the proposed start date. Exemptions to these bookings can be made, but only if valid reasons can be given to prove they will not affect journey time reliability and safety.

7. Network Rail Advice

Fencing

The Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

Site Layout

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

Foundations

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on any cutting and no deep continuous excavations parallel to the boundary without prior approval.

Plant and Materials

There is a risk the use of plant and materials which in the event of failure could fall on to Network Rail's land. These operations will require Network Rail supervision.

Drainage

All surface water drainage should be directed away from the company's land to the public mains system. Soakaways are not acceptable where the following apply :

- o Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- o Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure

Excavations/earthworks

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the

railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Landscaping

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

Ground Disturbance

The works will involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

Access Points

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

Environmental Issues

The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.

De-watering

No de-watering on site without Network Rail's consent.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

Safety Barrier

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

In order to mitigate the risks detailed above, the Developer should contact Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

8. Environment Agency Informative

Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the River Corve, designated as 'Main River'. The applicant should contact James Turner in the Partnerships and Strategic Overview team to discuss the Flood Defence Consent further (01743 283 507).

9. Public Open Space

The proposed layout for the site should include the provision of public open space in accordance with the Council's Open Space Interim Planning Guidance (IPG) which is available on the Shropshire Council web site at www.shropshire.gov.uk.

10. Statement of Positive and Proactive Working

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

National Planning Policy Framework

Part 1: Building a strong, competitive economy

Part 2: Ensuring the vitality of town centres

Part 4: Promoting sustainable transport

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 8: Promoting Healthy Communities

Part 10: Meeting the challenge of climate change, flooding and coastal change

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

South Shropshire Local Plan Saved Policies:

SDS3: Settlement Strategy

Core Strategy Development Plan Document

CS3 The Market Towns and other Key Centres

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS8 Facilities, Services and Infrastructure Provision

CS9 Infrastructure Contributions

CS11 Type and Affordability of Housing

CS13 Economic Development, Enterprise and Employment

CS15 Town and Rural Centres

CS17 Environmental Networks

CS18 Sustainable Water Management

Supplementary Planning Document (SPD) on the Type and Affordability of Housing
Open Space Interim Planning Guidance (IPG)

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<u>Committee and date</u>
South Planning Committee
10 February 2015

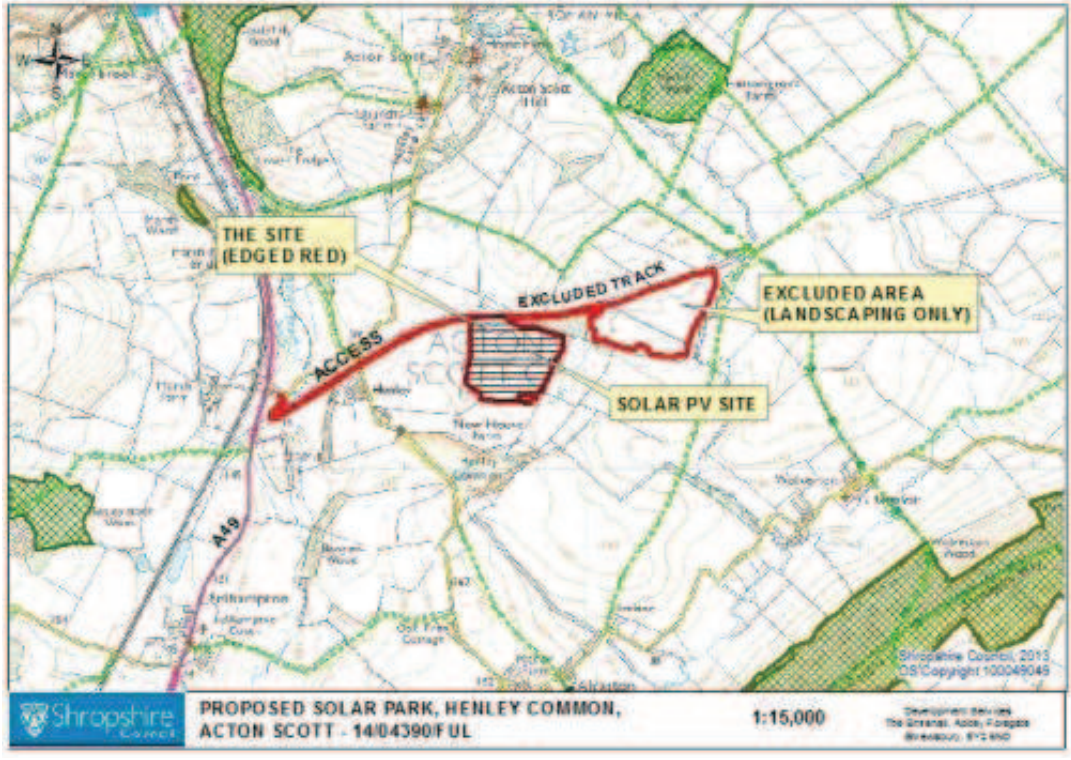
Development Management Report

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

Summary of Application

<u>Application Number:</u> 14/04930/FUL	<u>Parish:</u>	Acton Scott Parish Council
<u>Proposal:</u> Continued use of land for agricultural purposes and the installation of up to 5 MW of solar photovoltaic panels and ancillary works.		
<u>Site Address:</u> Land North of Henley Common, Henley Lane, Acton Scott		
<u>Applicant:</u> Maddox And Associates Ltd		
<u>Case Officer:</u> Grahame French	<u>email:</u> planningdmc@shropshire.gov.uk	

Recommendation:- Approve subject to the conditions set out in Appendix 1.



Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. This is in accordance with the advice of the Governments Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. The applicant sought and was provided with pre-application advice by the authority and has provided further clarification in response to issues raised during the planning consultation process. The submitted scheme, has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended conditions.

REPORT

1.0 THE PROPOSAL

- 1.1 Introduction: Members considered a previous planning application to erect a solar park of up to 6.5MW on land within the current application site was on 14th October 2014 (reference 14/02807/FUL). The committee resolved to refuse the application for the following reason:

The proposal would have a detrimental impact upon the environment, character, landscape and visual quality of the Shropshire Hills Area of Outstanding Natural Beauty. Accordingly, the proposal would be contrary to Paragraphs 116 of the National Planning Policy Framework and Core Strategy Policies CS6 and CS17 whereby the adverse impacts would significantly and demonstrably outweigh the benefits.

- 1.2 The current application is a re-submission but with a significantly reduced operational area (10.99ha as opposed to 18.58ha) and a slight reduction in the level of energy production (to 5MW from up to 6.5mw). The scheme as originally proposed involved the use of two fields to the immediate south of a disused railway embankment. It is now proposed that just the western field is used in connection with the solar park development. The eastern field is excluded and would remain in pasture use. In all other respects the scheme would remain as per the original application. The same access is proposed and the previous landscaping / biodiversity enhancement scheme would continue to be employed, including with respect to the excluded eastern field area. The same community betterment package would also apply.
- 1.3 The 5 Megawatt facility would export enough renewable electricity to meet the equivalent annual power consumption of 1,450 homes. Following construction, the site would be seeded with an appropriate grassland mix and would become available for grazing. Construction would take 4 months.
- 1.4 The scheme would involve the use of 19,608 individual photovoltaic panels. These would be mounted on frames and laid out in rows running from east to west. They would be oriented south and angled at 25 degrees to the horizontal with a maximum height of 2.4m (minimum 0.8m). The mounting frames would be matt

finished galvanised steel with 200mm diameter steel posts. The posts for the panel frames would be driven into the ground up to a depth of 1.5m.

- 1.5 The proposed development would require the construction of two inverter cabins at the centre of the site and two ancillary electrical cabins at the northern end of the field either side of the access (DNO Substation and Main MV Container). These would convert the electricity to a form suitable for export to the distribution network at the appropriate voltage. The invertors convert solar energy from Direct Current (DC) to Alternating Current (AC) and would sit on concrete bases to ensure stability. The applicant has applied to the network operator Western Power Distribution for preliminary connection information, and it has been confirmed an on-site connection is feasible.



- 1.6 Security fencing (2.4m high palisade fencing) would be installed around the substation. There would also be 2m high deer netting supported by timber in the area surrounding the site. The land would continue to be used for agricultural pasture purposes following the installation of the panels.
- 1.7 Landscaping: Landscape planting is proposed along the northern and south eastern site boundaries. The applicant states that sensitive colouring of the inverter substations and other on-site components would also reduce any visual effects.
- 1.8 Access and construction: The construction of the solar panel arrays would result in the temporary generation of construction traffic over a period 4 months. It is envisaged that there would be up to 80 HGV deliveries in total transporting the panels and array structures to the site. The most intense period would be likely to equate to 2 HGV deliveries per day (4 individual movements). Wherever possible deliveries of materials would take place between 7am and 6pm Monday to Friday and between 8am and 1pm on Saturdays. There would be no deliveries on Sundays or Bank Holidays.

- 1.9 During the construction phase, a new temporary access would be constructed along the former railway track to the west. This would itself be accessed from Henley Lane across a field in ownership of the applicant. Up to 20 staff would be on site during the construction period, depending on the phases of the construction schedule. It is envisaged that staff trips would be mainly made by private vehicles (LGVs). Once the site was operational, there would be no staff based on the site although routine twice monthly visits would be required. Following the completion of construction works, all areas subjected to temporary works including any access tracks and other temporary infrastructure would be re-instated to a condition in keeping with the quality of the areas before works had commenced.
- 1.10 Decommissioning: The operational lifespan of the solar park is stated to be 30 years. After this all equipment and tracks would be removed from the site and arable productivity could be resumed.
- 1.11 Community benefits: The previous application was linked to a separate voluntary commitment to fund the installation of solar panels on a modern farm building next to the Acton Scott visitor centre with profit going to the Centre and the Parish Council. A viewing area for the solar park and a renewable energy display were also to be provided at the visitor centre. Some Members were however concerned that the benefits of the scheme might not be evenly distributed to the local community. In response, the applicant is now proposing instead to set up a community fund of equivalent value (£5,000 per installed megawatt) so that benefits from the scheme can be delivered to the local community. This would be in the form of an escrow account overseen by a fund management group, initially comprising representatives for the applicant, the Council and the Parish Council. The fund would be open for groups and individuals to bid for on a first come first served basis, provided specified location and community benefit criteria were met. These criteria would be defined in a legal agreement (Unilateral Undertaking) which the applicant would complete prior to the issue of any permission.

2.0 SITE LOCATION / DESCRIPTION

- 2.1 The site (area 22.25ha) comprises 2 pasture fields (Grade 3b and 4) at Henley Common approximately 1km to the south of the village of Acton Scott. As stated above however, the eastern field is now excluded from the solar development. The remaining field area proposed for the solar development is 9.5ha. The nearest buildings are on Henley Common, approximately 0.2km to the south. There is no nearby housing. The A49 between Church Stretton and Craven Arms runs 1km to the west.
- 2.2 The site is located in a valley, surrounded by an undulating landscape with woodland areas which provides screening. A disused tree-lined railway line runs in an east-west direction to the north, passing from an embankment in the north east to a deep cutting in the north-west. The land within the site is low-lying and is not visible from much of the surrounding area. It slopes from north-west down to south-east. The excluded eastern part of the site is lower and was historically marshland.

2.3 The site lies outside of a flood plain but within the Shropshire Hills Area of Outstanding Natural Beauty ('AONB'). A power line crosses the site, providing an opportunity to transport renewable energy to the national grid.

3.0 REASONS FOR COMMITTEE DECISION

3.1 The application has been referred to the committee by the local member and this decision has been ratified by the Area Development Manager.

4.0 COMMUNITY REPRESENTATIONS

4.1 Acton Scott Parish Council: Objection due to location in Area of Outstanding Natural Beauty (voted 5 for 11 against).

4.2 Eaton Under Heywood Parish Council (adjacent parish): Objection (majority vote).
1) The development would have a detrimental impact upon the environment, character, landscape and visual quality of the Shropshire Hills Area of Outstanding Natural Beauty.

2) The development would be contrary to paragraph 116 of the National Planning Policy Framework and Core Strategy Policies CS6 and CS17, whereby the adverse impacts would significantly and demonstrably outweigh the benefits.

4.3. Natural England:

i. Designated landscapes: Objection.

The application site lies with the Shropshire Hills Area of Outstanding Natural Beauty (AONB), a designation of national importance with the highest status of protection in relation to landscape and scenic beauty. In exercising or performing any functions in relation to, or so as to affect, land in an Area of Outstanding Natural Beauty (AONB), all public bodies, local planning authorities and Natural England, have a duty to have regard to the statutory purpose of AONBs, which is the purpose of conserving and enhancing the natural beauty of the area (Section 85 Countryside and Rights of Way Act, 2000). Local planning authorities are required to take such action as appears to them to be expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty and amenity of an AONB to the extent that it lies within their area (Section 84(4) Countryside and Rights of Way Act, 2000). It is against this duty, and with regard to national and local planning policy, that this proposal must be measured. We note that the Shropshire Hills AONB has objected to this application and we recommend your authority have regard to their position. Natural England has assessed this application. From the information available Natural England is unable to advise on the potential significance of impacts on the Shropshire Hills Area of Outstanding Natural Beauty (AONB). In our response to the previous planning application for a solar farm in this location, Natural England expressed concerns about the visual impact and effects of the proposal on landscape character and asked for further clarification from the applicant in relation to their Landscape and Visual Impact Assessment (LVIA). We note that this submission does not appear to have a LVIA in support of the applicant and one should be undertaken to reflect the changes to the development. This is necessary due to the site being within a nationally

designated landscape. (*Note: an LVIA was submitted after the application was registered and relevant consultees including Natural England were reconsulted*)

- ii. Designated sites: No objection. This application is in the vicinity of Wolverton Wood and Alcaston Coppice, Prince's Rough and Marsh Wood Quarry Sites of Special Scientific Interest (SSSI). You should note that it does not appear that any information to assess ecological impacts of the proposal have been submitted. However, these SSSIs are unlikely to be affected by development such as a solar farm. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.
- iii. Protected species: As stated above, we have not been provided with any information to understand the impacts of this revised proposal on ecology. We therefore have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.
- iv. Other advice: We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:
 - local sites (biodiversity and geodiversity)
 - local landscape character
 - local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application.

- 4.5 Highways Agency: No objection.

- 4.6i. AONB Partnership: Objection on the basis that the development would introduce an industrial scale installation into a high quality rural landscape, changing its character fundamentally and causing unacceptable harm to the special qualities of the AONB. The full comments of the AONB Partnership are included in Appendix 2.
- 4.7i. Campaign to Protect Rural England: Objection. This is to introduce many thousands of large industrial solar panels, cabins, inverter sheds and netting crowded into 27 acres (10.9Ha) in alien ranks on a gently sloping ancient and productive agricultural field - in full view from the nearby & much visited Wenlock Edge, also from nearby hills, the Shropshire Way and from Flounders Folly – all of which nestle inside the Shropshire Hills Area of Outstanding Natural Beauty. On behalf of CPRE South Shropshire I want to object to this application for the following planning reasons:-
- ii. Shropshire Core Strategy
 Objective 3: Employment Opportunities: - none: short or long term:
 Objective 6 (Sustainable economic development & growth): This is not sustainable.
 Objective 7 (Support sustainable tourism): – This will spoil views, lessen tranquillity & introduce an industrial landscape.
 Objective 10 (Create safe accessible & attractive places which contribute to local distinctiveness): - Not by providing ugly off-the-shelf panels, kiosks & fencing
 Objective 11 (Respects landscape character, biodiversity, heritage & local distinctiveness) - This application does the reverse.
 Policy CS5 (Countryside & Green Belt) - New development will be strictly controlled to protect the countryside on appropriate sites which maintain & enhance countryside character & bring local economic & community benefits. This will do the opposite & have negative impacts.
 Policy CS6 (Development will be of high quality & respects & enhances local distinctiveness...and protects, conserves & enhances the natural environment & is appropriate in scale & design) - This application is rushed, flawed, destructive, lacking in detail & not high quality.
 Policy CS8 (where development has no significant adverse impact on recognised environmental assets) - This has a hugely negative impact – it would create an industrial landscape.
 Policy CS16 (To deliver high quality, sustainable tourism & leisure development that benefits local communities & visitors, & is sensitive to Shropshire's intrinsic natural & built environmental qualities) - It is vital that all tourism cultural & leisure facilities in rural areas are compatible with their location so that their unique character & tranquillity is retained.
 Policy CS17 (Development will identify, protect, enhance Shropshire's environmental assets – protects natural environment – doesn't harm the visual, heritage or recreational values & functions – does not have an adverse effect or create barriers – secures financial contributions) - This application threatens to do the opposite. It is a greedy application.
- iii. National Planning Policy Framework
 Para 7 (Economic offer) - This will damage tourism (social offer) – Alien fencing & structures 'keep out' – (environmental offer) - negative visual effects & alien landscape...no economic offer to benefit residents is in evidence.

Para 14 (a presumption in favour of sustainable development) - This isn't. 25 years is temporary.

Paras 18 & 28 (to support sustainable economic growth) - This isn't. As above, it will only benefit the landowners over the lifespan of the panels.

Para 27 (allows for continued agricultural use) - Not proven: glint & glare is a possibility: security lights & fencing will be exclusive & alien:

(conservation of heritage assets & impact of large-scale solar farms on such assets) - will affect nearly all the local listed buildings – screening –takes some 8 years to become effective: energy potential is limited to the Acton Scott Estate.

Para 98 (approve the application if its impacts are or can be made acceptable) - no real effort seems to have been put in place for this to happen.

Para 109 (protecting & enhancing valued landscapes) Not so: this tries to do the opposite.

Para 110 (Minimise pollution & other adverse effects on the local & natural environment) - Not so. This will produce severe adverse effects on both the local & natural environment.

Para 111 (Encourage reuse of brownfield land) - No attempt here to do so.

Para 112...Should seek to use areas of poorer quality land in preference to that of a higher quality... the reverse: the west is the better land (Grade 3) ;the east is marshy & of lower quality Grade 4).

Para 113...Protection of landscape areas commensurate with their protected status. This application does the opposite and can only harm a lovely rural landscape.

Para 115...Great weight should be given to conserving landscape & scenic beauty in AONBs. If this really was the case then this 2nd application would not have been allowed. Hopefully the Planning Committee will provide such conservation.

