



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

Date: Monday, 10 November 2014

Committee:
North Planning Committee

Date: Tuesday, 18 November 2014
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

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
Martin Bennett
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
John Cadwallader
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes

Your Committee Officer is:

Emily Marshall Committee Officer
Tel: 01743 252726
Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 14)

To confirm the Minutes of the meeting of the North Planning Committee held on 21st October and 24th October 2014 attached, marked 2.

Contact Shelley Davies on 01743 252719 and Linda Jeavons on 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 Proposed Residential Development Land On Both Sides Of Rush Lane Market Drayton Shropshire (14/04701/OUT) (Pages 15 - 52)

Outline application (access for approval) for mixed residential development (up to 162 dwellings), associated open space and landscaping (resubmission).

6 Land off Greenfields Lane, Market Drayton, Shropshire (14/03782/OUT) (Pages 53 - 90)

Outline application (access for approval) for the residential development of upto 250 dwellings; to include demolition of existing structures on site; formation of vehicular accesses from the A53 and Hampton Drive

7 Land North Of Whitridge Way Trefonen Shropshire (14/00536/OUT) (Pages 91 - 114)

Outline application for the erection of twelve dwellings (to include access).

8 Brogyntyn Hall, Brogyntyn, Oswestry, SY10 7DA, (14/03184/FUL) (Pages 115 - 170)

Change of hall from offices to residential with associated alterations to include demolition of service wing; conversion of Home Farm into 11 residential units; demolition of estate office and agricultural sheds; alterations to existing farm house and Dairy Cottage; erection of 50 dwellings within grounds; formation of vehicular access to B4580.

9 Proposed Dwelling Rear Of The Talbot Inn, Church Street, Ruyton XI Towns, Shropshire (14/03025/OUT) (Pages 171 - 184)

Outline planning application for the erection of 1no. dwelling with garage to include

access.

10 Oswestry Smithfield Livestock Market, Shrewsbury Road, Oswestry, Shropshire, SY11 4QA (Pages 185 - 206)

Variation of Conditions 40 (approved plans) of planning permission 13/01189/VAR.

11 The Venue, Burma Road, Park Hall, Oswestry, SY11 4AS (14/00517/FUL) (Report To Follow)

Extension of existing car park; formation of one full sized football pitch and 6 no. training pitches together with associated fencing and lighting (Report to follow)

12 Appeals and Appeal Decisions (Pages 207 - 212)

13 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 16th December 2014, in the Shrewsbury Room, Shirehall.

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Committee and Date

North Planning Committee

18th November 2014

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 21 October 2014

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 3.40 pm

Responsible Officer: Shelley Davies

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252719

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Martin Bennett, Gerald Dakin, Steve Davenport, Pauline Dee, Vince Hunt, Peggy Mullock and John Cadwallader (Substitute) (substitute for David Minnery).

68 Apologies for Absence

Apologies for absence were received from Councillors David Lloyd and David Minnery (substitute: John Cadwallader).

69 Minutes

That the Minutes of the meeting of the North Planning Committee held on 23rd September and reconvened on 1st October 2014 be approved as a correct record and signed by the Chairman.

70 Public Question Time

There were no public questions, statements or petitions received.

71 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.

Councillor Paul Wynn declared that he would leave the room prior to consideration of planning application 14/02914/FUL Hadley Farm, Wrexham Road, Whitchurch, due to a disclosable pecuniary interest as he was the land owner.

Councillor Walpole explained that as the local ward Councillor for planning application 13/05008/OUT Land North of the River Tanat, Llanyblodwel, and in accordance with Shropshire Council's Constitution he would make a statement on the application, but would take no part in the debate and would not vote on this

application. He would vacate the Chair and Councillor Wynn, as Vice-Chairman would preside for consideration of this application.

72 Land Off Bearstone Road, Norton In Hales, Market Drayton, Shropshire (14/00790/OUT))

The Principal Planning Officer introduced the outline application and drew Members' attention to the schedule of additional letters. The Principal Planning Officer referred to paragraphs 3.1.7 and 3.1.8 and indicated that the word little weight should be replaced by limited weight. He explained that the application had been considered at the previous meeting held on 23rd September 2014 at which Members had been minded to refuse the application.

Mr Roy Tidyman, representing Norton in Hales Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- Norton in Hales was classed as open countryside in the Site Allocations and Management of Development DPD (SAMDev);
- Local residents did not want any development in the village;
- The site was on a dangerous road and the development would not bring any benefits to the residents;
- The village did not have the infrastructure to cope with additional development and there were no services in the village other than the pub; and
- The village was a special place and had received a gold award for the best kept village and had been nominated for a national award in 2015.

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

- The road referred to by the objectors in the schedule of additional letters would be widened as part of the development and a footway would be included;
- The proposed development was a well thought out scheme;
- The development was sustainable, would enhance the village and provide a Community Infrastructure Levy (CIL) contribution; and
- The one way traffic system suggested by objectors was unnecessary.

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

- The democratic process of SAMDev had been ignored;

- Local residents had agreed that the village should remain designated as open countryside; and
- SAMDev should be given substantial weight.

During the ensuing debate the majority of Members repeated the concerns expressed at the previous meeting in relation to the cumulative impact of the development on the village of Norton in Hales. Whilst the Committee acknowledged the benefits in terms of the National Planning Policy Framework (NPPF) they considered greater weight should be given to the emerging SAMDev Policies and saved local plan policies.

RESOLVED:

That Planning Permission be refused contrary to the Officer's recommendation for the following reason:

Members acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply including open market and affordable housing to which weight was given. However it was considered that this was outweighed by the harm identified. The committee were concerned that the development, cumulatively with the approved site adjacent to Norton Farm, would result in an adverse impact on the size of the village, to the detriment of community cohesion, and that the development of the site would impact on the adjacent conservation area. Weight was given to the location of the site being outside the development boundary in both the saved North Shropshire Local Plan and the emerging policies in the Site Allocations and Management of Development DPD as well as the policies in the NPPF.

73 Land North of the River Tanat, Llanyblodwel, Shropshire (13/05008/OUT)

(The Chairman, as the local ward Councillor for this application vacated the Chair and the Vice-Chairman, Councillor Paul Wynn presided for this item.)

The Principal Planning Officer introduced the outline application and drew Members' attention to the schedule of additional letters. It was confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on neighbouring properties and the surrounding area.