Para 116...Planning permission should be refused for major developments except in exceptional circumstances & where they are in the public interest. This IS a major development of over one hectare. Need is NOT established. Elsewhere? No apparent alternative site has been offered. Public interest: this would have a detrimental effect on environment, landscape & recreational opportunities.

Para 122...Whether the development is an acceptable use of the land & the impact of its use: a loss of agricultural land & the impact of its use in an Area of Outstanding Natural Beauty Is NOT acceptable to the SHAONB, the CPRE or to the many who object to this application.

Para 123...Identify & protect areas of tranquillity which have remained relatively undisturbed by noise & are prized for their recreational & amenity value for this reason. This application proposes the reverse.

iv. SAMDev

Policy MD 2...particular regard should be paid to the SHAONB Management Plan 2014. This application has clearly not paid such regard – and we hope the Planning Committee will do so.

Policy MD 12...where public benefits clearly outweigh the value of any assets affected...social or economic benefits must be clearly stated...level of protection to natural assets. This application seems to have ignored public benefits, not clearly stated any social or economic benefits to the community, and has failed to offer protection to the natural assets.

v. Conclusions:

CPRE is broadly in favour of green energy initiatives but not in the wrong place – in this case on greenfield land, firmly in the SHAONB, close to houses & heritage sites, where public footpaths and visitors are affected, where tourism is threatened, and where the wishes of councils, local residents and the AONB are not being given the importance & protection they deserve. We urge the Planning Committee to refuse this speculative and poorly presented application, which we consider is largely a rehash of the original application that was firmly rejected by you. It would have a detrimental and visual impact on the environment, character and landscape of the Area of Outstanding Natural Beauty whereby the adverse impacts would significantly and demonstrably outweigh the possible benefits.

Internal Comments:

4.8 S.C.Historic Environment (Conservation / Archaeology):

- i. The development proposal involves land to the east of Henley Common and south of the Garden and Grounds of Acton Scott Hall (HER PRN 07718) and the former Much Wenlock, Craven Arms & Coalbrookdale Railway (Wenlock No. 1) (HER PRN 08447). The Grade II* listed Acton Scott Hall (National Ref: 483623) is located approximately 1km north of the proposed development. A Heritage Desk Based Assessment (Cotswold Archaeology Report May 2014) and Landscape and Visual Impact Assessment (Cordell Design) produced for a previous application has been submitted in support of this application and is considered valid for the current application as are the results from the geophysical survey. In terms of direct impact on known or unknown archaeological remains the Heritage Desk Based Assessment supported by a geophysical survey concluded that any archaeological remains within the development boundary are unlikely to be of a sufficiently high level of significance to preclude development. It acknowledges the fact that, given the existing evidence for prehistoric and Roman settlement within the surrounding area, the potential for remains from these periods to be located within the development boundary cannot be discounted, especially in light of the less successful results from the geophysical survey in the current application site.
- ii. With regard to the impact of the development on the setting of designated cultural assets within the wider landscape the report concludes that none of the designated heritage assets that fall within the ZTV have a direct line of site to the proposed development site therefore there would be no negative impacts on the setting of these assets. This was checked during a field inspection carried out as part of the assessment. Both of these findings are accepted. Recommendations submitted 08/01/15 and 10/12/14 remain un-changed.
- iii. Non-intrusive construction methods (concrete shoes and above ground cable trays) or realignment of the arrays to avoid archaeological remains should be applied in all areas where significant archaeological remains are identified and tested by evaluation. A condition should be considered requiring the extent of the areas requiring alternative construction methods to be confirmed in writing during the course of the development.

- 4.9 S.C. Highways: No objections. The scheme in principle does not raise any highway concerns, because once built it will not have any effect on the highway and only generate one or two light van visits to the site each week for maintenance

purposes. I am however concerned that the delivery of the materials and plant to the site during the construction phase will cause highway difficulties. In the D&AS it has been acknowledged that the junction off the A49 Trunk Road into Henley Lane will cause problems for delivery vehicles and it is stated that discussions regarding this will be taking place between the applicant and the Highways Agency, under whose control the A49 is. From Shropshire Council's Highway Authority point of view the movement of materials along Henley Lane will be the main difficulty and the method of doing this will have to be agreed and defined in the Construction Management Plan prior to the scheme commencing. My initial thoughts regarding this are that a nearby site should be sought by the applicant that could be used as a transfer station to load the panels onto small vehicles for the final leg of the journey.

4.10 S.C.Arboriculture: No objection subject to the following comments:

- i. There are a number of mature trees (some veteran trees) and established hedgerows on the site; these are an integral part of the local landscape and landscape character and an important part of the areas ecological network of green corridors and stepping stones. In the design and access statement, the site design plan and in the habitat management plan (Ref: Bloom-239-107-02) the applicant has indicated that mature trees and hedgerows form important screening and will be retained and enhanced where appropriate. Section 4.1.1 makes a clear statement that trees and hedgerows will be protected in line with BS 5837:2012 Trees in relation to design demolition and construction; recommendations. On the submitted plans and Habitat management plan (Ref. Bloom-239-107-02) the site layout appears to provide a reasonable distance between the arrays and most key landscape features, but elements of the plan that have not been discussed in detail could impact upon retained trees (E.G. the route of cables for CCTV and for linking the arrays to transformers, storage of materials during construction, road construction and the construction/erection of the boundary fence). Details of tree protection measures would need to complement this proposal if it is approved.
- ii. The habitat management plan gives a rudimentary indication of proposed hedgerow planting and renovation but the application lacks specific detailed planting schedules and planting and after care specifications.
- iii. Taking into consideration the above points the Tree Service would need to see that any approved application can deliver the promised tree protection and landscape/habitat improvements. This could be addressed through the provision of:
 - (a) basic tree protection plan and a generic arboricultural method statement (AMS) for working in the proximity of trees, a key element of which would be that all site workers (during construction) would need to be made familiar with the AMS before commencing work. (NB we are not asking for a basic tree survey but an informative method statement to be used when working in the proximity of trees).
 - (b) Detailed landscape specifications and planting schedules.

4.11i S.C.Ecology: No objection subject to the following comments. A map is required showing the area within the Disused Railway Line Local Wildlife Site accessible to construction vehicles. Tree protection plan and condition required. Conditions and informatives should be attached to any consent.

- ii. Protected sites: The 'Disused Railway Line Acton Scott' Local Wildlife Site (LWS) is immediately to the north of the site and is proposed to be used for construction traffic. Shropshire Wildlife Trust have asked for reassurance that there will be no long term negative impacts from the use of the LWS as an access road and details of surfacing. I have visited the site and consider that temporary access of regular sized tractors and trailers using the western section of the track should not harm the special interest of the Local Wildlife Site. There should be no need for construction vehicles to go into the eastern section of track as there are internal field access points to all the fields. If we can get written confirmation that the eastern section of LWS will not be accessed by construction vehicles then my concerns re the LWS would be met.
- iii. Protected species: The results of the eDNA survey for GCN was that Ponds 1 and 2 (which are actually linked) have confirmed presence of GCN. Pond 3 was found to be dry. At my site visit in September 2014 the accessible ditches and marshy grassland were also dry. Avian Ecology (2014) have provided updated risk avoidance measures. If strictly followed these are considered adequate to reduce the risk of harming GCN. The following condition and informative are recommended:
- Bats: FPCR (2013) consider that three trees had medium to good bat roosting potential (T1, T2 and T3). These trees are indicated for retention and lighting on tree lines is not necessary. As the proposals show retention of hedgerows and trees there should be no impact on bat foraging and commuting activity. Any other operations affecting trees such as road construction and boundary fencing will need to take impacts on trees into account. The Tree Officer has requested a tree protection plan.
- Nesting birds: Nesting birds are likely to use the hedgerows and trees on the site and also possibly the grassland. Avian Ecology (August 2014) recommend that if any ground works or vegetation removal will take place during bird breeding season that an ecologist should carry out a hand search of the area and an exclusion zone set up around any nest sites. The following informative should be attached to any consent.
- 4.12 S.C.Public Protection: – No comments received.
- 4.13 S.C.Rights of Way: – No objection. No recorded public rights of way are affected by the proposals.
- 4.14 S.C.Drainage: - No objection. The surface water run-off from the solar panels is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable. A Flood Risk Assessment should be produced. (Note: the FRA has been received)
- 4.15 Councillor Cecelia Motley has been informed of the proposals.

Public Comments

- 4.16 The application has been advertised in accordance with statutory provisions and the nearest properties have been individually notified.

4.17 There have been 72 representations objecting to the proposals and 12 in support. The main concerns of objectors can be summarised as follows:

- i. Impact on AONB / visual impact. This application if approved will create a significant Industrial Installation, complete with CCTV surveillance systems, security fencing, inverters and of course acres upon acres of glass, sited within an Area of Outstanding Natural Beauty. This proposed development would obviously be unsightly and utterly incompatible with its surroundings. It would have a severe and detrimental impact on the AONB. The AONB attracts tourists who bring much needed income into a rural economy. A development of this sort, visible from walking routes used daily by tourists, would damage a natural asset on which many local people rely for their income. There seems to be nothing in the plans to justify such damage. There are many more sites in the UK in which solar panels can be located without causing any harm to the natural environment. The Shropshire Hills is defined as 'a precious landscape whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard them. What is the overwhelming justification for this application? The site targeted by the applicant is in the heart of the Shropshire Hills Area of Outstanding Natural Beauty. The impact of such a hideous, industrial installation of 20,000 panels and the cabins, fencing, security lighting and structures required for it's support would not only be dramatic in the immediate area but would set a precedent for all the Shropshire Hills. This would not be offset by the minimal contribution of energy for a few hundred homes. The statement that the solar complex will not be visible from the north and east; this is incorrect as it will be visible from a number of vantage points. The perimeter fence is expected to be 2m high deer netting supported on timber stakes but maybe the insurers will require something completely different, who knows? Does this mean the fence could be significantly taller, not there at all, made of completely different materials? This area is a fantastic place in the evening and night time with virtually no light pollution, so when all the security lights come on when the owls foxes and badgers are looking at these panels in disgust it will be like a small town at night in the next field. It would still be located in the Shropshire Hills Area of Outstanding Natural Beauty. There will still be many thousands of huge metal and glass panels covering 27 acres. It will thus be detrimental to the appreciation of this beautiful landscape. The applicant has not demonstrated any exceptional circumstances. This is a time when the government is announcing the removal of many of the eyesores of energy infrastructures in National Parks and AONBs, such as removing pylons in Snowdonia and burying the cables. This is not the time to desecrate the Shropshire Hills with solar panels. The LVIA states that the site is not visible from the North and the East. From these aspects it most certainly is visible from Henley Lane, Acton Scott Amble, Wood Acton and sections of Henley Common. The visual impact will shock and they will be highly visible from the surrounding hill tops and a number of other viewpoints. Their bright blue colour will make them particularly stand out from the existing green countryside. The fact that these sites are important visitor and tourist destinations such as Flounders Folly, The Shropshire Way and The Ridgeway reinforces the inappropriate nature of the application. 80% of Shropshire is outside the AONB. We read all the time about so many other solar installations being applied for and Shropshire councillors must have the ultimate responsibility and indeed privilege to ensure the AONB is protected as it's designation requires. The AONB is designated for the Nation's

enjoyment and this application imposes the ultimate local responsibility with Shropshire Planning Councillors. I have no objection to alternative energy sources, however, beautiful landscape such as ours, should not be destroyed in order to achieve this objective, especially not when there are plenty of artificial structures such as existing rooftops, in the area which could be adapted to take solar panels without destroying green fields.

- ii. Tourism impact: South Shropshire and particularly areas such as this are committed to promoting the intrinsic beauty to enhance tourism for the local community. Such an ugly developments as this proposal counteracts, in my opinion the ethos of what this beautiful area promotes and threatens the conservation of the countryside at the expense of what is now considered a questionable financial benefit. We need tourism in this Area and Acton Scott has relied heavily on it for 40 years plus - supported by the Shropshire County Council. Many of those who live and work in this area depend upon tourism, and the need to preserve the landscape which tourists come to admire and enjoy must be a paramount consideration. This application does not provide any extra employment in the area and could, in fact, have a detrimental impact on local employment. People and businesses associated with the tourist trade will not be required if visitors decide this is no longer the beautiful and tranquil place that they currently choose to visit. A 'solar farm' is not what visitors to Shropshire expect to see. The general understanding of an AONB is that it is an area of high scenic quality that has statutory protection in order to conserve and enhance the natural beauty of its landscape. The proposed development will not in any way 'conserve and enhance the natural beauty' of the Shropshire Hills. Within the Shropshire Hills AONB, 27% of employment is in agriculture with a further 11% in tourism. There is a high dependency on low paid seasonal employment in agriculture and tourism. The two industries are interlinked, and I believe that it is completely counter-intuitive to take an agricultural decision that will impact so heavily on tourism. Reduced levels of tourism will have a devastating effect on an industry that is made up of a large number of generally small enterprises. The application suggests there will be no local personnel employed.
- ii. Planning Policy: As recently as April last year, the Minister for the Department of Energy, said 'It would be a grave mistake of monumental proportions for the Solar Energy Industry not to heed the concerns expressed regarding solar pv developments on Greenfield land. The Department for Energy and Climate Change Solar Strategy Document, stresses the need to move the growth for solar energy away from Large Solar ?Farms?, instead focus on opening up the solar market for the UK?s estimated 250000 hectares of south facing commercial roof tops. This application is within the boundary of the previous application (14/02807/FUL) which was rejected by the Shropshire South Planning Committee because: 'The proposal would have a detrimental and visual impact upon the environment, character and landscape of the Area of Outstanding Natural Beauty. Accordingly, the proposal would be contrary to Paragraphs 116 of the National Planning Policy Framework and Core Strategy Policies CS6 and CS17 whereby the adverse impacts would significantly and demonstrably outweigh the benefits.' This application should be refused for the same reasons. National planning policy framework, paragraph 116, which states: 'Planning permission should be refused for major developments in these designated areas (National Parks and AONBs)

which have the highest status of protection' except in exceptional circumstances and where it can be demonstrated that they are in the public interest?. The tests which need to be satisfied include: 1. The need for the development, 2. The cost of, and scope for, developing elsewhere, or meeting the need for it in some other way, 3. Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. The developers have created a flimsy selling document in which they fail to persuade that these points are satisfied. Renewable energy does not 'trump' protective policies. These tests of exceptional circumstance are not met. The Shropshire Core Strategy, gives a high profile to the AONB in terms of quality of landscape beauty, geodiversity and biodiversity, and as an important asset for tourism. It recognises the need for development to be of higher quality in the AONB, stating that: "proposals which would result in isolated, sporadic, out of scale, badly designed or otherwise unacceptable development, or which erode the character of the countryside "will not be acceptable". The proposal is not appropriate in scale, density, pattern and design taking into account the local context and character. The proposal does not protect and enhance existing facilities, services and amenities that contribute to the quality of life of residents and visitors. The proposal does not deliver high quality, sustainable tourism, and cultural and leisure development, which enhances the vital role that these sectors play for the local economy. The proposal is not sensitive to Shropshire's intrinsic natural and built environment qualities. Therefore the proposal is not consistent with Shropshire Planning Policies CS5, CS6, CS8 and CS16. The April 2014 DECC Strategy for Solar PV Part 2 issued new guidance to encourage the placing of solar panels on the roofs of commercial, industrial, many Government buildings, hospitals ,up to 24,000 schools and other buildings and brownfield sites.

- iii. Precedent: The application should not be supported as it would set a precedent for such a development in the Shropshire Hills ANOB and would be the thin end of the wedge for future such applications.
- iv. Decommissioning: I am concerned about the fate of the panels at the end of their useful life, which is no more than 30 years.
- v. Ecology: Despite answering 'no' to the question regarding priority and protected species, I can confirm that the proposed site is in close proximity to a nesting barn owl, a species on Schedule 1 of the Wildlife and Countryside Act, 1981. In addition, the area is home to buzzards and red kites and I have received a report of the sighting of a merlin along the dismantled railway in recent years. Mammals in the locality include badgers, foxes and hares.
- vi. Agriculture: Although the site area has been reduced from 22.25ha to 10.99ha, the output has only been reduced from 6.5MW to 5MW. This suggests an increased density of panels, which will surely impede the light reaching the vegetation. Therefore, is the claim that the land will have continued use for grazing valid? Why is consideration even being given to the taking of 27 acres out of agricultural production when this is exactly what Liz Truss says should not be happening. The construction of this solar farm will industrialise agricultural land that has a valuable productive role in food production. The panel density has been increased with the panels now being really crammed in, so much so, that I cannot see that there will

- be much space for sheep to graze. Suggestions that the land would continue to support productive agriculture are unfounded.
- vii. Alternatives: There are other, far more appropriate methods of meeting the demand for alternative sources of energy.
- viii. Other: As it appears financial benefits for these schemes are soon to change one wonders at the haste to get planning permission for this. Struggling farmers may need to consider diversification from traditional agriculture. However, I believe that this applicant has substantial resources at his disposal. He does not contend that he is driven by economic necessity to make this application. Solar Farms generally don't produce as much green energy as they claim. Peak generation only happens on the sunniest days of the year. Current solar technology is already being superseded with new ways of producing green electricity.
- x. Supporters to the scheme make the following comments:
- i. Renewable energy and climate change: The proposals are a practical and sensible contribution to sustainable energy generation. The community of Church Stretton and the surrounding villages consume a considerable amount of energy, and generate none except for the households with solar panels. This is an exciting development for Shropshire in terms of the county's transition to low carbon energy generation. Shropshire's core strategy (p13) notes that climate change is possibly the greatest threat facing the world today - turning down this application will only add to that threat. With the growing weight of evidence and best judgements that the most serious adverse climate change is in progress, it is imperative that every opportunity is delivered to reduce carbon emissions and dependency. Carbon should remain in the ground and every form of alternative energy generation should be developed and delivered. The climate is changing now as a result of human activity since the 1970s. It will continue to worsen over the next fifty years irrespective of what we do today, because those changes are already locked in; but the decisions taken today will determine whether those changes and those that follow - are merely unpleasant or catastrophic. There is no 'Business as Usual' option; business will be different. There is a real danger that the adverse impacts of our collective failure to remove fossil fuels from our energy diet will be the creation of an Area of Outstanding Desert. In this context the mantra touted so often by opponents, 'I agree with renewables, but not here' is not just ill - considered but irresponsible.
- ii. Efficiency: While rooftop systems make a useful contribution, they are nevertheless (a) generally more visible than modest solar farms like the one proposed; and (b) they are much less efficient, since each array requires an independent and expensive inverter. Solar farms make a significant contribution to the lowering of the costs of renewable energy, and the Henley Common proposal has the potential to meet a significant proportion of the energy needs of the local area.
- iii. Lack of visual impact: Wind turbines in areas of outstanding natural beauty attract reasonable objections, but the visual impact of solar arrays is negligible by comparison, and they have been permitted in AONB's elsewhere in England. In this particular case the proposal has been modified and reduced in scale since the first

application which was rejected. The Landscape Impact Appraisal (LVIA) shows that the site is already screened by mature trees, and further landscape planting is proposed. The site is not generally visible by the public and will not deter visitors to the AONB. the site is well screened from nearby minor highway and dwellings; nor will the views from paths on Wenlock Edge(possible in winter)be that different from at present for the few that enjoy walking in this area. The proposer has provided a number of mitigating proposals to ensure that the site has minimal impact on the nearby landscape and it is difficult to see how this seriously compromises the landscape value of the Shropshire Hills AONB. The scheme would not generate 'glint and glare'. Solar panels are designed to absorb sunlight, not reflect it. This particular AONB is not an unspoilt wilderness, to be left forever in an undisturbed state; it is a working agricultural landscape. A viewer looking from Flounders Folly (a building that we can confidently assert would never get planning permission today) can apparently see nine counties; one can certainly see hundreds of fields. Some contain silos and large sheds; some contain large numbers of bales swathed in white or black polythene. Some will be green, others brown, yellow or even blue. It would hardly ruin the AONB or destroy the tourist industry if one of these was green with grey stripes.

- iv. Agriculture: Contrary to some suggestions the land will continue to be available for agricultural purposes by sheep grazing, where indeed the panels offer the advantage of sheltering the animals from the weather, in particular keeping fresh grass available in snowy conditions. It has been suggested that public policy should be to confine solar arrays to roofs. This is a good use of poor agricultural grade land. The land is poor quality, fit only for sheep grazing, but in any case 95% will still be used for that purpose; the sheep and ground nesting birds will benefit from increased shelter provided by the arrays, and other wildlife species will benefit from the improved bio-diversity measures offered.
- v. Decommissioning: Two committee members seemed unable to believe their officers' assurance that at the end of their life the panels would be removed and the site returned to its former state. Apart from the Council's ability to serve an Enforcement Order on the landowner, members will be interested to know that the value of the panels and infrastructure as scrap makes decommissioning a net profit exercise. 98% of the materials are recyclable.
- vi. No precedent would be established: Each application must be assessed in the context of any cumulative effect so it should become progressively more difficult to approve subsequent applications, not less. In the case of this application, there will be insufficient grid capacity for a second solar farm in this locality, let alone a string of them.
- vii. Other: Recent polling carried out on behalf of DECC has shown wide spread public support for solar farm proposals. Whilst there will always be critics of virtually any planning scheme, poll after poll has shown support for solar farms.
- x. South Shropshire Green Party: We support this application, as we supported the larger development on this site, (which was rejected). It is a necessary and, in our view, responsible proposal for renewable energy. It includes an element of community gain that recognises the importance of associating the development

with a financial contribution to be spent on community facilities. We like the plans to promote biodiversity and ecology in this area of the AONB, and the proposals for sheep to graze and shelter among the panels. Solar farms don't make a noise and don't smell. They are not dirty or dangerous. They protect, and can also enhance the countryside. We have to get real about climate change in Shropshire, and make our own important contribution to renewable energy. We cannot in all honesty leave the job to other regions, less fortunate perhaps in their geography. Our grandchildren will not thank us for less.

- x.i. Stretton Climate Care (support): In principle we support the development of low carbon sources of electricity as the adverse climate and impacts of excessive greenhouse gas from fossil fuels are established. There are policies in the NPPF and the Core Strategy to support such development. This revised scheme is reduced by half in its lateral extent but its impact on the landscape is reduced much more significantly. The revised Landscape Impact Assessment has recently been submitted, and demonstrates that the visibility of the proposed solar farm is very limited; when the mitigation planting has been established, the site will generally not be visible from public vantage points. There will remain a fleeting view from the access on the permissive path along the disused railway and from the Shropshire Way. There will also be a reduced and distant view from the top of Flounders Folly. The Folly was designed to have a view of everything so this is not surprising. It is only open for between 12 and 18 days a year and following visits by our officers to both the site itself and the surrounding area, including the top of the Folly, we conclude that the view gained from the top will not be significantly altered, in particular because of the wooded backdrop to that part of the array. Our view is that this proposed development will not cause any significant harm to the landscape of the Shropshire Hills AONB, nor dissuade tourists. We would not support it if we thought otherwise. Many of the objectors to the scheme appear not to have actually studied the previous landscape assessment. We hope that they will study the revised submission, and in particular take note of the absence of any view of the proposed array from the public footpath (VR17) We believe that this site now takes advantage of a fortuitous set of circumstances that amount to a probably unique opportunity to generate low-impact renewable energy within the Shropshire Hills AONB reasonably close to its largest settlement, Church Stretton.
- ii. The AONB is itself vulnerable to the impacts of climate change. There is amongst many people an understandable reluctance to acknowledge or even talk about the fact of climate change, but it is occurring now, and it is getting worse. We will see impacts on habitats and infrastructure as droughts and floods occur. Extreme weather will bring landslips and trees that we cherish felled. New plant and animal diseases will spread and biodiversity will be affected as plant life and animals go out of synchronisation. Council Officers are already drawing up plans to respond to local implications, but unless everyone takes action to reduce emissions, climate change will worsen to the point where we shall be unable to adapt to its effects and we are collectively on course for that catastrophic scenario at present. Existing power stations are going out of commission and will need to be replaced. Whatever replacement systems that are proposed will have some impact, but, as a nation and as a species, we will need to wean ourselves off fossil fuels as soon as possible. We have already seen a strong reaction in Shropshire against proposals

for wind turbines, fracking or coal bed methane. Energy from waste plants and bio-digesters have also been resisted.

- iii. Solar farms are by their nature very low impact developments which are ideally suited to provide some of the renewable energy we need. They sit low on the ground lower than almost any building; they give off no pollutants; there is practically no noise and no light pollution. We in Shropshire have a responsibility to contribute to the generation of renewable energy when suitable opportunities arise, and this proposal provides one such opportunity. The proposed site is on poor quality agricultural land that will continue to be managed for grazing with conservation in mind. Experience has shown that grass growth is often enhanced by installation of the solar panels because of the benefits of partial shading in hot weather, and sheep and ground nesting birds also benefit from the shelter provided. No new electricity poles or wires will be needed off site and the development will not have any implications for creating additional flooding nor be affected by foreseeable flooding problems. The scheme also provides bio-diversity benefits as assessed by Shropshire Wildlife Trust who are supporting the scheme. We note the bio-diversity improvements planned for the former east site will still be made. The development will not cause problems of glint or glare as solar panels are designed to absorb light, not reflect it. In any case it will be screened from public viewpoints as set out above. At the end of the permission term, the planning authority will have powers of enforcement against the landowner, but in any case, the residual value of the equipment as scrap value will provide an incentive for their removal.
- iv. To conclude, there are:
- Slight adverse effects on the landscape, but from most public vantage points, the site is already screened or can be fully screened by the mitigation planting.
 - Significant benefits from the generation of clean renewable energy, which is needed to replace power generated from ageing and polluting power stations.
 - No external effects from operation of the solar farm as it can operate with no lighting or noise outside the site boundary, and without creating glint or glare
 - Benefits from a financial package to be provided for Shropshire Council to assign to local community assets.

In making these comments we have had regard to the NPPF, the Shropshire Core Strategy and The Shropshire Hills AONB Management Plan. We urge the Planning Committee to grant permission for this development.

- x. Clerk to Church Stretton Town Council (objection): The developers appear to think that by reducing the area of this industrial installation to the size of 16 football pitches it will in some way fit appropriately into the pastoral idyll, which is Henley (Acton Scott). The area, which is at the centre of the tourist trail within the Shropshire Hills AONB, is surrounded by the Shropshire hills from which there would be all-round, full or partial views of the installation. What might work in Norfolk or Lincolnshire where the land is flat, would not work in the SHAONB. No matter how much planting or screening would be provided, the area of glinting panels would still be visible. This solar plant with all the additional buildings and lighting towers would constitute a 'major development' as it would have an area of

1 hectare or more and by reason of its scale, character and nature would have the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by the AONB.

The NPPF says in Para 116 that 'Planning permission should be refused for major developments in these designated areas [AONBs] except in exceptional circumstances and where it can be demonstrated they are in the public interest.' Para 116 sets out criteria against which the application should be assessed to meet the 'exceptional circumstances' test.

1. The need for the development including national considerations and the impact of permitting or refusing it on the local economy. The installation would equate to a grain of sand on a beach in terms of the national grid. As the local economy is agriculture and tourism the effect on the local economy would be negative.

2. The cost and scope for developing elsewhere outside the designated area or meeting the need in some other way. As the sun shines everywhere there is no need for the installation to be specifically in the AONB. The Government is at present going away from ground based solar installations in favour of panels on brownfield sites and on buildings in industrial landscapes. Proof would be needed that there is no possibility of putting the installation elsewhere in the country.

3. Any detrimental effects on the environment, the landscape and recreational opportunities. The site comprises ancient agricultural land forming part of an historic estate in the heart of the SHAONB. The loss or alteration of any of the field & hedgerow patterns would have a detrimental effect on the landscape and environment. The effect of turning this part of the AONB into an urban area through the installation itself, plus the supporting infrastructure, is obvious. The last solar farm proposed for this site, was rightly rejected by the planning committee on the grounds that it was contrary to NPPF 115 & 116 as well as to CS6 and CS17. As nothing has changed (it is still a major development) it follows that this planning application should also be rejected. The developer seems to have difficulty in accepting that CS17 is relevant (I am unclear how the policy relates to Henley Solar Park in any specific way?) CS17 says 'ensuring that all development:

Protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual or recreational values and functions of these assets, their immediate surroundings or their connecting corridors..

Contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape such as the Shropshire Hills AONB

The developer should ask the question 'does the solar park comply with the above requirements'?

CS5 sums things up well when it says '..proposals which would result in isolated, sporadic, out of scale, badly designed or otherwise unacceptable development or which may either individually or cumulatively erode the character of the countryside, will not be acceptable.?

The DECC Minister Amber Rudd has warned that solar farm projects are now 'unwelcome around the UK' and that the government's ambition is to move to rooftop projects 'ground-mounted solar farms are not particularly welcome as we go forward ..they should be on roofs, buildings.. and not in beautiful green countryside'.

5.0 THE MAIN ISSUES

- Policy - renewable energy, climate change and AONB;
- The justification for the use of this particular site;
- Environmental effects and mitigation:
 - Visual / landscape impact / AONB;
 - Ecology;
 - Construction Traffic;
 - Noise;
- Tourism / Liesure;
- Timescale / decommissioning;
- Conclusions on AONB policy tests

6.0 OFFICER APPRAISAL

6.1 Policy context:

6.1.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations suggest otherwise. Relevant Development Plan policies, national guidance and other material considerations are listed in section 10.

National policies:

6.1.2 The National Planning Policy Framework (NPPF) is a key material planning consideration providing the strategic framework for development plan policies. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development whilst Paragraph 98 emphasises that “even small scale (renewable energy) projects provide a valuable contribution to cutting greenhouse gas emissions”, therefore “planning authorities should not require applicants to demonstrate the need for renewable energy and should approve the application if its impacts are (or can be made) acceptable”. It follows that the NPPF requires that planning permission should be granted for renewable energy development (paragraph 98) unless:

- The level of harm would “significantly and demonstrably outweigh benefits” when assessed against the requirements of the NPPF as a whole, or
- If specific policies in the NPF indicate the development should be restricted (paragraph 14).

National planning policy therefore establishes a general presumption in favour of renewable energy development unless the level of harm would ‘significantly and demonstrably’ outweigh the benefits.

6.1.3 The proposal is however located within the AONB where specific policies apply. Paragraph 115 of the NPPF advises that ‘great weight should be given to conserving landscape and scenic beauty in AONB’s, which have the highest status of protection in relation to landscape and scenic beauty. Paragraph 116 states that ‘planning permission should be refused for major developments in these

designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Decision makers should assess three criteria in determining applications for major development in AONBs:

- 1) The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- 2) The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- 3) Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

6.1.4 The proposal qualifies as ‘major development’ and hence requires to be assessed in relation to the above exceptional circumstance tests. However, it is recognised that the characteristics of solar development mean that, once installed it would be passive in nature, not creating any emissions or significant traffic, would allow agricultural uses to continue within the site and would be decommissioned at the end of its design life.

6.1.5 The support for renewable energy in NPPF97 and 98 does not outweigh the protection afforded to AONB’s. Nor however does NPPF116 require all major development in AONB’s to be refused. The policy tests in NPPF116 define the specific circumstances in which major development may be acceptable within the AONB. Whilst a high burden of proof is demanded, the committee has approved a number of major schemes recently within the AONB (i.e. poultry units) where the policy tests in NPPF116 were met. Similarly, the applicant has cited examples of a number of recently approved solar park schemes in or adjacent to AONB’s in Cornwall and elsewhere in the country.

6.1.6 The Government has published a planning practice guide on renewable and low carbon energy to accompany the NPPF. This advises that “*the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in very undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively*”. The guide encourages use of previously developed land or allows for continued agricultural use with biodiversity enhancements around arrays. It recognises that solar farms are temporary structures. There is a need to assess glint and glare, the effect of security measures, effects on heritage conservation, the potential for mitigation through landscape planting and the energy generating potential of a particular site. This preference for developing brownfield sites is noted. However, Shropshire is a predominantly rural county and there is insufficient suitable brownfield land to allow relevant policy objectives for renewable energy to be met.

Local policies:

6.1.7 The Shropshire Core Strategy contains a number of policies relevant to the development which must be taken into account in applying the strategic policy test set out by the NPPF116. These policies relate mainly to the assessment of the

environmental effects of the proposals and are therefore most relevant to the final test set by NPPF116 (effects on the environment).

- 6.1.8 Overall the Core Strategy ‘has the principle of sustainable development at its heart’ and a key objective is ‘responding to climate change and enhancing our natural and built environment’. Key Objective 9 states that Shropshire will be a leader in addressing climate change. The Strategy seeks to protect the countryside and Green Belt (CS5) whilst positively encouraging infrastructure, where this has no significant adverse impact on recognised environmental assets and that mitigates and adapts to climate change (CS8). Policy CS13 aims to plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities, including in rural areas where the importance of farm diversification is recognised. Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire’s natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets, including the AONB.
- 6.1.9 Whilst not a statutory part of the Development Plan the AONB Management Plan is also a material consideration. The plan sets out detailed criteria for management of land and control of development within the AONB. The Plan acknowledges the need for the AONB to contribute to renewable energy targets. "We need to play our part in shifting to a low carbon economy and way of life, conserving energy and developing appropriate small-scale renewables."; "The local production of renewable energy should be increased, but in ways compatible with the AONB." "...seeking to limit or prevent wind energy to "encourage the focus nationally of wind energy development outside protected landscapes, and for proactive work on more compatible forms of renewables in the AONB." [p31/32]. It is therefore necessary to identify such ‘compatible’ forms of renewable energy. Policy MD12 of the emerging SAMDev also recognises the special qualities of the AONB.

Policy context – summary:

- 6.1.10 The current proposals for a major renewable energy scheme in the AONB must be assessed against the exceptional circumstance policy tests in NPPF116. If these tests can be met then the development would be ‘sustainable’ under the NPPF as a whole and the renewable energy application should be approved (NPPF para. 98). If however any unacceptably adverse effects remain after mitigation and/or the other AONB policy tests cannot be met then the development would not be sustainable and refusal would be appropriate. These tests are considered in succeeding sections.
- 6.2 AONB Test 1 - Need for the development (any national considerations, and the impact of permitting it, or refusing it, upon the local economy)
- 6.2.1 The proposed facility would generate 5 Megawatts of renewable electricity for export to the local electricity grid which is equivalent to the annual power consumption of 1450 homes. Over the lifetime of the facility over 67,500 tonnes of Carbon Dioxide emissions would be saved, assuming the UK’s current average energy generation mix. This is compliant with section 97 of the NPPF and related policies and guidance, including strategic objective 9 of the Core Strategy. Friends

of the Earth have supported other solar photovoltaic developments in Shropshire as preferable to other forms of renewable energy such as large scale biomass burning. This message is reiterated for the current application by Church Stretton Climate Change. Solar installations reduce the dependence of local economies on energy imports. The installation and maintenance of these facilities can also generally be provided by local workers.