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

- The development boundary for the village was clearly defined;
- The site had always been outside the development boundary;
- The area was very beautiful and picturesque;
- The proposal would be imposing and dominate the village; and
- The development would change the character of the village forever.

Mr David Parker, agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- Llanyblodwel was classed as a community cluster in SAMDev and therefore had accepted development;
- There were no areas within the development boundary of the village available for development;
- Referring to the Development Management policy he noted that alternative sites outside the development boundary could be used if needed;
- The site was clearly part of the village and would round off the existing linear development;
- The Parish Council had withdrawn their objection to the application and representations had been made in support of the application; and
- The development would allow the village to grow by providing homes for young people.

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

- Llanblodwel was a Parish and a village;
- Local residents were concerned that the proposal would have an adverse effect on the character of the area; and
- Members faced an on balance decision between the opportunity of development to allow the village to grow and the need to protect the character of the area.

The Principal Planning Officer explained that the Development Management policy (MD3) referred to by the Agent would be given limited weight and was subject to certain criteria and would not be relevant at this stage.

During the ensuing debate the majority of Members expressed concern in relation to the harm that would be caused to the four heritage assets and considered that the harm would significantly outweigh the benefits of the proposal.

RESOLVED:

That Planning Permission be refused contrary to the Officer's recommendation for the following reason:

Members had carefully considered and weighed up the proposal and acknowledged the economic benefits that would flow from the construction works, the support the development would potentially afford to the Public House, the modest boost in housing supply and the social benefits that would arise from the provision of an affordable dwelling. However, they consider that the harm that would be caused, albeit less than substantial harm, to the significance of the four heritage assets would significantly and demonstrably outweigh the benefits of the proposal. In coming to

this view members have had regard to the NPPF and the statutory duty in respect of listed buildings and have afforded considerable importance and weight to that harm.

(Councillor Paul Wynn left the meeting at this point.)

74 Hadley Farm, Wrexham Road, Whitchurch, (14/02914/FUL)

The Principal Planning Officer introduced the application for the installation and operation of a solar farm and associated infrastructure. He explained that the ecological assessment had been received and as there was no objection the recommendation had been amended for approval subject to the conditions set out in appendix 1.

The Chairman stated that he had been advised by the Solicitor that responsibility to remove the solar farm development at the end of its operational life would fall to the land owner if the applicant was unable to meet this condition.

In response to a query from the Chairman in relation to the timber posts used for the fencing and pole mounted security cameras, the Principal Planning Officer explained that the timber posts had been requested by the case officer to be in keeping with the rural area. She added that if Members were minded to approve the application a condition could be added to ensure the timber posts were maintained and if required replacement were replaced with timber posts.

Having considered the submitted plans for the proposal, Members unanimously expressed their support for the officer's recommendation, subject to the additional condition in relation to the timber posts.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation, subject to the conditions set out in Appendix 1 and an additional condition to ensure the timber posts for the fence and pole mounted security cameras were maintained and if required replacement were replaced with timber posts.

(Councillor Wynn rejoined the meeting at this point.)

75 23-25 Cheshire Street, Market Drayton, Shropshire, TF9 1PH (14/03427/FUL)

The Principal Planning Officer introduced the application for the change of use from A1 retail to mixed A1/A3 coffee shop, drawing Members' attention to the schedule of additional letters. She explained that the application required Committee determination as the site was owned by Shropshire Council. It was added that Town Council had confirmed that they had no objection to the application provided the outside seating was not permitted on a Wednesday.

Having considered the submitted plans for the proposal, the Members unanimously expressed their support for the officer's recommendation, subject to the amendment of condition 4 to delete the outside seating on a Wednesday as requested by the Town Council.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation, subject to the conditions set out in Appendix 1 and an amendment to condition 4 to delete the outside seating on a Wednesday.

76 23 - 25 Cheshire Street, Market Drayton, Shropshire, TF9 1PH (14/03559/FUL)

The Principal Planning Officer introduced the application for Shopfront modifications and explained that the application required Committee determination as the site was owned by Shropshire Council.

Having considered the submitted plans for the proposal, the Members unanimously expressed their support for the officer's recommendation.

RESOLVED:

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

77 23 - 25 Cheshire Street, Market Drayton, Shropshire, TF9 1PH (14/03560/ADV)

The Principal Planning Officer introduced the application to erect and display 2 fascia signs, drawing Members' attention to the schedule of additional letters. She explained that the application required Committee determination as the site was owned by Shropshire Council.

Having considered the submitted plans for the proposal, the Members unanimously expressed their support for the officer's recommendation.

RESOLVED:

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

78 14 Shropshire Street, Market Drayton, Shropshire, TF9 3BY (14/03821/FUL)

The Principal Planning Officer introduced the application for the refurbishment and upgrading of property to include formation of 1 additional apartment and explained that the application required Committee determination as the Agent for the application was a Shropshire Council Officer that reports directly to the Group Manager Environment.

Having considered the submitted plans for the proposal, the Members unanimously expressed their support for the officer's recommendation.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation, subject to the conditions set out in Appendix 1 and a S106 agreement for affordable accommodation.

79 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would take place on Tuesday, 18th November 2014 in the Shrewsbury Room, Shirehall.

Signed (Chairman)

Date:

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Committee and Date

North Planning Committee

18 November 2014

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 24 October 2014

In the Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

2.30 - 4.25 pm

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 252726

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Martin Bennett, Gerald Dakin, Steve Davenport, Vince Hunt, David Lloyd and Peter Cherrington (Substitute) (substitute for Pauline Dee)

80 Apologies for Absence

Apologies for absence were received from Councillors Pauline Dee (Sub: Peter Cherrington), David Minnery and Peggy Mullock.

81 Public Question Time

There were no public questions, statements or petitions received.

82 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.

83 Land North West Brooklands Farm, Dudleston, Ellesmere, Shropshire - 14/02730/MAW

The Area Planning and Building Control Manager introduced the application. He confirmed that Members had undertaken a site visit the previous day but had been unable to gain access to the site itself but had viewed the site from a number of vantage sites along the highway, and had noted the siting of existing pylons and other landscape features.

With reference to the drawings and photo montage displayed, the Technical Specialist Planning Officer drew Members' attention to the location, site layout and access.

Members noted the additional representations as detailed in the Schedule of Additional Letters circulated prior to the meeting, and the further comments,

illustrative diagram showing the location of the slurry pipe and watercourses, and a drawing detailing the boundary and indicative layout circulated at the meeting.