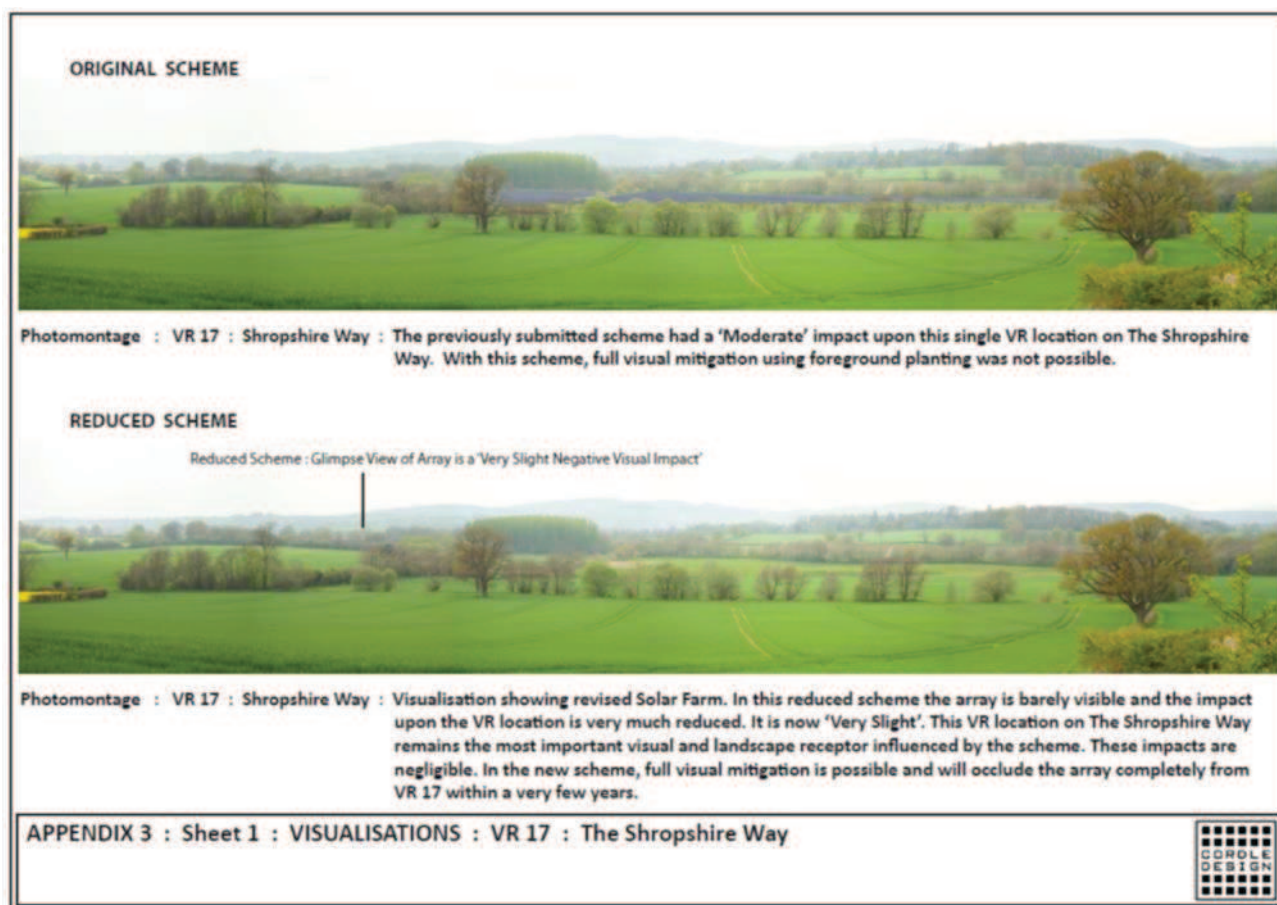
- 6.2.2 The proposals are also capable of contributing in principle to the sustainability of rural communities by bringing local economic and community benefits, including through farm diversification and delivering sustainable economic growth and prosperous communities. If the scheme were not to progress then the ability of the local area to contribute towards local and national renewable energy and climate change policy objectives and the potential economic benefits of the scheme would be lost. It is considered therefore that the first test set by NPPF116 can clearly be met. (Core Strategy Policies CS5 and CS13).
- 6.3 AONB Test 2 – Alternatives (the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way)
- 6.3.1 The first test in NPPF116 asks whether equivalent renewable energy benefits could be produced at an alternative site outside of the AONB. Section 97 of the NPF advises that 'local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources'. And this goal is supported at a local level by Key Objective 9 of the Shropshire Core Strategy.
- 6.3.2 AONB's occupy 15% of the total land area in England and Wales. AONBs make up 15% of the land area in England and Wales. As such they cannot be reasonably exempted from the need to provide sustainable energy for use within their own bounds as part of a long term sustainable development strategy. The Shropshire Hills AONB occupies 23% of Shropshire (802km²). As stated above, the AONB Management Plan recognises this responsibility. For example, "The local production of renewable energy should be increased, but in ways compatible with the AONB."
- 6.3.3 Shropshire (excluding Telford & Wrekin) has made significant progress with renewable energy in the last 5 years (excluding domestic and / or roof mounted schemes). There are currently 12 operational anaerobic digestion facilities, one larger scale solar farm and two others currently in construction. A number of smaller solar schemes (up to 5ha) have also been permitted in other areas of the county. The recently operational energy from waste facility at Battlefield in North Shrewsbury is producing 12MW. Other renewable developments such as landfill gas generators and wind turbines are currently producing approximately 4MW. This represents a countywide total of approximately 62MW (excluding roof mounted installations) which is equivalent to the domestic energy requirement of approximately 18,000 properties or approximately 14% of the County's total domestic electricity requirement. Renewable heat energy is also being produced from these schemes and there has also been a significant increase in biomass boilers utilising renewable heat energy in the last 4 years. A small percentage of this renewable energy from non-domestic schemes (probably less than 1%) is

currently being produced within the AONB. Solar park schemes with a total of 40MW have recently been refused by this committee, including the previous application for the current site.

- 6.3.4 Church Stretton is centrally located and is the largest settlement within the AONB (@3000 people). The current proposals for a 5MW solar park offer the opportunity for Church Stretton and the AONB generally to make a meaningful contribution to the county's renewable energy production in accordance with national energy policy. If the solar park was located outside of the AONB then, by definition, any such contribution would not be attributable to the community of Church Stretton.
- 6.3.5 In terms of the site selection process the applicant undertook a review of a number of sites across the UK to assess the potential for the development of solar PV energy projects. This exercise took account of key criteria required to develop a solar park including site availability, solar resource, size, distance to sensitive receptors (such as residential properties and wildlife sites), distance to the Local Distribution Network, the availability of a grid connection and vehicle access. The current site was identified as having significant potential to accommodate a solar PV development. In terms of solar resource, the site generally slopes gently to the south, is un-shaded and is unaffected by any environmental designations except the AONB. The applicant advises that initial surveys identified that relevant environmental criteria could be met and that subsequent detailed application surveys support this conclusion. Environmental issues are considered in succeeding sections. There are other sites which may appear superficially as suitable in the surrounding area, but none have the same combination of attributed required for solar development. Elsewhere in Shropshire initial interest in potential sites has been abandoned due to lack of a sufficient grid capacity. This highlights the complications of finding suitable sites.
- 6.3.6 If the development were not to proceed then the ability of the local community and the AONB to make a material contribution to meeting Shropshire's renewable energy objectives would be lost. It is unlikely that equivalent renewable energy could be produced locally in another way. The amount of renewable energy which the site would provide would be equivalent to that of ten 80m tall wind turbines or twenty 45m turbines or alternatively it would require the installation of 4.5kw solar panels on the roofs of all the properties in Church Stretton. It is considered that the site benefits from a particular combination of technical and geographical criteria which would be very difficult to reproduce at other locations within the AONB. It is concluded on this basis the alternative sites test in NPPF116 can be met, provided there would be no unacceptably adverse environmental impacts.
- 6.4 AONB Test 3 – Environmental issues (Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated).
- 6.4.1 Landscape and visual impact: In determining the previous application Members expressed concerns about the potential visibility of the site, and particularly the eastern field, from elevated land at Wenlock Edge to the south. The current application seeks to address these concerns by omitting the eastern field and

halving the surface area of the site. A visual appraisal concludes that any visual impacts would be further reduced and would be acceptable.

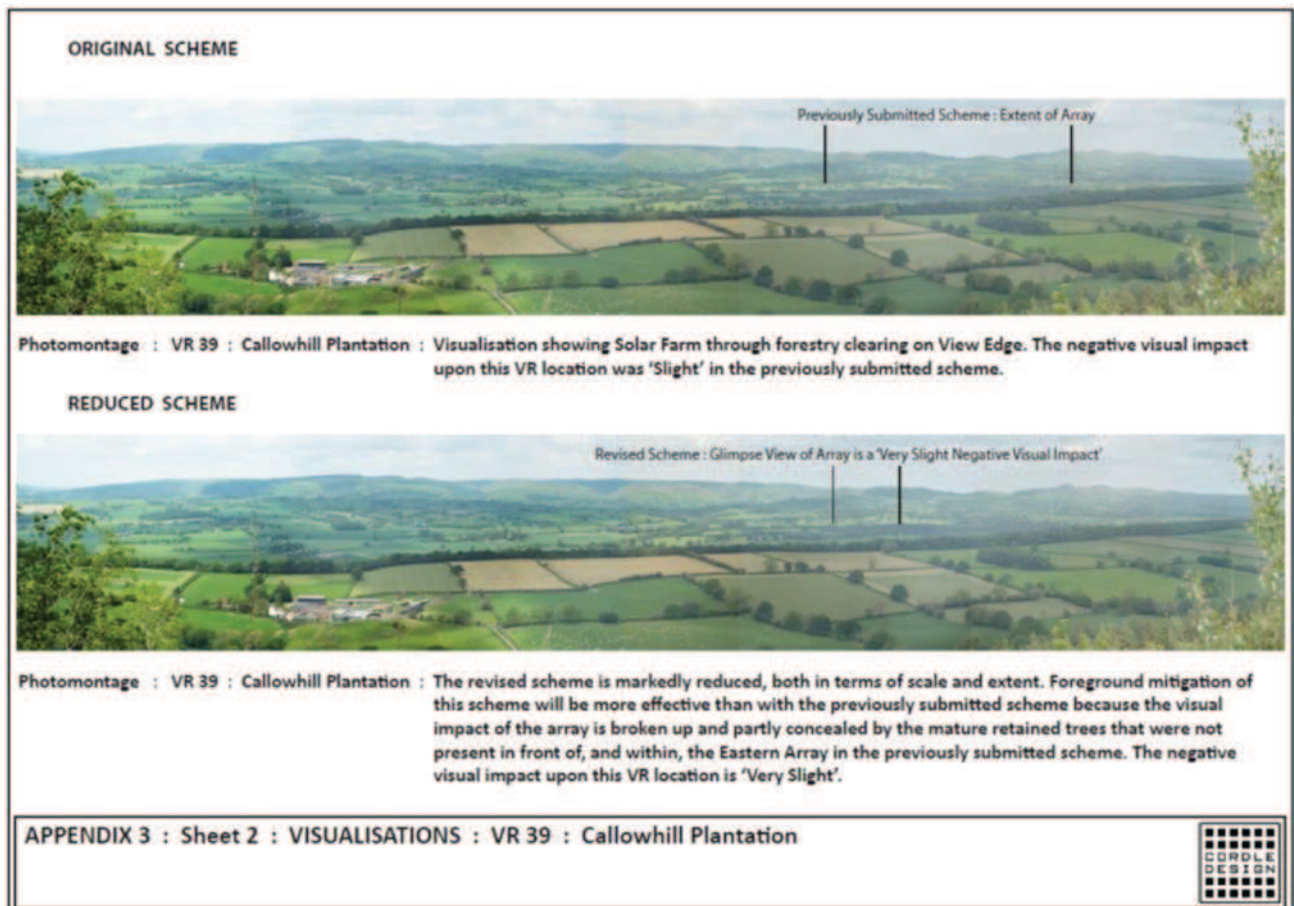
6.4.2 The site is located within the Shropshire Hills AONB, a nationally designated landscape which is afforded the strongest policy protection by the NPPF (para 116). An updated Landscape and Visual Impact Assessment (LVIA) has been undertaken in accordance with relevant Landscape Institute methodology. This assesses 50 viewpoints as opposed to the norm of about 5. The LVIA finds that the removal of the former eastern array has a further substantial impact on the ability to screen the development. It offers better prospects of new mitigation screening, from a further reduced and extremely limited number of visual receptors. Visually the site is extremely well contained, with very few vantage points from the surrounding landscape. The hedgerows and trees across and around the site contribute significantly to this although the landform topography is also a significant factor. This screening precludes most of the near views from local settlements, roads and public rights of way.



6.4.3 In terms of visual impact the LVIA advises that of the 50 potential viewpoints that were initially identified, only 11 record any view of the development site. Of these, the views recorded are all of a slight or very slight nature. Most of these are more than 3 km distant and are not easily discernible with the naked eye, and where identified only occupy a negligible fragment of the wider panorama. The eastern half of the site visually more prominent and difficult to mitigate. The LVIA advises that removing this element of the former scheme has reduced the significance of any visual and landscape effects by more than 50%. It states that the proposals

would constitute a Very Slight Adverse Visual Impact upon the landscape and the AONB. The amenity of key public views from popular and well-trodden beauty spots would be protected. There would be some harm to the close range outlook from some of the public rights of way immediately adjacent to the site but the proposed development would not affect their rural amenity.

6.4.4 It is stated that the few close range glimpses and distant, partial views currently afforded of the site would be mitigated with planting of native species as set out in a submitted habitat management plan. The topography of the revised scheme allows additional planting to be undertaken to screen longer distance views from the south. Hence, it is stated that the site would only be visible from the top of Flounders Folly (as a small part of a wider panorama) and not from the area surrounding the folly. It is stated that the scheme is invisible from the publically accessible parts of Wenlock Edge that comprise the open access National Trust land and form a part of The Shropshire Way. A zone of visual influence map shows that views towards the site are only theoretically possible from half way down the escarpment and clearly not the Edge itself. Owing to the dense and mature woodland cover this is true in all seasons despite the majority of the tree canopy being comprised of deciduous species.



6.4.5 In terms of landscape effects the LVIA concludes that this would be Slight Adverse, when the positive measures being proposed for visual screening and active landscape management are taken into account. The LVIA advises that no substantial adverse effects were found and consequently, there are no significant landscape reasons that would preclude the development. Any such impacts will be

limited and substantially outweighed by the climate change, ecological and other, benefits offered by the solar park. The applicant's LVIA consultant does not consider that the site would set a precedent for further development within the AONB as other potential sites within the AONB 'that are able to meet a similar standard and demonstrate such a visually enclosed location will be very few and far between, or quite possibly non-existent'.

- 6.4.6 This conclusion has been challenged by the AONB Partnership who contend that the visual assessment places too much emphasis on landscape 'types' without adequately addressing the 'intrinsic character of the area in question'. It is stated that whilst the mitigation measures go some way to address visual impacts they do not and cannot mitigate change to the landscape character when NPPF115 requires 'great weight to be given to conserving landscape and scenic beauty' in the AONB. The AONB Partnership alleges that the applicant has adopted the position that renewable energy policy 'trumps' protective policies on AONB's. They reiterate the opinion that the proposal does not comply with Policies CS5 and CS17 of the Core Strategy, with the emerging SAMDev and with the AONB Management Plan. Concern is also expressed about the effects on tourism. The applicant has responded to these comments, advising amongst other matters that the application recognises that the primary policy test to apply is the exceptional circumstance test set out in NPPF116. Examples of a number of recent solar park approvals are provided, including a scheme on the margins of the Wye Valley AONB where the Wye Valley AONB unit did not object.
- 6.4.7 The need to protect the intrinsic quality of the landscape is one reason why the nationally adopted LVIA methodology separates out the assessment of landscape and visual effects. There is no public access to the site and the LVIA confirms that visibility is now very limited. Although the intrinsic quality of this landscape is high the applicant is not intending to remove any mature vegetation to facilitate the development. Instead, a comprehensive landscaping scheme is proposed to strengthen existing boundary vegetation. A wildflower seed mix would be employed to increase biodiversity and this would be supported by a habitat management plan. The site area has also been halved relative to the previous scheme and additional planting is now proposed. The site would be reinstated at the end of its design life, but the landscape enhancements would remain. It is considered that any loss of intrinsic landscape quality within the reduced site would be limited and not be sufficient to justify planning refusal when the above mitigation measures and the renewable energy benefits of the scheme are taken into account. (NPPF97, 98, 116, CS5, CS17)
- 6.4.8 Visual impact – glint and glare: In terms of glint and glare this can potentially occur in the summer when the sun is low and the sky is clear. However, there are no properties or sensitive viewpoints to the immediate south of the site in orientations which could potentially be affected and the size of the site has now been significantly reduced. Peripheral vegetation would be retained and additional proposed planting would become established during the operational life of the site. It is considered that that there would not be any unacceptable glint and glare effects when available mitigation measures are taken into account.

- 6.4.9 Visual impact – conclusion: The LVIA produced by the applicant is considered to be comprehensive and fully compliant with relevant methodology. It is considered that the photovoltaic panels have been positioned sensitively so as to limit their visual impact on the surrounding landscape and would not represent an unacceptable visual intrusion in terms of their scale and design (NPPF s28). The site benefits from a high degree of visual containment which has been further strengthened through omission of the eastern area. There would be some adverse impacts on footpaths near to the site but these would be minor, reversible, localised and further attenuated by the proposed landscaping measures. The longer distance view from Founders Folly has been re-assessed. Removal of the eastern array and additional landscape planting mean that the site would not be visible from the area around the folly and would only be visible as a very minor and reduced component of a wider panorama from the top of the folly, which it is understood is open for public access on a limited number of days. The potential visibility of the site from the Shropshire Way has been substantially reduced.
- 6.4.10 It is concluded that the updated LVIA clearly demonstrates that any potential impacts of the amended scheme on visual amenities would be very limited and would not warrant planning refusal. Whilst the concerns of the AONB Partnership with respect to intrinsic landscape quality are acknowledged it is not considered that refusal on these grounds would be justified either when the limited visibility of the site and the proposed landscape enhancements are taken into account. NPPF116 recognises that there can be exceptional circumstances where major development can proceed within AONB's. The renewable energy and climate change benefits of the proposals remain a significant material consideration. (Core Strategy Policy CS5, CS6, CS17; NPPF s97, s98, s116)
- 6.4.11 Heritage appraisal: Section 128 of the NPPF advises that 'in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting'. 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. An archaeological appraisal concludes that development of the site would not lead to any harm to known heritage assets, either physically, or through alteration to settings. The potential for survival of currently unknown archaeological remains within the site is considered to be low. Historic Environment has not objected subject to an archaeological watching brief condition, which has been incorporated in Appendix 1. It is concluded that the site is compliant with relevant heritage policies and guidance. (NPPF s128; Core Strategy Policy CS17).
- 6.4.12 Agriculture: Paragraph 112 of the National Planning Policy Framework seeks to protect best and most versatile agricultural land and expresses a preference for use of poorer in preference to higher quality land where significant areas are affected by a development. Some residents have objected that good quality land would be taken out of agricultural production. The land within the site has been in pasture for many years and, although not within a flood plain, it suffers from poor drainage. The site area has now been halved to 10.99ha. The proposals would involve reintroducing sheep to the operational solar park site. Grazing is advocated for solar PV sites in the Government's low carbon and renewable energy and there are many examples of this being successfully implemented and managed across

Europe and the UK. Full agricultural use would be returned at the end of the operational lifespan.

- 6.4.13 The proposed method for emplacing the solar panel frames would involve auger drilling without the use of any concrete foundations. Concrete surfaces within the site would be limited to the bases of the proposed inverters and the substation and would occupy less than 1% of the total site area. Such surfaces would all be removed at the end of the design life of the site. The proposed track would be formed by treating in-situ soil with a bonding agent to create a firm but permeable surface. This would be ploughed / broken up at the end of the design life where it would biodegrade and revert to soil. In responding to other recent solar park schemes in Shropshire Natural England has recognised that solar parks are a 'soft' use not entailing a permanent loss of agricultural land.
- 6.4.14 The proposals would also support the economic viability of the farming business, ensuring its longevity and progression as a local employer. Furthermore, it is intended to stock the site margins with a wildflower seed mix which would provide a source of food for pollinating insects, benefiting other agricultural areas. A landscaping condition covering this matter has been recommended in appendix 1. In view of this it is considered that the proposals can be accepted with respect to agricultural considerations.
- 6.4.15 Noise: A condition requiring the submission of a Construction Management Plan has been recommended in Appendix 1 and this would control hours of operation and noise limits. It is not considered however that there would be any significant noise or vibration impacts within the 4 month construction period. The site is remote from residential properties. The proposed access route passes closer to a number of properties but construction traffic during the 3-4 month construction period would be closely managed under a construction management plan and would be similar to in nature to agricultural traffic which uses the route. The only noise source during the operational phase would be the inverter extraction fans which do not work at night when the panels are not generating electricity. Public Protection has not commented on the proposals but has not objected to other similar recent solar photovoltaic proposals which are nearer to residential property.
- 6.4.16 The applicant has not submitted a detailed noise assessment. Available evidence suggests however that a condition limiting inverter noise to 5dB(A) above background at the nearest sensitive properties can be justified as part of a precautionary approach and should be readily achievable in principle. An appropriate condition has been included in appendix 1. With respect to noise from the temporary construction phase it is considered that this is also capable of being controlled by the proposed construction management plan.
- 6.4.17 Access / traffic and construction: Access to the site would be obtained via Henley Lane near its junction with the A49 and then via a track across a small field linking to a track along a disused railway line. Omission of the eastern field reduces the length of internal trackway now required. A traffic management plan advises that the construction of the solar farm would result in approximately 136 HGV deliveries to the site spread over a 13 week construction period though this may reduce due to the omission of the eastern field. It is unlikely that, even at the more intense

periods of construction activity HGV deliveries would not exceed more than 7 per day. Deliveries to the site for construction would include both HGV's and LGV's related to the type of equipment and payload. Highway officers have not objected but have recommended that consideration is given to transferring site components into smaller loads in order to negotiate Henley Lane. The construction phase and associated traffic would be managed under the terms of a construction management plan and an appropriate condition requiring confirmation of transfer arrangements has been recommended in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to highway and access considerations. Core Strategy Policy CS5, CS6, CS7, CS8).

- 6.4.18 The proposed hours of working during the construction phase would be 7.30am - 6pm Monday to Friday and 7.30am - 1pm on Saturdays. An appropriate condition has been recommended in Appendix 1. It is concluded that subject to the recommended conditions, construction works are capable of being controlled acceptably to minimise the possibility of adverse impacts on the public highway (Core Strategy CS7, CS8) and residential amenities (CS5, CS6).
- 6.4.19 Ecology: An ecology report advises that the development can proceed without the loss of habitat of significant value and without the loss of favourable conservation status of any protected species. The Application Site comprises open grassland and marshy grassland bordered by mature trees, hedgerows and an abandoned railway line to the north. The ecological value of the site overall is considered to be low. It does not form part of any statutory or non-statutory designated site and no protected or notable species were observed during survey. Precautionary measures are recommended to protect habitats and species during the construction phase of the development, including Reasonable Avoidance Measures for reptiles and amphibians. Boundary hedgerows, field margins and hedgerow trees would be predominantly retained as part of the proposed development and appropriate buffers applied within the project design. Other proposed mitigation and enhancement measures include the planting of native species hedgerows, and the installation of bird and bat boxes. The report advises that implementation of these measures will lead to a net biodiversity gain at a local level. The report concludes that with appropriate layout and design measures in place, it is considered that adverse effects on protected / notable species and habitats can be avoided.
- 6.4.20 SC Ecology have not objected subject to conditions which are included in appendix 1. The consultation response initially sought a map showing the area accessible to construction vehicles. Officers have however confirmed that this would be as per the site location plan. As such, it would exclude the ecologically more sensitive eastern part of the trackway. SC Ecology are satisfied with this response. An objector has pointed out that a pair of barn owls nest within 100m of the site and has expressed concern that the foraging opportunities for this protected species would be compromised if the scheme were to progress. SC Ecology have been informed of this observation and have acknowledged verbally that better and more extensive habitats would remain in the surrounding area. It is also noted that the proposed landscaping and wildflower seed planting exercise would improve the biodiversity of the site generally. It is not considered that the proposals would result in any material deterioration in habitat quality for the Barn Owls.

6.4.21 Conditions and advisory notes covering ecology have been recommended in Appendix 1. This includes the requirement for submission and prior approval of a detailed GCN Method Statement. Subject to this it is concluded that the proposals can be accepted in relation to ecological considerations. (Core Strategy CS17).

6.4.30 Drainage / hydrology: A Flood Risk Assessment (FRA) advises that the site is located in Flood Zone 1 therefore at low probability of flooding from fluvial sources. Areas in the eastern half of the site were at risk from surface water flooding but this area has now been excluded from the development. The infrastructure will be located at least 8m away from the nearest watercourse. The FRA advises that the existing surface water regime would not be affected by the proposed development. The Council's drainage team has not objected. It is considered that the proposals can be accepted in relation to relevant drainage considerations. (Core Strategy Policy CS17, CS18).

6.5 Other matters:

6.5.1 Timescale and decommissioning: Current solar photovoltaic arrays have a design life of approximately 25-30 years. A planning condition covering decommissioning was recommended in the officer report on the previous application which was refused and an equivalent condition has again been recommended. In addition, the applicant has provided a decommissioning statement with the current application which emphasises three points:

- Lease requirement: Under the terms of the applicant's lease they are legally bound to leave the land as it was on entry.
- Ease of removal: The panels can be easily removed by normal farm machinery as the frames they are mounted on are only pushed into the ground. There are only a few very small concrete plinths to support the inverter and sub-station cabins; again these could be removed by a farm loader/JCB.
- Financial benefit: Approximately 98% of the materials used on a solar farm are recyclable, the predominant quantity of these being steel, aluminium, silicone and copper. There is substantial value in these that would make it a strongly cash positive process to remove and sell them.

6.5.2 It is considered that the above measures will ensure that agricultural land is protected (NPPF s112) and the sense of openness of the countryside in this area is not permanently affected.

6.5.3 Community benefits: A community benefits package equating to £5000 per installed megawatt was put forward voluntarily by the applicant as part of the previous application. This involved installation of a solar array on a modern farm building next to the Acton Scott visitor centre with royalties on electricity generated going to the Parish Council. A solar energy exhibition was also proposed for the Visitor Centre, and a proposal to construct a viewing area for the solar park linking to the footpaths from the visitor centre. This was however criticised by some Members as not spreading the benefits widely enough. Accordingly, the applicant is now proposing to set up a community benefits fund in an escrow account to be

overseen by a fund management group. It is envisaged that this could be administered initially by the applicant, the planning authority and the parish council. It is considered that this provides a more flexible approach to community betterment whilst the amount offered is consistent with that delivered or being discussed for other Shropshire solar park schemes. It is therefore to be welcomed. Whilst the community betterment funding is not considered essential in order to deliver a sustainable development it does add to the general level of social sustainability of the proposals which forms one of the three key strands of sustainability set put in the NPPF.

- 6.5.4 CCTV and privacy: The applicant has confirmed that CCTV would be positioned and designed appropriately to avoid any privacy issues with the nearest properties. A plan shows 9 CCTV towers within the retained western portion of the site. A general section plan shows galvanised steel poles with a maximum height of 3.9m. It is considered however that the exact height of poles should be specified and minimised and they should be treated in a dark green colour. An appropriate condition requiring prior approval of CCTV specifications has been recommended in Appendix 1.
- 6.5.5 Precedent: Objectors have expressed concerns that if the site were to proceed it would establish a wider precedent for other solar parks in the local area and within the AONB. This is not accepted. The Planning Authority is aware of other potential solar park schemes, but not within the AONB. The stringent criteria which must be complied with for solar schemes to succeed are referred to above. There can be no guarantees that any other schemes would be capable of meeting these criteria. The capacity of the local grid to receive energy is finite and the proposed scheme, if approved, would take this available grid capacity, reducing the possibility of other schemes coming forward in the area around the site.
- 6.5.6 Tourism: Objectors have expressed concerns that the proposals could have a negative effect on tourism within the AONB. The importance of tourism to the local economy is recognised. However, for there to be harm it would be necessary to demonstrate that the proposals would have a significant adverse effect on visual amenities in areas frequented by tourists. It is considered on the contrary that the applicant's comprehensive and updated LVIA demonstrates that the amended site would have very limited visibility from any of the main areas frequented by tourists including the Shropshire Way and Callow Hill. In view of this it is considered unlikely that the proposals would have any adverse effects on local tourism which would outweigh the potential benefits of the scheme.

7.0 CONCLUSION

- 7.1 The proposals have been assessed against the policy tests set out in NPPF116 relating to major development within the AONB. It is considered that all 3 tests can be met and that accordingly, the proposals meet the necessary exceptional circumstance criteria. As such, the presumption in favour of renewable energy set out in NPPF97 and 98 should apply.
- 7.2 With respect to the first test (justification) the renewable energy generated by the proposals would help to facilitate more diverse and secure sources of energy

- supply and would therefore be consistent with the objectives of the national energy strategy. The proposal would also make a valuable contribution to cutting greenhouse gas emissions in accordance with Paragraph 98 of the NPPF and strategic objective 9 of the Core Strategy. The proposals would also provide an additional revenue stream for the farm, providing cost savings and a diversified income that would help to ensure the longevity of the farming business and retention of existing jobs. The first test is therefore met.
- 7.3 With regard to the second test (alternatives) it is considered that the proposals represent a potentially unique opportunity to allow the community of the Church Stretton area to make a significant contribution towards national and local renewable energy targets in a way which minimises effects on the AONB. This is given the exceptionally good visual screening afforded to the amended scheme and the proposed landscaping and habitat enhancement measures. It is considered that there would be no other opportunities to generate an equivalent amount of renewable energy in the local area without giving rise to a significantly increased environmental impacts. It has been suggested by objectors that an alternative site should be found outside of the AONB. If however such a site could be identified it would not provide a valid alternative to the current scheme as any renewable energy would by definition not be attributable to the Church Stretton area. Hence the Governments objective for local communities to take responsibility for promoting renewable energy in their areas would not be met in the same way. The second test is therefore met.
- 7.4 With regard to the third test (environmental impacts) it is considered that the proposed development would not give rise to unacceptably adverse impacts on the environment, local amenities or other interests of acknowledged importance. With respect to visual impact the concerns of objectors are noted. However, the LVIA confirms that omission of the eastern array from the current re-submission has allowed a further significant reduction in the visibility of the site from the surrounding areas such that any residual impacts are very slight and localised. There would be some impact on the intrinsic quality of the local landscape, but this would be mitigated by landscaping proposals and the reduced size of the site. The landscaping proposals have been designed to strengthen historic field boundaries and enhance biodiversity in this part of the AONB. It is not therefore considered that refusal could be justified on the grounds of visual impact or landscape quality.
- 7.5 No unacceptable impacts have been identified for other environmental issues after available mitigation measures are taken into account and there are no objections from technical consultees. A comprehensive schedule of planning conditions has been recommended, including the requirement for a construction management plan and decommissioning at the end of the design life. The applicant has also offered voluntarily to provide benefits to the local community linked to the development of the solar scheme and this is to be welcomed. It is concluded therefore that the third and final test set by NPPF116 can also be met. Hence the site is capable of meeting all three of the exceptional circumstance tests for major development within the AONB.
- 7.6 The NPPF advises that the production of renewable energy is a major material consideration and that sustainable development proposals which accord with the

development plan should be approved without delay. It is considered that this site represents a discreet and compatible form of renewable energy development within the AONB and that there are no reasons which convincingly and demonstrably outweigh the benefits of the scheme. It is concluded on balance that the proposal can be accepted, subject to the recommended conditions.

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 three months after the grounds to make the claim first arose.

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

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 1970.

9.0 FINANCIAL IMPLICATIONS:

9.1 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.

10.0 BACKGROUND:

10.1 Relevant guidance

National Planning Policy Framework (NPPF) (DCLG – July 2011)

10.1.1 The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development and advises that development which is sustainable should be approved without delay. One of the core planning principles is to ‘support the transition to a low carbon future in a changing climate...and encourage the use of renewable resources (for example, by the development of renewable energy)’. The NPPF expands further on this principle in paragraph 97: “To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- Have a positive strategy to promote energy from renewable and low carbon sources;
- Design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative and visual impacts;
- Consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- Support community-led initiatives for renewable and low carbon energy, including developments outside areas that are being taken forward through neighbourhood planning; and
- Identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 98 advises that when determining planning applications, local planning authorities should:

- Not require applicants for energy developments to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- Approve the application if its impacts are (or can be made) acceptable...”

10.2 Relevant planning policies:

10.2.1 The Shropshire Core Strategy (Adopted February 2011) sets out a Spatial Vision for Shropshire and the broad spatial strategy to guide future development and growth during the period to 2026. The strategy states, “Shropshire will be recognised as a leader in responding to climate change. New development which has taken place within Shropshire will be acknowledged by others as being of high quality sustainable design and construction that promotes safer communities, is respectful of local character, and planned to mitigate, and adapt to, the impacts of climate change.”

10.2.2 The Core Strategy has 12 strategic objectives, the most relevant is Objective 9 which aims “To promote a low carbon Shropshire delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management”. Policies of relevance include:

Policy CS5 - Countryside and the Green Belt:

New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Subject to the further controls over development that apply to the Green Belt, development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to:

- Small-scale new economic development diversifying the rural economy, including farm diversification schemes;
- Dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need in accordance with national planning policies and Policies CS11 and CS12;

With regard to the above two types of development, applicants will be required to demonstrate the need and benefit for the development proposed.

Policy CS6 - Sustainable Design and Development Principles

To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment, which respects and enhances local distinctiveness and which mitigates and adapts to climate change. And ensuring that all development:

- Is designed...to respond to the challenge of climate change
- Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate
- Makes the most effective use of land and safeguards natural resources including high quality agricultural land.

Policy CS8 – Infrastructure provision positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and

renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.

Policy CS13 Economic Development, Enterprise & Employment - recognises the importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular it focusses on areas of economic activity associated with agricultural and farm diversification.

Policy CS17 - Environmental Networks seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets.

10.3 The Shropshire and Telford and Wrekin Joint Structure Plan There are no relevant saved policies in this plan.

10.4 South Shropshire Local Plan - The site is not affected by any other specific designations in this Plan. Formerly relevant policies have been superseded by the Core Strategy.

10.5.1 Site Management and Allocation of Development Document (SAMDEV) – The site falls within the Church Stretton area of the emerging SAMDEV but is not subject to any specific allocation. The SAMDEV acknowledges that 'Shropshire must play its part in providing energy from renewable sources. We want to encourage renewable energy developments but we also need to conserve Shropshire's high quality environment. Current Government guidance suggests we should develop criteria to enable low carbon and renewable energy development to proceed when there are no significant adverse effects on recognised environmental assets'.

10.5.2 Draft development management policies for the SAMDEV have been published and indicate the direction of future policy change. The most relevant policies are:

- MD2 – Promoting sustainable design;
- MD7 – Managing development in the countryside (seeks to protect heritage, landscape and biodiversity assets);
- MD9 – Safeguarding and improving employment investment (includes seeking to protect existing employment sites in rural areas);
- MD12 – Protecting and enhancing Shropshire's natural and historic environment.

It is considered that the proposals are in broad compliance with these emerging policies.

10.6 Other Relevant Guidance

10.6.1 The UK Renewable Energy Strategy (July 2009) - The UK Government published the Renewable Energy Strategy in July 2009. The strategy explains how it intends to "radically increase our use of renewable electricity, heat and transport". It recognises that we have a legally binding commitment to achieve almost a seven-fold increase in the share of renewables in order to reach our 15 target by 2020. It suggests that the amount of electricity produced from renewables should increase from 5.5 to 30 .

10.6.2 Planning practice guidance for renewable and low carbon energy (DCLG, companion guide to the NPPF). This practice guide reaffirms the importance of renewable energy and advocates community led renewable energy initiatives. The following advice is provided specifically with regard to the large scale ground-mounted solar photovoltaic farms:

‘The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in very undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include:

- *Encouraging the effective use of previously developed land, and if a proposal does involve greenfield land, that it allows for continued agricultural use and/or encourages biodiversity improvements around arrays;*
- *That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use ;*
- *The effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *The extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *The need for, and impact of, security measures such as lights and fencing;*
- *Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *The potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *The energy generating potential, which can vary for a number of reasons including, latitude and aspect’.*

11.0 RELEVANT PLANNING HISTORY:

11.1 14/02807/FUL - Continued use of land for agricultural purposes and the installation of up to 6.5 MW of solar photovoltaic panels and ancillary works. Land North of Henley Common, Henley Lane, Acton Scott. Refused

12.0 Additional Information

List of Background Papers: Planning application reference 13/02579/FUL and plans.

Cabinet Member (Portfolio Holder): Cllr M. Price
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Local Member: Cllr Cecilia Motley, Corvedale

Appendices: Appendix 1 – Conditions.

APPENDIX 1**CONDITIONS**Commencement of Development

1. The development hereby approved shall be commenced within 3 years of the date of this permission. Such date shall be referred to hereinafter as 'the Commencement Date'.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 and in recognition of the part-retrospective nature of the development.