Professor Whitelegg, a Shropshire 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:

- The UK had been committed to an 80% reduction in carbon emissions. Fracking produced carbon rich gasses so this proposal would be contrary to national policy and lead to Shropshire adding to the carbon inventory;
- The proposal would be contrary to the Climate Change Act and what Parliament intended;
- Methane was a very powerful gas;
- Contrary to local policy; and
- He urged rejection of the proposal.

Chris Hesketh, 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 reference to future extraction in the National Planning Policy Framework;
- Any advantages of taking CBM out of the ground would be limited;
- Would provide limited employment;
- The proposal would have a detrimental impact on the local economy and local businesses. A major employer was considering relocation;
- Concerns with regard to noise and environmental impact; and
- A high number of objections had been submitted and he urged refusal.

With the agreement of the Chairman, Mr C Voelker, the agent, spoke for six minutes. He spoke for the proposal in accordance with the Council's scheme for public speaking at Planning Committees, during which the following points were raised:

- Proposal would be in accordance with the Development Plan and Planning Officers were recommending approval;
- Principle of development had been established;
- Would be temporary and short-term with no long-term effects on the environment;
- A Transport Management Plan, Noise Management Plan and Ecological Mitigation Plan would be submitted;
- At the conclusion, site would be restored to former condition;
- Agreement for a single well on the site had been obtained from the landowner;
- No objections from technical consultees and suitable conditions would be attached to any permission; and
- Drilling process was well established in the UK and regulated by appropriate bodies.

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 Steve Davenport, as the local Ward Councillor, made a statement and then left the table and took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Proposal would lead to an industrialisation of the countryside;
- Geology – The Environment Agency assessment of the area was only partially founded. The local geology would be unsuitable for extraction;
- Economic downside would exceed any benefits. Proposal would provide no employment and a limited amount of money would be spent in Shropshire.
- Noise – 8 weeks of continued drilling could have a detrimental impact on health. Noise levels had not been adequately assessed and would exceed limits. No effort had been made to mitigate noise concerns;
- Would lead to an increased number of traffic movements;
- Unacceptable impact on the health of local people. This exercise had also been stressful for the local community;
- Water contamination – The route of the proposed track would be situated close to a slurry lagoon. The large number of vehicle movements could cause vibration and lead to damage of the embankment and subsequent pollution to water courses;
- Would lead to needless desecration in an area of high visibility; and
- Would be contrary to the NPPF and Core Strategy policies CS5, CS13, CS16 and CS17.

In the ensuing debate, Members expressed concerns with regard to highway safety; the high number of HGV movements; the risk of pollution due to failure of the slurry lagoon or collapse of culverts due to the close proximity of the proposed access track to the slurry lagoon and the potential for damage to the slurry lagoon caused by vibration to the embankment; the removal of hedgerows; the potential for the leakage of obnoxious gasses; possibility of water contamination; the suitability of the geology to enable extraction; the detrimental impact on tourism and the local economy; detrimental impact on ecology; and adverse impact on the historical environment.

In response to comments, the Technical Specialist Planning Officer and the Area Planning and Building Control Manager explained that there was still a presumption in favour of sustainable development unless there was any significant harm or adverse impacts arising from development and that the Development Plan taken as a whole should be the starting point for consideration of the proposal. An assessment of the proposal should be made on this basis and Members would need to be satisfied that a temporary operation of up to 60 days duration would have a significant impact if minded to refuse the application. The Environment Agency was aware of the existence of the agricultural slurry lagoon and referred Members to the Schedule of Additional Letters which indicated that the Environment Agency had considered that the risk of damage to the walls of the lagoon by vehicles accessing the site to be low and if they had any concerns they would have raised objections. Planning Practice Guidance (PPG) made it clear that individual applications for the exploratory phase should be considered on their own merits. Highways had raised no objections. The Officer drew Members' attention to the comments of the Coal

Authority as set out in paragraph 4.1.5 of the report. Other bodies dealt with matters relating to leakage of obnoxious gases and it should be presumed those bodies functioned effectively. No issues had been raised by statutory consultees. The Officer also clarified that ownership of the site was not a material planning consideration and anyone could submit a planning application for a plot of land provided that they had informed the landowner. Further, Policy M24 of the 1996 to 2006 Shropshire Minerals Local Plan was not a saved policy so would not be relevant. A concern raised by a Member with regard to potential impact on private water supplies according to the Area Planning and Building Control Manager could adequately be dealt with by an appropriately worded additional condition and he stated that applications should not be refused where an issue could be appropriately dealt with by condition. The solicitor further made the point that any reasons for refusal should be clear and capable of being objectively evidenced and justified, failure to do so could lead to an award of costs on appeal.

With reference to Shropshire Council's Constitution, the Solicitor drew Members' attention to Part 5, paragraph 17.41, Local Protocol for Councillors and Officers dealing with Regulatory Matters, and stated it was the view of the Area Planning and Building Control Manager, having consulted with the solicitor in attendance, that a refusal on the grounds being proposed by Members may not be defensible if challenged and result in compensation or damages being available to, or claimed by, the applicant under a statutory provision. Therefore, the decision in accordance with the stated provision in the Constitution should only be a "minded to" decision and would be brought back to the next relevant Planning Committee so further advice could be given on the proposed reasons and legal implications.

Members considered the submitted plans and noted the comments of all speakers.

RESOLVED:

That consideration of this item be deferred, with Members minded to refuse the application for the following reasons:

- The proposal would be contrary to Core Strategy policies CS6, CS8, CS17, CS20 in that the significant harm caused by the development would have a detrimental environmental impact, including disturbance by noise, light, low-frequency noise and vibration, loss of public amenity in terms of landscape, potential for pollution by virtue of the close proximity of the access to the lagoon, ecological issues, poor economic return and risk of groundwater pollution.

84 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 pm on Tuesday, 18 November 2014 in the Shrewsbury Room, Shirehall, Shrewsbury.