Definition of the Permission

2. Except as otherwise provided in the conditions attached to this permission or otherwise agreed in writing the operations hereby permitted shall be carried out strictly in accordance with:-

- i. The application form dated 31st October 2014, the accompanying planning statement including design and access statement and other supporting documents, namely:

- Heritage Assessment, Costwold Archaeology, May 2014;
- Construction Traffic Management Plan, Peter Brett, June 2014;
- Landscape and Visual Impact Assessment, Cordle Design;
- Flood Risk Assessment;
- Maintenance Statement, Bloombridge;
- Ecological Assessment, Avian Ecology, 3 June 2014.
- Habitat Management Plan, Avian Ecology, 25 June 2014

- iii. The permitted plans accompanying the application comprising:

- Site Plan, PerPetum Smart Energy Solutions (Redesign 5MW, Rev B date 27/10/14);
- Location Plan, PerPetum Smart Energy Solutions (Scale 1:2000 @ A1);
- CCTV Locations Plan (Scale 1:1800).
- Henley Solar Farm CCTV – (Scale 1:10);
- Henley Solar Farm Fencing – (Scale 1:15).

Reason: To define the permission.

3. This permission shall relate only to the land edged red on the proposed site location plan, hereinafter referred to as 'the Site'.

Reason: To define the permission.

Construction Management Plan

4. Construction operations including control of traffic shall be managed in strict accordance with the Construction Traffic Management Plan by Peter Brett dated June 2014 and in accordance with the following provisions:
- i. All drivers of HGVs visiting the site shall be notified of the approved access route. Clear signage shall be provided at appropriate junctions in the local highway network and provision shall be made to monitoring of vehicle approach directions with appropriate action being taken for any non-compliance with the approved route.
 - ii. The hours of working during the construction phase shall be 7.30am and 6pm Monday to Friday and between 7.30am and 1pm on Saturdays. There shall be no deliveries on Sundays or Bank Holidays unless prior approval for this has first been given in writing by the Local Planning Authority.
 - iii. All vehicles and other plant within the Site shall be throttled down or switched off when not in use.
 - iv. Exhausts shall be maintained in accordance with manufacturer's specifications.
 - v. Directional or attenuated reversing alarms on mobile plant operating within the site and operations shall be designed so as to minimise the need for reversing manoeuvres wherever possible and other appropriate measures shall be adopted as necessary to minimise noise during the construction phase.
 - vi. Measures shall be put in place to minimise ground compaction from construction plant and machinery and prevent damage to the soil resource within the site, including use of low ground pressure plant and protection of commonly trafficked surfaces.

Reason: In the interests of highway safety and to protect the amenities of the area during the construction phase.

Note: Appropriate advice should be obtained from a soil scientist to prevent damage to the soil resource during the construction phase.

Access

5. The sole access to the site during the construction and throughout the subsequent operational phase shall be by means of the existing access onto the public highway which is shown on the approved site layout plan reference 255/100.

Reason: In the interests of highway safety and to protect the amenities of the area.

Landscaping

- 6a. Planting and seeding shall be undertaken within the first available planting season following the completion of construction works and in accordance with the Habitat Management Plan by Avian Ecology dated 25th June 2014.

- b. The developer shall notify the Local Planning Authority in writing of the date when planting and seeding under the terms of condition 6a above has been completed.
- c. All new planting within the Site shall be subject to aftercare / maintenance for a period of 5 years following planting, including weeding and replacement of failures

Reason: To provide effective containment of the Site in the interests of visual amenity and to allow for a review of screening requirements following the erection of the solar arrays (6a,b). To secure establishment of the landscaped area in the interests of visual amenity and ecology (6c).

Note: Trees and shrubs proposed for planting should comprise native species of local provenance.

- 7. Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works will be carried out, shall be submitted and agreed in writing by the Local Planning Authority Tree Officer. The AMS shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.

Reason: To ensure that permitted work within an RPA is planned and carried out in such a manner as to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

Ecology

- 8. Work shall be carried out strictly in accordance with the Method Statement – Reasonable Avoidance Measures by Avian Ecology dated October 2014.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species and to enhance habitats within the site. Shropshire Core Strategy Policy CS17.

- 9. Prior to construction commencing details of 10 bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

Notes:

- i. *Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended). If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.*
- ii. *All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice. FPCR (2013) found signs of badgers on the application site but no setts. They recommend gaps in the perimeter fencing to allow access to continue across the site and preventing animals becoming trapped in any excavations. The site will need to be checked for new badger setts before construction.*
- iii. *Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.*
- iv. *Trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*
- v. *The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*

Fencing and CCTV

- 10a. Notwithstanding the general CCTV details shown on the approved site layout plan and section a scheme providing the exact details of CCTV camera design and pole heights and colour treatment shall be submitted to and approved in writing by the Local Planning Authority prior to the Commencement Date. CCTV cameras shall be designed and oriented so as to avoid any views directly towards the nearest public right of way.

- b. Fencing shall be strictly in accordance with the details shown on the approved plan entitled Henley Solar Farm, Fencing and to a colour which shall be subject to the prior approval in writing of the Local Planning Authority.

Reason: In the interests of privacy (CCTV) and visual amenity (fencing).

Note: CCTV should be oriented away from properties and cowlings should be fitted where appropriate to avoid any privacy issues.

Drainage

11. There shall be no new structures (including gates, walls and fences) or raising of ground levels within 3 metres of the top of bank of any watercourse inside or along the boundary of the site.

Reason: To prevent any impact on flood flows and flood risk elsewhere.

Notes:

- i. *The watercourses present within the development site require a 3m wide easement from the top of each watercourse bank for maintenance purposes.*
- ii. *For the transformer installation, the applicant should consider employing measures such as the following: Surface water soakaways; Water Butts; Rainwater harvesting system; Permeable surfacing on any new driveway, parking area/ paved area; Greywater recycling system.*

Archaeology

- 12a. No development approved by this permission shall commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.
- b. In the event that the WSI identifies the potential for areas of archaeological interest within the site a scheme shall be submitted for the approval of the Planning Authority which identifies the extent of these areas and puts forward measures for protecting the archaeological remains within them. The scheme shall be implemented in accordance with the approved details

Reason: The site is known to hold archaeological interest.

Note: Non-intrusive construction methods (concrete shoes and above ground cable trays) or realignment of the arrays to avoid archaeological remains should be applied in all areas where significant archaeological remains are identified and tested by evaluation.

Noise

13. The site shall be designed to avoid the possibility of noise attributable to the development exceeding a level of 5dBA above existing background noise at the ground floor level of any existing property.

Reason: In the interests of residential amenity.

Amenity complaints procedure

14. Prior to the Commencement Date the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the Local Planning Authority. This shall include:
- i. Investigation of the complaint;
 - ii. Reporting the results of the investigation to the Local Planning Authority;
 - iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

Reason: To put agreed procedures in place to deal with any verified amenity related complaints which are received during site operation.

Final decommissioning

- 15a. Use of the site for generating solar energy shall cease within 30 years of the date of this permission unless an earlier cessation date is specified under Condition 15b.
- b. If the site ceases to produce renewable energy on a permanent basis prior to the date specified in condition 15a the Local Planning Authority shall be notified to this effect within two weeks of the date when energy production ceased permanently.
 - c. All photovoltaic panels and other structures constructed in connection with the approved development shall be physically removed from the Site within one year of the date specified in Condition 15a, or if appropriate, the date specified in Condition 15b, whichever is the sooner. The Site shall then be reinstated as an agricultural field. The Local Planning Authority shall be provided with not less than one week's notice in writing of the intended date for commencement of decommissioning works under the terms of this Condition.

Reason: To allow the site to be reinstated to an agricultural field capable of full productivity at the end of the planned design life of the development and to afford the Local Planning Authority the opportunity to record and monitor decommissioning.

Note:

The typical design life of modern solar panels is 25-30 years. Any proposal to re-power the Site at the end of its operational life would need to be the subject to a separate planning application at the appropriate time.

APPENDIX 2

FULL COMMENTS OF SHROPSHIRE AONB PARTNERSHIP

- i. The Shropshire Hills AONB Partnership objects to this application. The development would introduce an industrial scale installation into a high quality rural landscape, changing its character fundamentally and causing unacceptable harm to the special qualities of the AONB. The application documents consistently undervalue the AONB and underplay the significance of the development's impact, in ways that leave them seriously flawed. For example the AONB is described as 'a single receptor' and the impacts 'of not more than local importance'. The AONB is of course a national designation protecting a nationally important landscape. The concept of 'receptors' is established in visual impact analysis, though the large area of the AONB cannot be considered a single receptor, and the narrow consideration of visual aspects is not at all in line with government policy giving AONBs 'the highest status of protection in relation to landscape and scenic beauty. Landscape and scenic beauty are broad factors, and the analysis of impacts of this development do not at all reflect this. The Landscape and Visual Impact Assessment referred to is not in fact even published with the application documents, but we have taken account of the assessment published with the previous application. This assessment focuses its consideration of landscape character too much on the landscape types; without addressing adequately the significant effects of the proposed development on the intrinsic character of the area in question. A short section (6.3) of the Planning Statement purports to cover 'Landscape and visual impact' but in fact talks only about visual aspects. The significant impact on landscape character from the addition of large scale industrial structures is the key factor on which this application turns, but has, for convenience of the applicant, been substantially overlooked. This is also crucial in that the proposed mitigation measures, while perhaps going some way to address visual impacts, do not and cannot mitigate the change to landscape character resulting from the new structures, which in addition to 19,608 solar panel modules, include several cabins, transformers, CCTV and security fencing.
- ii. We consider therefore that the proposed development does not comply with para 115 of the National Planning Policy Framework:
Landscapes 115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads. The applicant's Planning Statement does not refer to this section of NPPF or explain how they believe it is met, and is therefore flawed. Notwithstanding this omission, the applicant's agent appears to make the case that the sections of NPPF quoted in support of renewable energy (para 98) apparently 'trump' protective policies on AONB's. This is not sound or borne out by an accurate reading of NPPF. The policies in favour of particular development types are generalised policies for the whole country, while the AONB policies are 'area specific' and therefore clearly intended as exceptions. This approach is clearly apparent through the footnote 9 to the very first overarching policy paragraph within NPPF, para 14, which indicates AONBs as an exception to the presumption in

favour of development contained in para 14, as one of a few types of special area where "specific policies in this Framework indicate development should be restricted".

- iii. We also consider that the application does not comply with the following sections of Shropshire Council's adopted Core Strategy and Site Allocations and Management of Development (SAMDev) Plan, Draft Development Management Policies. These policies make clear the very high importance placed on the AONB and weight given to the AONB Management Plan, all of which the applicant's agents have sought to downplay as much as possible, or failed to address at all (for example in section 5.6 and 5.7 of the Planning Statement).

CS5 Countryside and Green Belt: In the open countryside, new development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt from inappropriate development.

CS17: Environmental Networks: Development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development:

- Protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. Further guidance will be provided in SPDs concerning the natural and built environment;
- Contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets, such as the Shropshire Hills AONB, the Meres and Mosses and the World Heritage Sites at Pontcysyllte Aqueduct and Canal and Ironbridge Gorge

- iv. SAMDEV Plan Policy context (extract)

The statutory Shropshire Hills AONB Management Plan contains a number of policies adopted by Shropshire Council and has therefore been a key document influencing the preparation of the SAMDev policies. Whilst stressing the importance of the countryside as a whole, the SAMDev policies emphasise the importance of the AONB and the need to conserve and enhance its character and distinctiveness and have regard where appropriate to the requirements of the AONB Management Plan.

Draft Policy MD2 Sustainable Design, Explanation (extract) For development affecting the Shropshire Hills AONB, particular regard should be paid to the Shropshire Hills AONB Management Plan and supplementary guidance.

Draft Policy MD7 - Managing Development in the Countryside (extract)

Further to Core Strategy Policy CS5,

1. Development in the countryside should:

- i. Protect and respect heritage and natural assets and be in accordance with the requirements of: Policy MD2 (Sustainable Design); Policy MD 12 (Natural & Historic Environment); Adopted Natural and Historic Environment SPDs and, where appropriate, the AONB Management Plan;

MD12 — Natural and Historic Environment

1. Shropshire Council will require new development proposals to conserve, enhance and restore Shropshire's natural and heritage assets and landscape character in order to support the delivery of CS6 and CS 17. Internationally and nationally important habitats, sites of wildlife conservation and geological interest and legally protected species will be afforded the highest level of protection in accordance with the relevant legislation and policy. Great weight will also be accorded to conserving and enhancing the natural beauty of the Shropshire Hills AONB having regard to the AONB Management Plan. Heritage assets will be safeguarded in accordance with their significance.

2. Development proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively, on any of the following assets:

- I. the special qualities of the Shropshire Hills AONB;
- II. locally designated sites;
- III. priority species;
- IV. priority habitats
- V. valued woodlands, trees and hedges;
- VI. designated heritage assets and non-designated heritage assets of demonstrably equivalent significance;
- VII. geological assets;
- VIII. visual amenity;
- IX. the landscape character and local distinctiveness of the area in which the proposal is located.
will be rejected unless:
 - i. the social or economic benefits of the development proposal can be demonstrated to clearly outweigh the harm to the assets; and
 - ii. there is no satisfactory alternative means of delivering the proposal We also consider that the proposals do not comply with Shropshire Council Policy within the statutory Shropshire Hills AONB Management Plan 2014-19:

- v. Valuing the AONB in Planning and Decisions — Management Plan Policies Protection of the AONB

In line with national and local authority planning policies, the AONB has the highest standards of protection for landscape and natural beauty and the purposes of designation should be given great weight in planning decisions, also taking into account the statutory AONB Management Plan.

Further comments

- vi. Lack of clarity or misrepresentation in documents: The application documents are not clear about the scale of the proposals, in a way that we are aware has been misleading to a number of consultees, potentially giving the impression of a substantially smaller development. Regarding the number of modules, it is apparent that there is an error in the alignment of figures in the Project Information box on the layout plan. The plan itself and its key indicating the depiction of a rack of 24 modules makes it apparent that the figure 19,608 is indeed the number of modules, and not as shown on the plan the 'Module Type'. 255Wp is clearly the peak Watts output of the panels (Performance) and not the number of modules. However this number of 255 has been erroneously used by the planning authority in the title given to the application ('circa 255 modules'), which is therefore highly

misleading regarding its scale. We note further that the applicants in subsequent correspondence have chosen themselves to use this incorrect title rather than correct the mistake, which is inexcusable. For consultees who will have studied the previous application, the total power output of the installation has been given in a different unit - the output of the previous larger application was quoted as 6,500 mVA whereas that of the new application is given as 5,000kWp. The figures are not therefore comparable, but the closeness of the numbers could give the false impression that something close to a similar power output could be achieved through this new scheme.

- vii. References to pre-application discussions. The implication in the application documents that the AONB Partnership gave some endorsement of the proposal as a pre-application stage is incorrect and misleading. As stated on our website, the AONB Partnership has a policy of not generally giving endorsement of a development proposal at pre-application stage, and has not in this case given any endorsement. If the applicant has gained the impression of such an endorsement from pre-application discussions which have taken place, then the error is one of interpretation. Such an interpretation is not however supported by the emails included in the documents, which clearly refer to our 'preference towards smaller scale renewable installations', with a previous, acceptable example cited of a single ground-mounted solar panel. Emails from Glynn Barratt clearly indicate that 'for the AONB (this) would be a major scheme' and our view that the proposal should have been subject to a full EIA. The quoting of alleged verbal expressions of support are clearly not substantiated in writing, since no formal endorsement of any sort of the proposals by the AONB Partnership has been given at pre-application stage. The 'Statement of Community Involvement' document also includes description of a community survey which we consider to be too small to be reliable. As evidenced by the recent public meeting, we believe this survey is not at all representative of the views of the local community, within which there is a great deal of concern and opposition.
- viii. Applicant's 'rebuttal' of our comments: The applicant's agents have chosen to publish a letter dated 3 December, purporting to 'rebut' arguments and policies which we advance, though oddly this has been done before our detailed response has been submitted. The content of this letter is misleading and not accepted. The agents seek to personalise the views of the AONB Partnership in a way which is inaccurate, and aims to reduce their weight and importance. The AONB Partnership is a Joint Advisory Committee, with the formal role under the Local Government Act 1972 to advise the constituent local authorities regarding the AONB. The Partnership currently has 40 members, representing a wide range of interests including conservation, landowning, community, recreation and tourism. The current staff team has over 87 cumulative years of experience of work to conserve and enhance the Shropshire Hills AONB, as well as considerable previous experience in protected landscape management. The statements about the team not drawing in 'landscape expertise' are therefore misplaced and not relevant. We reject completely the suggestion that a choice by us not to meet with the applicant's agents in any way undermines our legitimate role as a consultee in the process, representing the Partnership's view as the Council's official adviser regarding the AONB. We are under no obligation to meet with an applicant or their agent in such circumstances, and saw no likely benefit to the AONB in doing so at

the stage of the new application having been submitted. The agent's attempt to 'rebut' policies in NPPF and Core Strategy is surprising, and we are not aware of their authority to over-ride national or Shropshire Council policy. Amongst other policies, para 115 of NPPF clearly applies to this case, and in fact revolves around 'great weight' being given to the AONB, and not as stated around exceptional circumstances, which relate to para 116, which we discuss below. Core Strategy policy CS17 is also highly relevant, contrary to the agent's assertions.

- ix. The question of major development: We understand that it is for the decision making authority to determine whether this development is classified as 'major' and therefore whether para 116 of NPPF regarding AONBs applies. We do not here make the case that this decision turns on the definition of major development or otherwise. As set out above, we believe the application does not meet the requirements of para 115 NPPF and corresponding pieces of local policy requiring 'great weight' to be given to the AONB designation. However, if the application were deemed to be major development, we contend that the tests of exceptional circumstances are not met for the reasons outlined in our response to the previous application, i.e. alternatives outside the AONB do exist, and there are unacceptable impacts which cannot be mitigated. The 'Site Sift' document accompanying this application certainly does not satisfy the requirement that there are no alternative ways of meeting the need outside the AONB. We note in addition the considerable effort to which the applicant's agents have gone to address para 116 of NPPF (though we disagree with their conclusions on this), indicating their apparent acceptance that the development is indeed major.
- x. Quoting of other solar schemes approved: The examples of other schemes approved do not in our opinion carry any weight, since government policy has changed, and is clearly now not in favour of large ground-mounted solar schemes in the countryside. The letter of 22 April 2014 to local authorities from the Minister Greg Barker states that the UK's solar strategy is to 'focus growth of solar PV in the UK on domestic and commercial roof space and on previously-used land', and 'proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration'. Amber Rudd, Parliamentary Under Secretary of State for the Department of Energy and Climate Change (DECC) as recently as 6 November 2014 reiterated to the House of Commons the government's ambitions to drive solar investment towards rooftop projects and away from ground-mounted solar farms, stating that solar farms are "not particularly welcome as we go forward", as they should "be on roofs, buildings and homes roofs, not in beautiful green countryside. We are proud to stand on that record." The absence of an objection to a similar scheme just outside the Wye Valley AONB should not either carry any weight here. Aside from being outside the AONB in that case, our own contact with the Wye Valley AONB Unit reveals that following construction of the solar farm there, concern about the impacts of it were debated in the Wye Valley AONB Joint Advisory Committee and found to be greater than they had anticipated. Consequently guidance was drafted by the AONB Unit, and if a similar application were received now, we have been informed that they would not respond in the same way.