Signed (Chairman)

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Date:

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Committee and Date

North Planning Committee

18 November 2014

Item

5

Public

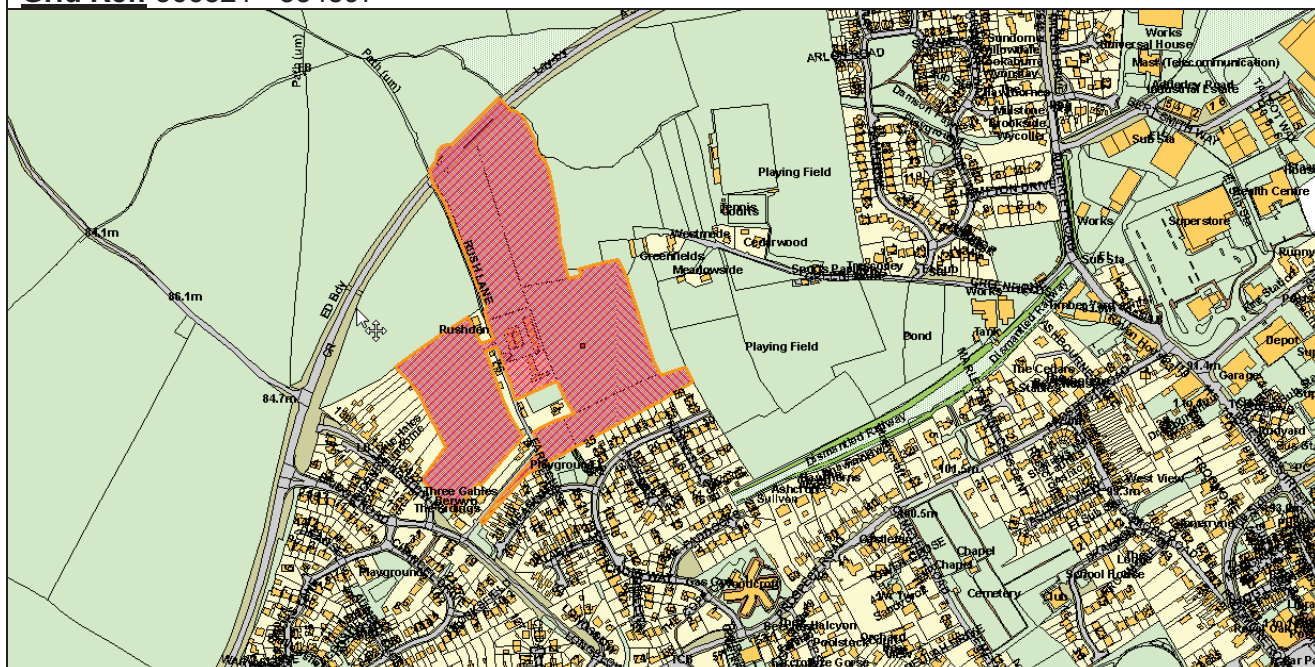
Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04701/OUT	Parish:	Market Drayton Town
Proposal: Outline application (access for approval) for mixed residential development (up to 162 dwellings), associated open space and landscaping (resubmission)		
Site Address: Proposed Residential Development Land On Both Sides Of Rush Lane Market Drayton Shropshire		
Applicant: Mr Gladman Developments		
Case Officer: Karen Townend		email: planningdmne@shropshire.gov.uk
Grid Ref: 366521 - 334597		



Grid Ref: 366521 - 334597

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Recommendation:- GRANT planning permission subject to the applicants entering into a S106 agreement to secure affordable housing and a contribution towards public transport and also subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application is for outline planning permission with only access submitted at this time for consideration. All other matters of layout, scale, appearance and landscaping are reserved for later approval. The application proposes up to 162 houses, open space, landscaping and an extension to the existing children's play area. The proposed means of access is a new roundabout from the A53. A master plan has been submitted by the agent for the current application which is for indicative purposes only but seeks to show the proposed access point, areas for development and how the agent suggests the development of this site will connect to the surrounding sites. This plan has been commented on by the agent for the adjoining land but is not a collaborative agreement with the other land owners.

1.2 This is the second application for the same development on the same site. The first application can no longer be determined by Shropshire Council as the applicant has submitted an appeal against non-determination of the application to the Planning Inspectorate. As such, shortly after submitting the appeal, the applicant has submitted this second application for the Council to determine. This process is well within the rights of the applicant and the granting of consent of the second application can often result in the withdrawing of the appeal on the first application.

1.3 To support the proposal the application has been submitted with the following documents: Planning Statement, Design and Access Statement, Statement of Community Involvement, Socio-Economic Impact Assessment, Landscape and Visual Impact Assessment, Archaeological report, Agricultural Use Report, Affordable Housing Statement, Transport Assessment, Travel Plan, Air Quality Assessment, Noise Assessment, Ecology Appraisal, Arboricultural Assessment, Flood Risk Assessment, Drainage Statement and Ground Investigation Report.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is 7.68 hectares of agricultural made up of 4 fields currently used for grazing lying south of the A53 with hedgerow and tree boundaries. The land is at a slightly lower level than the A53 and relatively level with only small changes in the level. Rush Lane, a restricted byway, bisects the site and is a narrow lane which is only formally surfaced for part and serves 10 existing properties and one farm off the lane. Existing housing lies to the west and south and fields lie to the east beyond which is the existing Greenfields Lane sports fields and clubs. Sych Brook lies on the north east boundary of the site and is encompassed by an area at risk of flooding (zones 2 and 3) and the bridleway which leads off Greenfields Lane also crosses the site.

2.2 There are existing housing to the south and west and beyond the sport pitches all

south of the A53. The existing housing is a mix of new estate and older properties with all the properties along Rush Lane being older. The nearest properties overlook site with some along Rush Lane in close proximity to the site. There are also a number of agricultural buildings adjacent to the farm which will be removed as part of the application. The site will be highly visible from the A53 and also from the surrounding housing development.

2.3 The site lies on the northern edge of Market Drayton, within the bypass formed by the A53. The town centre is south of the site and approximately 2km away. Market Drayton is identified in both the North Shropshire Local Plan and the Shropshire Core Strategy as a Market Town and as such a key focus for new development.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is considered by the Planning Services Manager to be a complex major application with relevant material considerations which would benefit from debate by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

The comments below are the comments from consultees received on the first application, 14/01982/OUT, except where new comments have been received on this application and these are shown in italics. Given that the current application is identical to the previous application it is considered reasonable to note the comments from consultees on the previous application where no new comments are received.

4.1.1 **Market Drayton Town Council** – resolved to defer any decision until the following information is available to the Town Council and further issues have been addressed:

- That SC find a solution to the access problems and other significant issues that apply under planning conditions
- Until the problems the sports facility will encounter due to being closed in are addressed as no other premises have been found
- A proper consultation with the local residents has been carried out
- To request a vehicle survey is carried out in connection with this application.

4.1.2 **Moreton Say Parish Council** – Would like to defer making a decision until further information is available re doctors, schools and if the infrastructure can stand this many houses.

4.1.3 **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 current prevailing target rate for affordable housing in this area is 10% this would mean a provision of 16 Affordable houses on site, plus a financial

contribution for the remaining 0.2. ($162 \times 0.10 = 16.2$) The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership, giving 11 houses for rent and 5 for low cost home ownership and these 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. There is a need for all house types in Market Drayton and there are people on the housing register requiring everything from 1 bed up to and including 5 bed homes. Shropshire Council requires the affordable housing provision and contribution to be secured through a S106 Agreement not by condition as requested in the Affordable Housing Statement. We would expect the Low Cost Home Ownership properties to be pepper potted around the site as these do not need to be clustered as the Housing Associations do not manage them, the rented units should be split between 2 areas. The council agree to the provision of Affordable Rent as the tenure for the rented accommodation on this site. However as this is an outline application the percentage contribution and number of affordable homes will not be set at this time, but will be reviewed at the time of the reserved matters application. The size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team before any application is submitted.

4.1.4 Economic Development – *The Business and Enterprise Service support the application which will provide a range of mixed tenure housing.*

The development links to the Shropshire Local Development Framework settlement strategy and underpins the role of Market Drayton as one of the key market towns in Shropshire as a service centre serving the local population and its hinterland in a sustainable manner by providing a balance of housing and economic development. This is to cater for local needs and inward migration and local company expansion and inward investment.

The application identifies in summary the benefits to the local economy of the development including increased annual expenditure and local job generation.

It is also suggested that to maximise the economic benefits of the scheme that condition on a Local Employment and Training Agreement be included. It is suggested this may include local advertising of jobs, liaison with the developers HR manager/Shropshire Council and Job Centre Plus to nominate potential applicants /apprentice training and working with local colleges to offer training opportunities.

4.1.5 Learning and Skills – *Shropshire Council Learning and Skills reports that the local primary schools will either remain at capacity or reach capacity during the Plan Period. This and other new housing in the town will place further pressure on school places. It is therefore essential that developers of any new housing in the town contribute towards the consequential cost of additional places/facilities considered necessary at the schools.*

Would expect the development of 162 dwellings to yield 30 primary school pupils (rounded). Longlands Primary School, one of the two primary school catchments in the town, has a small amount of unfilled places at present. However, overall development in the plan period will take numbers significantly over capacity.

Therefore, to keep things simple, and as this is one of the more significant housing investment sites in the town, to treat this application in isolation, fractionally over 30 pupils at a DfE cost of £11,767 translates into £355,412 to provide the places.

- 4.1.6 **Archaeology** – The proposed development site is located on the north-western edge of Market Drayton and is understood to comprise an area of 7.86ha. Located within the area of the former town fields, there are currently no records on the Shropshire Historic Environment Record of any known archaeological sites or features within the proposed development site. However, it is located over Devensian fluvio-glacial drift deposits which may have been settled and exploited from the later prehistoric period onwards. There is therefore in my opinion some potential for currently unknown archaeological deposits and features of prehistoric and Roman date to be present.

In relation to Paragraph 128 of the NPPF, the applicant has submitted an Archaeological Desk Based Assessment report by CgMs consulting. This concludes that 'the potential for as yet to be discovered archaeological assets is considered to be low/nil.' However, in my opinion and taking account of the size of the proposed development site, the character of the superficial geology and my other comments above, this assertion requires further testing.

In my pre-application consultation response on this site (ref. PREAPP/14/00170) I therefore indicated the need for an archaeological field evaluation. This should comprise a sample geophysical survey of the proposed development site and, depending upon the results, target trial trenching of any anomalies thus revealed (up to a maximum 2% sample of the survey area).

It is noted from the applicant's Archaeological Response that, given the level of archaeological potential on the proposed development site, the applicant has been advised that the requirement for the field evaluation of the site could be secured as a condition of any planning permission. On balance, it is agreed that this would provide a proportionate response in relation to this case. Any necessary further archaeological mitigation could thereafter be secured either by design or by record as necessary. Recommends a condition.

- 4.1.7 **Highway** – The application site being promoted by Gladman forms part of the land allocation being promoted within the SAMDev process, which will shortly be considered at a public enquiry. Whilst in itself therefore an outline application in advance of the Inspector's decision on SAMDev, the principle of developing this site is accepted as is the principle of forming a new junction onto the A53 to serve the SAMDev site. This latter statement is important however to acknowledge as clearly there are a number of land owners who hold a land interest in the development of the SAMDev site being implemented.

To make the highway authority's position clear on the issue of access, only one access point onto the A53 will be permitted. The A53 forms an important route with strategic principal county highway network which was built to by-pass Market Drayton. Its core function therefore is to allow the movement of traffic and to minimise its disruption. Nevertheless as part of the SAMDev site coming forward to deliver housing in Market Drayton, as part of Shropshire Council's requirements

to meet housing needs in the County, the highway authority recognise the importance of delivering this site with a requirement to construct a new access onto the A53.

Having regard to ongoing discussions between the principle land owners/developers promoting the SAMDev site, access off the A53 is key as clearly its position will fall in a particular land ownership. The interested parties therefore acknowledge access to developing the various parcels of land within the SAMDev site as key and pivotal in terms of costs and the ability to develop land without delay caused by other parties own development interests and timescales. On the basis that only a single point of access will be permitted onto the A53 the positioning on an agreed access point should not be used which would otherwise fetter the delivery of the SAMDev site as a comprehensive and coordinated development which provides alternative vehicular, pedestrian and cycling linkages to the town centre. In short, in agreeing to a new access onto the A53 the highway authority's stance is that any consent issued should only be granted so as to deliver the fundamental aims of a 'Masterplan' approach of the SAMDev site which provide connectivity as set out above.

Whilst the application submitted is supported by a Transport Assessment and an 'Indicative Master Plan' drawing, the TA is based purely on the development of the site being promoted by Gladman, with no acknowledgement of the wider context of the SAMDev land allocation. The TA therefore considers the development proposal as a stand-alone residential housing scheme via a single point of access onto the A53. What has become clear also subsequently is that whilst Longslow Road had been suggested as a secondary access point, this is not within the gift of the applicant and is in fact constrained via a third party Danbank who are seeking to promote the larger land area and greater number of houses within the SAMDev allocation. In essence therefore, the application promotes a cul-de-sac development. Emergency access is proposed via Rush Lane and this is a matter for colleagues in the Countryside Team to agree although my understanding is that as a matter of principle this is not a fundamental issue. Nor is it in terms of crossing Rush Lane which is required to build out the land both within the application site and adjacent land held by a 3rd party. The means of the vehicular crossing of Rush Lane would need to be carefully designed to ensure that Rush Lane itself is not used other than in emergency circumstances.