- xi. Impacts on tourism: We have had considerable concerns regarding the proposals raised with us from businesses operating in the tourism industry, who perceive that large scale solar development would harm their businesses. The economic value of the high quality landscape of the Shropshire Hills is recognised in the Strategy and Action Plan for Sustainable Tourism in the Shropshire Hills & Ludlow (approved by Shropshire Council), which has the objective to:
 - 2.1 Give priority to maintaining a high quality landscape and environment as a primary resource of sustainable tourism. [emphasis added]
- xii. Conclusion: We urge that for the reasons set out above, backed up by an overwhelming weight of policy, this application be rejected.



Committee and date

South Planning Committee

10 February 2015

Development Management Report

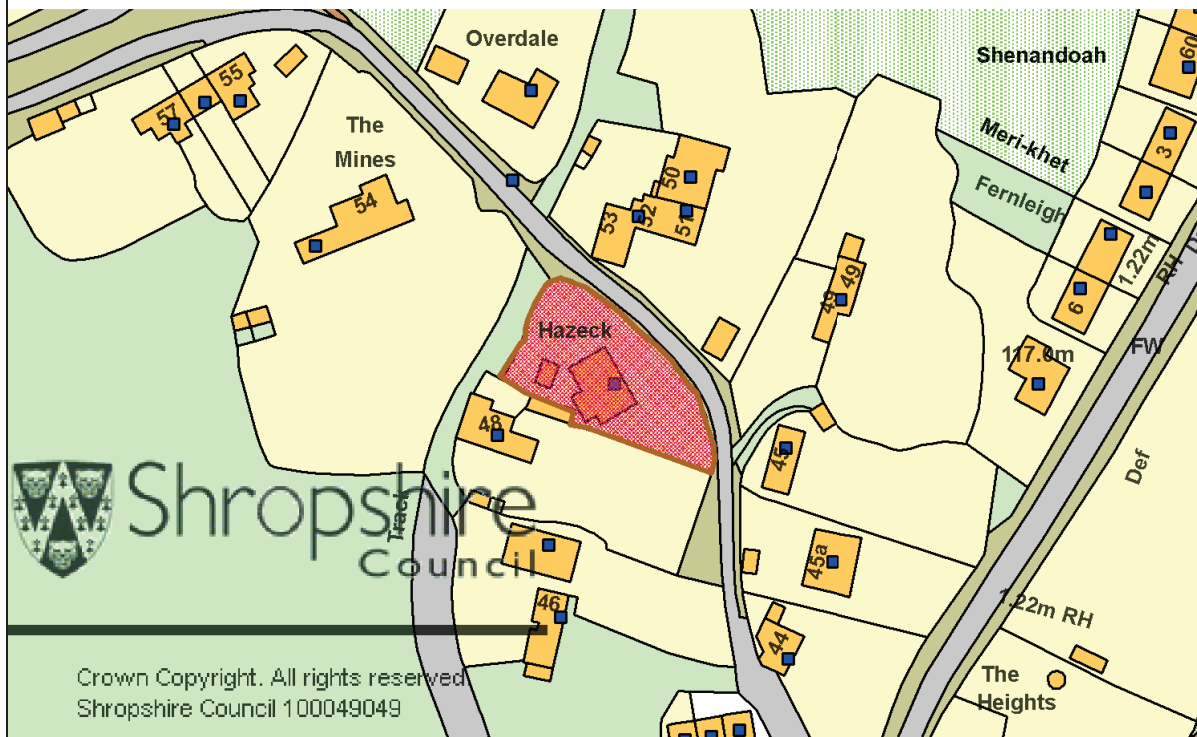
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/05210/FUL	Parish:	Barrow
Proposal: New chimney to existing roof		
Site Address: Hazeck The Mines Benthall Broseley TF12 5QY		
Applicant: Mr Paul Craven		
Case Officer: Lynn Parker	email: planningdmse@shropshire.gov.uk	

Grid Ref: 366960 - 302719



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application originally proposed the erection of two chimneys at the property. During the course of the application amended plans have been received correctly labelling the elevations and reducing the number of chimneys proposed from 2 to 1. The single chimney now proposed is positioned within the dining room and would emerge on the roof slope towards the north west end adjacent to the approved two storey side extension. The proposed chimney would be constructed mainly internally with external projection above the existing roof ridge of 1.05m including the chimney pot, 0.85m without. The projecting top section would be square and measure 0.67m wide x 0.67m in depth.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site falls within the Key Centre settlement of Broseley and is located to the north of the main service area. The dwellings in this part of Broseley are largely older stone and brick dwellings of historic merit associated with the Industrial Revolution period, hence the site falls within Broseley Conservation Area. However, the dwelling at Hazeck was a latter half 20th Century bungalow with accommodation in the roof. Apart from the historical buildings, the area is characterised by steep winding narrow streets off which access is directly gained.

2.2 The extensions and alterations approved under Planning Ref: 13/02940/FUL are under way. Landscaping works have also already been carried out at the site including the erection of boundary fencing retrospectively approved under Planning Ref: 13/03694/FUL on 6th January 2014, and removal and replanting of trees at the site. A retained tall, prominent Norway Spruce tree is visible from some distance away, positioned as it is on the south east boundary of the site where the land falls away steeply below it. The land is level around the dwelling and access, however, it rises up to the west and slopes more steeply down to the south east. Thus the gardens are landscaped to reflect the change in ground level and there is a lower lawn to the south east of the dwelling which is itself positioned above the road. There are wide views from this side of the dwelling across the valley. Access is gained into the site from a track which also serves a number other properties, however, it is close to its junction with the road.

2.3 There are adjacent dwellings on all sides of the property, but no rational patterning is formed. The dwelling to the north west at no. 54 is approximately 35m away, its rear garden sharing a boundary with the access track. Dwellings across the road at nos. 51, 52 and 53 directly face towards the application property, however, the frontage of Hazeck is angled to face north east towards garaging and front gardens. To the south east no. 48 is approximately 10m away but set at a higher level and there is brick outbuilding between the two properties. The rear elevation of Hazeck faces towards the north west corner of no. 48 whose main garden area slopes gradually down to the south east. No. 47 to the south is approximately 20m way beyond the garden of no. 48 and faces directly east so that its side gable is

closest to Hazeck. There are also dwellings beyond the road to the east, but these are set at a much lower level and only their roof tops are clearly visible from Hazeck.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications requested to be referred, by the Local Member to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Barrow Parish Council - We object to this application.

We note that there is no information as to the proposed use of these chimneys. Until we can be assured that the overall design is sympathetic to and not intrusive in the Conservation Area and that their proposed use is such that any smoke or fumes do not adversely affect neighbouring properties we will object to their installation.

In view of the number of applications submitted for this property, we would request that when decisions are made, the changes due to previous successful applications are taken into account and that in addition the new applications are all considered at the same time.

4.1.2 SC Conservation – No Conservation objections.

4.1.3 SC Archaeology - No comments to make on this application with respect to archaeological matters.

4.2 - Public Comments

4.2.1 Two letter of public representation have been submitted from the same neighbour which raise concerns relating to all four of the current planning applications on this site. These can be viewed in full online, however the concerns relating to this proposal are summarised below:

- o The addition of two chimneys although a further increase in roof height are negligible in relation to the enormous size of the building, without the section for which construction is yet to start.
- o We are of the opinion that no further building should take place on this site.

5.0 THE MAIN ISSUES

- o Principle of development
- o Design, scale and character
- o Impact on neighbours/residential amenity
- o Impact on surrounding Conservation Area

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets. There is no in-principle planning policy objection to the provision of a chimney at this property.

6.2 Design, scale and character

6.2.1 Broseley and Benthall are areas which contain many older properties of which chimneys are a prominent and widely present feature. The majority of the adjacent properties have single or multiple chimneys. Design Principle DS.6 of the Broseley Town Plan specifically relates to chimneys, stating that:

'Existing chimneys must be preserved. The inclusion of functioning, brick built chimneys in design proposals will be supported'.

6.2.2 Whilst many of the chimneys already present within the surrounding area are higher and more decorative than those proposed in this application, such chimneys would not be appropriate to the modern design of the dwelling. Therefore the clean, simple design with minimal external projection of the chimney proposed and its construction in brick is considered to be suited to the dwelling and in accordance with the design ethos of the Broseley Town Plan. The proposed chimney is not considered to have an adverse impact on the character or context of the existing building or surrounding Conservation Area and is of an appropriately domestic scale and design, utilising matching materials.

6.3 Impact on neighbours/residential amenity

6.3.1 It is not felt that there will be any overbearing impact on the neighbouring properties from the proposed chimney due to the separation distances involved, its minimal 1.05m projection in height above the existing roof ridge and minimal girth.

6.3.2 Whilst Barrow Parish Council have raised concerns in relation to the potential for smoke or fumes from the chimney to affect neighbouring properties, it is noted that Design Principle DS.6 of the Broseley Town Plan does require chimneys to be 'functioning'. Additionally, given the prevalence of existing chimneys within the area, it is not considered that the addition of the single, relatively small chimney proposed will result in a significant increase in any localised pollution issues. There are a number of chimneys on the cottages directly to the east which are sited below the level of Hazeck and its neighbouring properties to the north and south from which smoke could already drift. The construction of the chimney would also be subject to building regulations approval.

6.4 Impact on surrounding Conservation Area

6.4.1 For the reasons given in paragraphs 6.2.1 and 6.2.2, the proposed chimney is considered to be a positive contribution to the surrounding Conservation Area of which existing chimneys are a feature, and provide a link between the modern appearance of the property and those adjacent of a more traditional nature. The

heritage values and functions of the surrounding Conservation Area will therefore be protected and enhanced.

7.0 CONCLUSION

7.1 It is considered that this proposal is not contrary to adopted policies and will not adversely affect the existing building, the amenities of adjacent neighbours, the street scene or the surrounding Conservation Area. While there are other applications currently under consideration in respect of this property, as listed in the relevant planning history section of the report below, there are no planning reasons which would justify a delaying the determination of this particular proposal.

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:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS6 Sustainable Design And Development Principles
CS17 Environmental Networks

Broseley Town Plan 2013 - 2026

RELEVANT PLANNING HISTORY:

14/05212/FUL – Revisions to existing planning approval for side extension. **Pending Consideration.**

14/05211/FUL – Erection of a new double garage with external staircase to room above. **Pending Consideration.**

14/05209/FUL – Proposed side kitchen extension. **Pending Consideration.**

14/01341/FUL - Erection of two single storey extension to side elevations; increase in roof height to allow for first floor accommodation to include insertion of dormer windows and rooflight to front and rear roofline (amended description). Refused 29th October 2014.

13/03694/FUL - Application under Section 73a of the Town and Country Planning Act 1990 for the erection of close boarded perimeter fencing. Granted 6th January 2014.

13/02940/FUL - Erection of single storey extension to include balcony; replacement of existing roof to include dormer windows. Granted 21st November 2013

11. Additional Information

View details online: <http://planningpa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

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

None submitted

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Turner

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****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 strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The chimneys hereby approved shall be constructed in brick as specified on the submitted application form and to match the existing dwelling, and there shall be no variation.

Reason: To ensure that the works harmonise with the existing development.

Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.

2. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework

LDF Core Strategy Policies:
CS6 Sustainable Design And Development Principles
CS17 Environmental Networks

Broseley Town Plan 2013 - 2026

3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

-



<u>Committee and date</u>
South Planning Committee
10 February 2015

Development Management Report

SCHEDULE OF APPEALS AS AT COMMITTEE - 10.2.2015

LPA reference	14/02390/FUL
Appeal against	Non determination
Committee or Del. Decision	n/a
Appellant	Mr Simon Lloyd-Jones
Proposal	Erection of 2 no low profile wind turbines
Location	Edge Renewables Lea Quarry Presthope Much Wenlock
Date of appeal	6/1/2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	13/03110/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr I Taylor
Proposal	Outline application (all matters reserved) for the erection of seven dwellings
Location	Land South Of Meadow Bank, Coreley, Hints
Date of appeal	20/06/14 (Changed to 07/01/15)
Appeal method	Changed from Written Reps to Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03424/ADV
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Blakemore Design
Proposal	To erect and display three replacement fascia signs; two non-illuminated replacement information boards;
Location	Post Office , 16-20 The Square, Clun, Craven Arms
Date of appeal	09/01/15
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/01016/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	D Doley & P Woodall & I Bissell
Proposal	Outline application (access for approval) for mixed residential development
Location	Land Off Oldbury Road Bridgnorth
Date of appeal	14/10/2014
Appeal method	Hearing
Date site visit	
Date of appeal decision	19/01/2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/03645/FUL
Appeal against	Non Determination
Committee or Del. Decision	N/A
Appellant	Mr A Gardener
Proposal	Demolition of existing farm building and erection of a two bedroom detached affordable home
Location	The Parkes, The Knowle, Clee Hill, Ludlow SY8 3NL
Date of appeal	20.01.2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	13/03862/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Tesni Properties Ltd
Proposal	Outline application for residential development (up to 215 dwellings); public open space; highways works; access roads and pedestrian footbridges; and a Neighbourhood Store (Class A1 Retail) not exceeding 300 sq.m internal floorspace, associated engineering and accommodation works.
Location	Proposed Residential Development South Of A49 Ludlow Shropshire
Date of appeal	26.01.15
Appeal method	Public Inquiry
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	13/03509/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr M Cooksey
Proposal	Outline application (access) for mixed use residential development; formation of vehicular access; erection of an A1 retail unit with residential at first floor level; two areas of retained open space, community play area.
Location	Development Land At The Hobbins Bridgnorth
Date of appeal	28/10/2014
Appeal method	Written Representations
Date site visit	
Date of appeal decision	27/01/2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/00885/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr J M Jones
Proposal	Outline application for mixed residential development and formation of a vehicular and pedestrian access
Location	Proposed Development land south of Woodbatch Road, Bishops Castle
Date of appeal	29/10/2014
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Contact: Tim Rogers (01743) 258773

LPA reference	14/03048/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Colin Warrington
Proposal	Erection of dwelling (outline application with all matters reserved)
Location	Land Adj. Little Stoke Bank Farm Stoke St Milborough Ludlow Shropshire SY8 2EN
Date of appeal	31.10.14
Appeal method	Written Reps.
Date site visit	06.01.2015
Date of appeal decision	29.01.2015
Costs awarded	
Appeal decision	Appeal Dismissed

LPA reference	14/02632/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Trustees of Old-De-Leys Watson & Bevan
Proposal	Outline Application for a mixed residential development (to include access)
Location	Proposed Residential Development West Of Lavender Bank, Bishops Castle, Shropshire
Date of appeal	30/10/2014
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	



Appeal Decision

Hearing held on 8 January 2015

Site visit made on 7 January 2015

by R Schofield BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 January 2015

Appeal Ref: APP/L3245/A/14/2223481

Land off Oldbury Road, Bridgnorth, Shropshire WV16 5DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Doley against the decision of Shropshire Council.
 - The application Ref 14/01016/OUT, dated 4 March 2014, was refused by notice dated 22 July 2014.
 - The development proposed is residential development and access (all other matters reserved).
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr D Doley against Shropshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline with all matters reserved other than access. I have determined the appeal on this basis.
4. The parties agreed at the Hearings that the Council's emerging Site Allocations and Management of Development Plan (SAMDev) can be afforded limited weight as the Inspector's report has yet to be produced. Based on all that I have read and heard I agree with this. I have, therefore, considered the appeal scheme against the adopted development plan and national policy.

Main Issue

5. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Oldbury Conservation Area and the effect of the proposed development on its setting.

Reasons

6. Oldbury Conservation Area (the Conservation Area) covers most of the village of Oldbury. Its significance is derived from a dispersed pattern of development, with expansive green spaces within the village, including some very large gardens and fields, which draw the surrounding countryside into its core and establish a clear historic link with it. There is an eclectic mix of dwellings of varying styles and ages, reflective of the village's incremental historic growth. Overall, this results in an informal, loose knit appearance,

which is reinforced by the network of narrow, often unmade, lanes and the predominance of mature trees and hedges, both within gardens and as property boundaries. This gives the Conservation Area a sense of spaciousness and rural isolation, in spite of its proximity to the town of Bridgnorth.

7. The Conservation Area's setting is dominated by open countryside. The appeal site, directly bordering and extending out from Oldbury Road, is an integral part of this setting, visible in views both within and from outside the Conservation Area. There are some glimpsed views of Eversley House and the church, both of which may be considered as high status buildings that one might expect to be reasonably prominent in the wider landscape, and limited sight of dwellings around Manor Farm Lane, in views from the north and west. Beyond these exceptions, however, external views that take in the appeal site are typically characterised by open fields and mature trees, with Bridgnorth in the distance. The Conservation Area derives part of its significance from this setting, which contributes to the rural character of the Conservation Area and is important in supporting its historic separation, both physically and in terms of character, from Bridgnorth.
8. The A458 runs directly to the north of the appeal site. Whether any consideration was given to it during or following the designation of the Conservation Area is moot. The road is well hidden in a deep cutting, behind a mature tree line. As such, although some traffic noise is audible at close quarters, the road is not apparent in views from and around the Conservation Area in the vicinity of the appeal site and has little impact upon it.
9. Development on the appeal site would result in the loss of an extensive section of characteristic boundary treatment, situated within the Conservation Area. This includes a substantial mature hedgerow and several prominent specimen trees, originally planted as part of the formal entrance to Eversley House. This loss, combined with the introduction of the access to a modern estate road, would appear at odds with the prevailing character of the Conservation Area as well as compromising the largely informal approach to the village from Bridgnorth. I am not persuaded that planting behind the access would mitigate this impact to any significant degree.
10. Development on the site, which is on the northern periphery of the village, would also be at odds with the prevailing pattern of development, which, other than a small cluster of houses around Manor Farm Lane and Eversley House, is concentrated to the south of Oldbury Road. It would advance development closer to Bridgnorth, which would compromise Oldbury's sense of separation from the town. It would also extend development into the wider open countryside setting that contributes to the significance of the Conservation Area, diminishing the perception of largely unaltered rural surroundings.
11. Fells Orchard, a late 20th century housing development on the opposite side of the road to the appeal site, was drawn to my attention as being at odds with the character and appearance of the Conservation Area. This may be so, but its impact is not so severe as to undermine the integrity of the Conservation Area as a whole, such that it would make development on the appeal site, however designed or laid out, or if restricted by condition to seven dwellings (as suggested by the appellant), acceptable.