In itself therefore this application, as submitted, does not immediately present a coordinated approach to meeting the Council's aims of delivering a 'Masterplan' development which provides the connectivity for traffic flow, cycling and walking together with linkage to the sports and recreational land, currently served from Greenfields Lane. Clearly the 'Indicative Masterplan' submitted shows how this can be achieved but it is the desire of the interested parties promoting the various parcels of land and the mechanism to deliver the SAMDev site as a coordinated development, and where negotiations therefore should be regarding the apportionments of infrastructure costs. The 'Indicative Masterplan' shows linkage to Longslow Road and Tudor Close, which the highway authority would support, but the road layout within the SAMDev site as a whole will be fundamental to how the sites road space functions, both serving as access to the town centre and direct access to the A53. This will need to be achieved via primary routing within the SAMDev site where the road linkages to the existing network do not become

'rat runs'. In addition, having regard to the scale of this land and overall SAMDev allocation, public transport should be able to penetrate into and out of the land in a proper manner.

In terms of access the highway authority are satisfied that the principle of a roundabout junction onto the A53 is satisfactory access solution, subject to detailed design and a Safety Audit process and demonstrating the capacity to cater for the SAMDev land and movement of traffic along the A53. The highway authority is satisfied also that the positioning of the roundabout location shown is satisfactory to serve both the application site and remaining land within the SAMDev allocation. To be clear however this does not represent the only location for a suitable access onto the A53 and therefore revert to the points made above.

Having regard to the scale of this and the whole SAMDev site, build out of the development will need to ensure that any adverse impact is minimised in respect of construction traffic. In this regard, the A53 should form the primary construction traffic route to the site given that other potential routes are more constrained in terms of impact upon existing residential frontages. The highway authority strongly recommend therefore that the roundabout junction is constructed at an early stage within the build out of this site and adjacent SAMDev land. It is considered therefore a trigger of the sale of 50 dwellings would be an appropriate level at which time the roundabout junction should be completed.

On the basis therefore that the aspirations for the delivery of the SAMDev site can be conditioned via a suitable worded Grampian Style condition, the highway authority would raise no objection to the granting of outline consent in respect of the application currently before us.

In respect of the delivery of public transport penetrating into and out of this site and the SAMDev site as a whole, it is difficult at this stage to estimate the level of funding required. As part of a Section 106 therefore this aspect would, at this stage, need to be suitably worded as a 'Heads of Terms' item.

4.1.8 Public Transport – An indication of gross subsidy cost for public transport provision to / through the site would need predicated on the developer confirming the following:

- That the internal layout of the site has a useable through route, that would provide the penetration required to minimise walking distance to stops, and
- That this route is considered in terms of its design for minimising on street parking pinch points / minimising chances for obstruction of the bus through route

As such, at this stage, it is not possible to put a precise figure on the contribution required as at this time it is not clear what form the route through the site and adjacent sites would take. There is a potential for coverage of the developments to be managed through an enhancement of the current contract and that a developer payment would be required to offset the increased wear and tear / fuel on the vehicle, plus a consideration towards drivers hour costs. Early indications from the operator suggest a gross annual cost increase in the current contract in the region of £15k.

As above however, an actual figure for negotiation will only be able to be obtained when the developer/s have released more detail work on the internal layout of the site/s, and therefore the impact on the current operating times. Also, and crucially, that if this total cost is to be apportioned across two developments, that the other party/s agree to inherit their balance of these costs at a later date, as there cannot be a situation where the cost and therefore risk of this service contract could fall back to SC as “banker”.

- 4.1.9 ***Rights of Way*** – *As pointed out in the access statement a restricted byway - not a Byway Open to All traffic. A restricted Byway is for use by walkers, horse riders, cyclists and non mechanically propelled vehicles such as a horse and carriage. If there is any intention to change the surface or alignment of this restricted byway then this department must be consulted. Bridleway 9B is correctly shown on the plans and is affected by the development and there appears to be an intention to alter the alignment of this public right of way. The line of the path can only be altered by legal order, an application for which must be made to this department.*
- 4.1.10 Ecology – Following submission of further information on GCN raised **no objection** and recommended conditions and informatives.

Great Crested Newt

FPCR (August 2014) have carried out further survey of two ponds. Pond 1, sited 320m north of the site had an ‘excellent’ Habitat Suitability Index score of 0.81. Pond 2 at 300m north of the site had a ‘below average’ HSI of 0.57. Six presence/absence surveys were undertaken between April and June 2014.

One juvenile GCN was recorded in Pond 1 but no other evidence of GCN was found. As population estimates are based on peak adult counts, this result indicates no viable population present. The ponds are north of the A53 and taken together with the distance from the application site, FPCR consider that GCN are highly unlikely to be present and no further survey or mitigation measures are considered necessary. Recommends an informative.

Bats

One building (B4) was assessed as having low potential to support roosting bats, with the other five buildings as negligible potential for bats. FPCR carried out one dusk emergence survey of building 4, a brick structure with corrugated metal roof. No bats were seen to emerge from the building. Low numbers of common bat species were recorded in the wider area. FPCR recommend installation of bat boxes to enhance the value of the site for biodiversity and this is agreed and a condition recommended regarding lighting details.

Protected sites

The closest Site of Special Scientific Interest to the site, Tynley Canal Cutting is 4.8km away. Hodnet Heath SSSI is 9km distance and Brown Moss SSSI and Ramsar site is 11.5km from the application site. The Council has considered discharges of water or liquid waste from the site however there /are no pathways by which the development could affect these SSSI’s. It is not considered necessary to consult Natural England on this application.

Badger

A single entrance outlier badger sett was recorded at one side of the site. It is recommended that this sett be closed under licence and conditions and an informative are recommended.

Water vole

FPCR (2014) states that the stream along the north-eastern boundary of the site is not considered to be suitable to support water vole, given the shallow water level and very minimal emergent vegetation. No evidence of the presence of this species was recorded during the Phase 1 habitat survey. In addition, the Illustrative Development Framework indicates open space adjacent to the stream therefore there should be no detrimental impact on the stream.