12. The lack of a formal Conservation Area Appraisal is unfortunate. However, this situation is not, in my experience, unusual. Irrespective of this, Oldbury Conservation Area is a designated heritage asset and the relevant statutory and policy tests apply.
13. Thus, taking the above matters into consideration I conclude that the appeal proposal would harm the character and appearance of the Oldbury Conservation Area. I also conclude that the scheme would have an adverse impact upon the setting of the Conservation Area, which contributes to its significance. Although any harm would be less than substantial, it would be a noticeable and significant adverse impact, by virtue of the positive contribution that the site, and its boundary treatment with Oldbury Road, makes to the Conservation Area.
14. The appellant has suggested that the scheme would bring benefits, through the provision of additional housing, including affordable housing, as the Council is unable to demonstrate a five-year supply of deliverable housing sites. However, there is clear disagreement between the parties as to whether or not the Council can identify such a supply and I find the evidence presented to me in this regard inconclusive. Nonetheless, even if there is not such a supply, I consider that the contribution that the proposed development would make towards addressing any undersupply of housing would not outweigh the harm that the scheme would cause to the Conservation Area and its setting and, thus, it would not be the sustainable development for which the National Planning Policy Framework (the Framework) indicates that there is a presumption in favour. In reaching this conclusion, I have borne in mind paragraphs 47-49 of the Framework, as well as its guidance, at paragraph 132, that significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting, and, at paragraph 17, that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
15. The appeal proposal would conflict, therefore, with policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. These seek, among other things, to ensure that new development protects, restores, conserves and enhances the diversity, high quality and local character of Shropshire's historic environment.

Other Matters

16. The appellant provided a unilateral undertaking that would secure the provision of affordable housing. However, for the reasons outlined above, this provision would not outweigh my concerns in relation to the appeal scheme and, thus, the obligation has had little bearing upon my decision.

Conclusion

17. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

R. Schofield

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Richard Morriss	Richard K Morriss & Associates
Mr David Richards	The Planning Group Limited
Mr Martin Parrish	The Planning Group Limited
Mrs Helen Howie	Berrys

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Robert Tindall	Shropshire Council
Cllr Andy Boddington	Shropshire Council
Mr Dave Wallace	Shropshire Council
Mr Thomas Cannaby	Shropshire Council
Mr Richard Fortune	Shropshire Council

INTERESTED PERSONS:

Mr Colin Appleby	Local Resident
Mrs Anne Appleby	Local Resident
Mr Ian Barrie	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Written Statement by Mr Ian Barrie
2. Planning for a Flourishing Shropshire in the Bridgnorth, Worfield and Alveley and Claverley Local Joint Committee Area - Issues and Options for the Site Allocations and Management of Development DPD



Appeal Decision

Site visit made on 8 January 2015

by Keith Manning BSc (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 January 2015

Appeal Ref: APP/L3245/A/14/2227158

Land at The Hobbins, Bridgnorth, Shropshire WV15 5HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Cooksey against the decision of Shropshire Council.
 - The application Ref 13/03506/OUT, dated 28 August 2013, was refused by notice dated 15 April 2014.
 - The development proposed is the erection of 67 dwellings (to include 14 affordable dwellings), erection of a general convenience store with owners' accommodation, 2 areas of retained open space, to include community play area.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be as follows:-
 - Whether the proposed development would represent inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy;
 - The effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the proposed development on the character and appearance of the area; and
 - If the proposed development would represent inappropriate development, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. 'The Hobbins' is a freestanding settlement of around 150 houses, originally built for service personnel, a small distance to the east of the historic town of Bridgnorth. It is visually separated from the town by the intervening elevated land, a feature that is dramatically apparent from vantage points in the vicinity of the castle, which I visited at the specific request of the appellants.
4. Nevertheless, the adopted Green Belt associated with the town, which is part of the wider West Midlands Green Belt, which includes this part of Shropshire,

extends beyond and “washes over” The Hobbins. It is not for me to consider the merits of Green Belt designation vis-à-vis the townscape of Bridgnorth and its immediate environs, as the appellant seemingly contends that I should. I am obliged to take policy as I find it for the purposes of determining this appeal. The Framework is clear¹ that, once established, Green Belt boundaries should only be altered in exceptional circumstances through the preparation or review of the Local Plan. Green Belts have five specific purposes, set out in paragraph 80 of the Framework, which are engaged to varying degrees in any particular case, but the inclusion of any site within an established Green Belt, the protection of which is accorded great importance nationally, requires the policy to be applied to it consistently and with full force.

5. This is a case in point. The appeal site lies within an established Green Belt. It appears to have become used, being largely untended, as informal open space for local residents and, from the representations received, is clearly valued by them for its openness, the visual relief it affords, and for its role as wildlife habitat. There is a small number of hardstandings within it but by and large it is ‘greenfield’ rather than previously-developed² and the hardstandings have in any event tended to blend into the landscape over time.
6. Paragraph 87 of the Framework stresses that inappropriate development is, by definition, harmful to the Green Belt and paragraph 89 states that, with certain exceptions, the construction of new buildings should be regarded as inappropriate. The proposed development does not, in my judgement, fall within any of those exceptions. Although plainly a matter of fact and degree in any particular case, in the context of The Hobbins the proposed development of 67 dwellings and a convenience store on a circa 2 hectare site cannot, in my estimation, reasonably be considered to be limited infilling for the purposes of the policy, notwithstanding containment on three sides by existing housing and the fact that the meaning of “limited infilling” is nowhere defined in the Framework. For the purposes of the Framework, therefore, the proposed development would represent inappropriate development in the Green Belt.
7. The development plan in this instance comprises the Council’s adopted Core Strategy (CS) and saved policies of the Bridgnorth District Local Plan (‘the local plan’). Policy CS5 is concerned with the countryside, including that which is protected by the Green Belt, in which case it defers to national policy as previously set out in PPG2, the thrust of which was very similar to that of the Framework as far as the protection of Green Belt is concerned. Policy S3 of the local plan is similarly consistent with the broad thrust of national policy concerning Green Belt protection. Albeit specifically for the purposes of a major developed site within the Green Belt at Cosford, the explanation to that policy defines “infilling” as the infilling of small gaps between buildings. Although plainly not definitive for present purposes, that definition is indicative of what is commonly understood to be limited infilling for the purposes of Green Belt policy and in that sense adds weight to my conclusion that, for the purposes of the Framework, the development of the appeal site would substantially exceed the scale of development that might reasonably be considered to be limited infilling. The appeal site is by no means a small gap in the built form of the settlement. For these reasons, the proposed development

¹ Paragraph 83

² As defined in the glossary to the Framework.

- would represent inappropriate development in the Green Belt for the purposes of the development plan.
8. Emerging local policy is contained in the Council's Site Allocations and Management of Development Plan (SAMDev) currently subject to independent examination, but there is nothing to suggest that the emerging policy MD6 will introduce any element of local policy in respect of the Green Belt that would alter the thrust of that which is contained within the Framework. On the contrary, consistency with the national approach is stated to be a measure of soundness.³
 9. For the above reasons, I am clear that the proposed development would represent inappropriate development in the Green Belt. The Framework explains that substantial weight must be given to any harm to the Green Belt and that inappropriate development in the Green Belt should not be approved other than in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.⁴
 10. The Framework⁵ explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. The Hobbins and the industrial area to the south east are set within an area of countryside which includes both woodland (much of which is associated with a country park) and arable fields. Other than this residential and industrial development it is largely free of built development and is therefore open in the sense intended by the policy. The sense of openness experienced around The Hobbins is brought into the heart of the settlement by the appeal site. Although it is surrounded by housing on three sides, the length of its western perimeter, which is a function of its size, makes the appeal site as much a part of the open countryside as it is part of the built form of The Hobbins. In visual terms it belongs to both and in my view the essential openness of the Green Belt would be, to a degree, compromised if it were to be developed as proposed. The development would represent an encroachment upon what may reasonably be perceived as rural land, i.e. the countryside that is part of the setting of The Hobbins, notwithstanding that it is physically separated from the adjoining arable land by a perimeter road. Developing the site would therefore both harm the openness of the Green Belt and conflict with one of its five purposes.
 11. Although the Council alleges harm to the visual amenity of the Green Belt, I am conscious that the site is unkempt and dominated by scrubby untended grassland, although trees, including cherry trees and a significant oak (the latter being the subject of a preservation order) dominate its perimeter. Visual harm per se would be limited as far as the wider Green Belt is concerned owing to the potential for landscaping and screening against the backdrop of the The Hobbins taken as a whole. I therefore accord lesser weight to this aspect of the Council's case than the other harms to the Green belt I have identified. The effect of the proposed development on the character and appearance of the area would be limited, albeit I am conscious that the open aspect afforded by the site contributes to the value placed upon it by the local community.

³ Framework, paragraph 182

⁴ Paragraphs 87 and 88

⁵ Paragraph 79

12. A range of other potential harms could be adequately mitigated by the conditions the Council suggests and so the benefits of the proposed development fall to be weighed against the harm to the Green Belt, if very special circumstances are to be demonstrated. The proposed development would bring some benefits, including a local shop if a viable business of that nature were to occupy the purpose built unit proposed, thereby effectively re-introducing a facility that was available to local residents some while ago. The Council asserts that the claimed benefit of an affordable housing element is nullified by the absence of a planning obligation but, as that could, in the alternative, be secured by the imposition of a suitable planning condition, I accord little weight to the omission. Affordable housing would be a benefit but this is moderated by the relative isolation of the settlement by comparison with more sustainable locations.
13. In the context of the Framework's intention to significantly boost the supply of housing, the development of a good number of open market houses would be a benefit but, in terms of the development plan, CS5 restricts housing on land classified as open countryside to that which is specifically for essential rural workers or specific local need, an intention that is not inconsistent with equivalent policy objects of the Framework, albeit local needs housing facilitated by open market housing is not necessarily in conflict with national policy for rural areas in general.⁶ In the absence of compelling evidence to the contrary, however, the quantum of open market housing proposed on this rural site would conflict harmfully with the intentions of policy CS5.
14. The views of the parties differ on the adequacy of the Council's residential land supply, the Council now citing a 5.47 year supply rooted in its emerging SAMDev, albeit that has yet to be adopted. However, even if current policies for the supply of housing remain out-of-date so as to engage the presumption in favour of sustainable development described in paragraph 14 of the Framework, land designated as Green Belt is specifically mentioned in footnote 9 thereto as a specific policy indicating that development should be restricted. This message is reinforced by the more recently published National Planning Policy Guidance, which, as the Council points out, indicates that (in decision taking) unmet housing need is unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt.⁷
15. The evidence before me is insufficiently compelling to suggest that the housing land supply situation is so critical in this area that an alternative approach could be justified bearing in mind the clear force of national policy concerning the Green Belt. Lack of housing land is clearly a material consideration capable of contributing to very special circumstances but the latter is a stringent test and would in this case need to be complemented by very compelling reasons specific to the area of the Hobbins as to why Green Belt policy should be set aside in the context of demonstrating that the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. With the exception of more formalised green spaces and the possibility of a new local shop (to which I attach limited weight in the light of previous attempts to sustain such a venture), the potential benefits are somewhat generalised and diffuse.

⁶ Paragraph 54

⁷ NPPG Reference ID: 3-034-20141006

16. Collectively, the potential benefits of the proposed development should in my view be accorded some moderate weight. On the other hand, the harm to the Green Belt that I have identified, including the harm by reason of inappropriateness merits substantial weight, for the reasons I have given. Together with the harmful conflict with policy intentions concerning housing in the countryside, this requires very substantial benefits to flow from the proposed development if it is to be clearly outweighed. The evidence before me does not lead to such clarity or even suggest that the harm to the Green Belt might be capable of being marginally outweighed in this instance by the relatively modest benefits that would accrue. Therefore very special circumstances to justify inappropriate development in the Green Belt do not exist and, on that basis, the appeal must fail.
17. In coming to that conclusion, I have taken account of all other matters raised, including previous appeal decisions referred to by the parties, but which are not directly comparable insofar as they solely concerned retail units with associated accommodation and only involved a small part of the site.

Keith Manning

Inspector

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Appeal Decision

Site visit made on 6 January 2015

by **G P Jones Bsc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 January 2015

Appeal Ref: APP/L3245/A/14/2227962

Land adj. Little Stoke Bank Farm, Stoke St Milborough, Ludlow, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Colin Warrington against the decision of Shropshire Council.
 - The application Ref 14/03048/OUT, dated 7 July 2014, was refused by notice dated 24 September 2014.
 - The development proposed is outline planning permission for a two bedroom bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development given is different between the application form, appeal form and the Council's decision notice. For the sake of clarity I have used the description of development provided on the application form. In addition, the application form did not stipulate the full details of the site address, and therefore I have used the fuller description given on the Council's decision notice.

Main Issues

3. The main issues are the effect of the proposal on sustainability and the character and appearance of the area.

Reasons

Character and appearance

4. The appeal site lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The proposal is for outline permission, with all matters reserved, for an open-market bungalow that would be located in the south-west corner of a grassed field/paddock that lies adjacent to the north of the rear of a storage building that comprises one of the Little Stoke Bank Farm complex of buildings. The paddock rises up from Stoke Bank, which is the road that leads from Stoke St Milborough to Clee St Margaret. The appeal site is in part screened by the existing farm buildings and also by the undulating topography when viewed from a distance from the north. There is a hedgerow along the western boundary of the paddock that separates it from the adjoining paddock, and also a hedgerow borders the road. However, despite the screening that is provided by the buildings, vegetation and undulating

topography, when viewed from the road near to the proposed entrance and on approaching the appeal site from the north, the proposed bungalow would be in quite a visible location due its elevated position above the road. This is further exacerbated by the fact that the building would be set back within the far corner of the paddock and consequently would need to be accessed by a new driveway of some length.

5. The proposed dwelling, and the residential curtilage that would be likely to be associated with it, would be in a prominent location in an elevated position in the corner of an open field. As such, when viewed from the road it would draw the eye thus detracting from the open character of much of the surrounding landscape. I therefore consider the proposal to be contrary to Policy CS 17 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (Core Strategy) that amongst other things seeks to protect the character of the natural environment, and to paragraph 115 of the Framework which advises that great weight should be given to conserving landscape and scenic beauty in AONBs.

Sustainability of the location

6. The appeal site is located on the northern outskirts of the village of Stoke St Milborough. Stoke St Milborough is a linear settlement with houses stretching for a reasonable distance either side of what reasonably could be considered the village centre; which is the area around the church. As well as the adjacent Little Stoke Bank Farm, there is a property opposite what would be the entrance to the appeal site and there are a few properties to the south and further beyond the appeal site on the road to Clee St Margaret. However, these few properties are quite dispersed and isolated.
7. Stoke St Milborough is recognised as a 'community cluster' under Policy CS4 of the Core Strategy, and the draft Site Allocations and Management of Development (SAMDev) Plan. However, the explanatory text to the Core Strategy at paragraph 4.69 states that windfall development adjoining a village is not acceptable unless it is an exception site for affordable housing or, amongst other things, to house agricultural or other essential countryside workers.
8. The appeal site is located some distance away from the main part of the village and the intervening area is one of predominantly open landscape, consisting of fields with relatively few houses, that rises up from the village to the site. Although it lies near to the main farmhouse and the property on the opposite side of the road, I consider that the site is located some distance beyond what I would consider to be the village itself. As such, I conclude that the character of the site is one of open countryside and therefore the proposal could not be considered to be infill development within the community cluster of Stoke St Milborough.
9. Whilst the Framework recommends a presumption in favour of sustainable development, paragraph 55 of the Framework stipulates that to promote sustainable development in rural areas housing should be located where it would enhance or maintain the vitality of rural communities. Furthermore it states that new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live at or near their place of work or the proposed dwelling is of an exceptional quality or innovative design. For the reasons I have given, I consider that the

proposal would represent a new, isolated home in the countryside for which there are no special circumstances, and therefore it is contrary to paragraph 55 of the Framework. In addition, the proposal would not be in accordance with Policies CS1 and CS4 of the Core Strategy that seek to locate new development predominantly in community hubs and clusters. As it does not represent an affordable dwelling or one to accommodate an agricultural or essential countryside worker, the proposed dwelling would not accord with Policies CS5 and CS11 of the Core Strategy.

10. I note the intention to provide a dwelling in order that the appellant can be close to his livestock, and I appreciate that currently regular visits are made by the appellant in order to look after the animals. I have also had regard to the letters in support of the proposal, but I do not consider that special circumstances have been demonstrated and the benefits of the proposal do not outweigh the effect on the character and appearance of the area or the unsustainable nature of the location. The appellant cited the Parish Plan and its reference to making provision for houses within the parish and not just the village of Stoke St Milborough itself. However, this reference would appear to be to provision for affordable housing, and I would accord limited weight to the Parish Plan.
11. I also note the appellant's reference to another application that was permitted within the vicinity of Stoke St Milborough¹. Whilst, I have limited information about the history of this case it was judged to comprise affordable housing for an applicant in housing need and with strong local connections. As such it would differ to that of the scheme before me, and so it does not lead me to a different view in this case.
12. For the above reasons, and having regard to all other matters raised, I conclude the appeal should be dismissed.

GP Jones

INSPECTOR

¹ Application reference 13/03244/FUL

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