Nesting birds

Hedgerows and buildings on the site are likely to be suitable for nesting birds as such recommends provision of artificial nests and informatives.

- 4.1.11 **Trees – No objection.** *A tree survey has been submitted which demonstrates that the principal arboricultural features, category A and B trees and hedgerows, are to be retained within the landscape. Some limited tree loss and removal of hedgerows will occur. The proposed development footprint must consider the principles of tree protection and a full application will require a Tree Protection Plan (TPP) showing the positioning of protective fencing and service runs, in line with standards found in BS 5837 2012 and seek to promote the sustainable integration of trees within the layout design. This includes taking into account shading patterns of trees adjacent to but not within the site.*

In mitigation of tree loss, there is potential within a future layout to introduce significant new tree planting with adequate space for trees to reach maturity. The opportunity should be taken to enhance the distribution of tree cover across the site and for existing green links to be strengthened to contribute positively to the appearance and character of the area in both the medium and long-term.

- 4.1.12 **Drainage – No objection** *the drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.*

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

If soakaways are not feasible, the drainage strategy as outlined in the Flood Risk Assessment Ref: R/13867/002 is acceptable where the attenuation drainage system is designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed

development or any other in the vicinity . The SuDs strategy as outlined in Section 6.5 should be implemented where possible.

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

Contrary to section 4.3 of the Flood Risk Assessment, 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 acceptable for use.

A contoured plan of the finished ground levels should be provided to ensure 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 Environment Agency should continue to be consulted regarding any works within Flood Zones 2 and 3.

Under the Flood and Water Management Act 2010 Schedule 3, Shropshire Council will take the role of SuDs Approval Body (SAB) for the adoption of certain SuDs features with Shropshire. The role is due to be introduced in late 2014 and the adoptions are likely to be limited to ponds or other above ground attenuation systems.

Initially the SAB role will apply only to major developments (10 or more dwellings and/or 0.5 hectares) in the first 3 years following Schedule 3 implementation. In the 2012 consultation, the government proposed that developments of between 2 and 10 dwelling houses only become subject to SuDS measures after 3 years. Until the SAB role is implemented, Shropshire Council is unlikely to adopt the attenuation features. Please provide information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility.

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

4.1.13 **Severn Trent Water – No objection** subject to a condition to require detailed plans of the foul and surface water drainage to be submitted and approved in writing.

4.1.14 **United Utilities – No objection** subject to a condition requiring details to be submitted for disposal of foul and surface water drainage.

The site should be drained on a separate system with foul draining to the public sewer and surface water draining in the most sustainable way. Recommended means of surface water drainage and use of permeable paving.

4.1.15 **Environment Agency – No objection.** The northern area of the site is partially

located within Flood Zone 3 of the Sych Brook, which is classified as a 'main river' and is considered high probability of fluvial flooding. Part is also within flood zone 2, the remainder is located within flood zone 1.

The proposed development would be considered as 'more vulnerable' development; buildings used for dwelling houses and will be required to pass both the sequential test and exception test.

Whilst the site is partially located within flood zone 3 section 3.1.3 of the Flood Risk Assessment confirms that all built development (residential) will be located on land outside the flood plain, ie flood zone 1. Based on the scale and nature of the proposals which are affected by flood zone 3 as confirmed in the FRA (ie access road from the A53 and roundabout) will not be making any bespoke comments on the sequential test.

The Council should be satisfied that the sequential test has been passed.

Do not have modelled river levels in this location, however given the scale and nature of development have not required detailed hydraulic modelling.

The areas of proposed residential development will all be afforded pedestrian access within flood zone 1, via Rush Lane in a southerly direction away from the site. The main access is from the A53, however the FRA confirms that secondary emergency access is provided via Rush Lane.

The FRA confirms that there will be no raising of existing ground levels within the flood plan, including the access onto the A53 and this could be conditioned.

Recommend informatives relating to surface water, the location of the attenuation pond, foul drainage connection and pollution prevention.

- 4.1.16 **Public Protection – No objection.** *In the Wardell-Armstrong air quality report, report number 001/DRAFT, submitted with this application Tables 18 and 19 show that earthworks and construction activities pose a medium level risk of dust nuisance to existing residential receptors in the locality. As a result section 7.1.1 states the need for mitigation and section 7.1.6 goes on to state that a best practise dust management plan will be written and implemented for the site. It is important that this plan is agreed by the Local Planning Authority. As a result proposes a condition to require a dust management plan.*

The desk study in relation to contaminated land carried out by Hydrock concludes that there is a moderate risk of:

- 1) the presence of PAH, metals and metaloids associated with areas of made ground*
- 2) the presence of petroleum hydrocarbons associated with farm building and made ground*
- 3) the presence of asbestos in areas of made ground*
- 4) the presence of ground gas associated with infilled pond areas.*

As a result it recommends intrusive works to investigate these risks and therefore recommends a contaminated land condition.

A noise assessment carried out by Wardell-Armstrong, report number 001, job number LE1221, has been submitted with this application. It concludes that there is a need to mitigate against noise from the A53 at closest proposed properties for both internal and external areas. As no specific noise mitigation method is specified proposes a noise mitigation statement condition.

4.2 **Public Comments**

The comments below are the comments from the public received on the first application, 14/01982/OUT. At the time of writing the report no public comments have been received on the current planning application. Given that the current application is identical to the previous application it is considered reasonable to note the comments from the public on the previous application when considering the current application.

4.2.1 119 letters of representation have been received raising the following concerns:

- Site notice was inadequately displayed
- Lack of employment, entertainment and leisure in the town
- Should development brownfield sites first
- Need more than 10% affordable housing
- Need allotments for future residents and existing residents as required by Commons Act 1876, the Small Holdings and Allotments Act 1908, the Allotments Act 1922 and subsequent Allotments Acts up until 1950 and amendments
- Strain on infrastructure including waste water, schools and medical facilities
- Loss of agricultural land needed for food production
- Increase in traffic
- Inadequate access off the A53
- Residents will short cut to Rush Lane and Longslow Road
- Would impact on use of Rush Lane for walking etc
- Rush Lane is unadopted and maintained by the residents, it is unclear how emergency access only is to be managed
- Proposals to block Rush Lane are illegal and infringing on residents rights
- Impact on wildlife and loss of hedgerows / trees
- Increase in surface water run-off, flooding
- Pressure on pumping station which is already strained
- Will impact on existing properties water supply, septic tanks and easements
- Increase in crime and Market Drayton is not sufficiently policed
- Loss of privacy
- Increase of noise level during construction and after once occupied
- Increased light pollution
- Maintenance of hedgerow requires continued access
- Will affect deed of easement for supply of water

4.2.2 Two e petitions of 62 signatures and 15, and Two petitions of 102 signatures and 96 signatures objecting to the development on the grounds of loss of agricultural land; the need to develop brownfield sites first; the environmental impact; traffic hazard, increase pressure on infrastructure, congestion and pollution.

- 4.2.3 An objection has been received on behalf of the developer of the adjacent land raising concerns that the current application will not bring forward a coordinated scheme; will remove the ability of the remaining proposed allocation being developed; and will therefore bring forward much needed new housing.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Environmental considerations
- Social considerations
- Layout principles and impact on neighbours amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Flood risk
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & 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. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The development plan for consideration of this application is the Shropshire Core Strategy which sets Market Drayton as one of the market towns in the north east of Shropshire and as therefore providing foci for balanced housing and employment development. The saved North Shropshire Local Plan (NSLP) is also relevant and provides a development boundary for Market Drayton and a positive policy for housing development within the boundary. The forthcoming SAMDev is also a material consideration, however given that it has yet to be tested at examination officers advise that it can only be given limited weight. What weight can be given to the Core Strategy and the NSLP depends on whether the Council has a 5 year supply of housing land, as required by the NPPF.
- 6.1.3 It is acknowledged that the housing land supply is constantly changing. In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate and the Council considers it can now demonstrate a 5 years supply. As such the Core Strategy can be given weight in the determination of the application and it is a matter of balancing the benefits and the harm of the development. If the Council were not able to identify

a 5 year supply then the harm of the development would have to be significant and demonstrable to outweigh the benefits of new housing, however with a 5 year supply the Council is still required to undertake a planning balance and given that we have only just over 5 years supply the fact that a development is providing new housing is still a significant material consideration.

- 6.1.4 It is also accepted that the site is outside the development boundary previously set within the North Shropshire Local Plan and as such the application has been advertised as a departure from the adopted local plan. However, firstly, this policy can not now be given weight due to its age and furthermore the site is being promoted as part of the preferred option site within the Site Allocations and Management of Development (SAMDev). The site has progressed through all the stages of the SAMDev; and remains in the pre-submission draft sent to the Planning Inspector. Although the SAMDev has limited weight, as it has not yet been through the public examination stage and is not adopted, to refuse an application on a site which is being promoted in the SAMDev would be unreasonable as the site would be likely to gain consent following adoption of the SAMDev. The key consideration for this application is determining whether it is sustainable development against the criteria in the NPPF.
- 6.1.5 As previously noted Market Drayton is identified in the Core Strategy and the SAMDev as a market town and a key focus for development. Policy CS3 of the Core Strategy notes that Market Drayton is proposed to have “substantial development that balances business development with housing development and enhances the town’s infrastructure and facilities and its role as a centre for food production.” The fact that the application aims to deliver this policy should also be given weight in the consideration of the application. Officers advice is currently that SAMDev should be given limited weight due to outstanding unresolved objections which have not yet been tested and will not be tested until the examination in public. However, the proposed site does form part of an allocation which has been through all stages of the SAMDev assessment and against which there are no outstanding objections. The issue in Market Drayton is not whether this site should be allocated but whether additional sites, including this one, should be provided so as to closer meet the housing requirements for the town. As such it could be argued that more than limited weight could be given to the SAMDev with regards to Market Drayton.
- 6.1.6 The submitted SAMDev promotes Market Drayton as providing a focus for development in the north eastern part of the county with a housing guideline of around 1200 dwellings and 16 hectares of employment land. New housing development will be delivered through the allocation of greenfield sites together with a windfall allowance. The current application forms part of the greenfield allocation and the policy acknowledges that whilst the sites may be developed independently, they must demonstrate how they work together to deliver a coordinated residential scheme for the town. The infrastructure required to support this includes, appropriate access, which may include a new access off the A53, financial contributions towards the expansion of existing primary school provision and enhancement of the Greenfields sports facility, including potential relocation of the existing site.
- 6.1.7 The whole of the allocation is formed from three sites, two identified as ‘MD030’

and one identified as 'MD010 and MD028'. All three have guidelines of the development being part of a coordinated scheme including access improvements, cycle and pedestrian links, provision of open space and a landscaped buffer along the A53. Overall the three sites together will provide an allocation of 400 houses, it is therefore acknowledged by officers that there is a shortfall between the housing within the allocation and the housing target for the town. As such, subject to an appropriate layout and no unacceptable adverse impacts it would be appropriate to consider an increase in the overall housing numbers across the SAMDev allocation. As such the proposal for approximately 169 houses would not be objected to in principle.

- 6.1.8 However the key issue is how this planning application, separate to the rest of the SAMDev allocation, will work with the surrounding sites to deliver the coordinated scheme. The coordination of highways matters including access, accessibility through the site for vehicles, pedestrians and cyclists and access for public transport; surface water drainage matters in providing the ability for the whole of the SAMDev allocation to be served by a comprehensive surface water drainage system and to ensure that public open space is provided in a useable format and doesn't result in small pockets of space scattered across the area and to ensure that the mitigation for ecology provides connectivity and corridors to enhance the existing environmental network. These issues will all be considered in greater detail in the report, however it is an area of concern as officers would not wish to see the site developed in isolation, especially given that it is served from a single point of access off the A53.
- 6.1.9 Shropshire Core Strategy policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.10 Policies MD2, MD3 and MD8 of the SAMDev have also been submitted for consideration by the planning inspector and as such can be given some, but limited, weight. Policy MD3 seeks to ensure sustainable design through seeking to promote community led plans, town or village design statements, neighbourhood plans and place plans with regard to design, appearance and how a place functions. The policy also seeks to ensure that development reflects local form and function, design and materials, historic and natural assets.; incorporates sustainable drainage, landscaping and open space; considers the existing infrastructure of the settlement and any need for new or improved infrastructure. Policy MD3 provides additional support for MD2 and for the development guidelines set out for each allocation. Policy MD8 requires development to ensure sufficient existing infrastructure capacity is available and also promotes the development of new infrastructure.
- 6.1.11 It is also appropriate to consider the NPPF as a whole in assessing the

sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. The planning balance which needs to be considered is balancing the benefit of the provision of new housing in close proximity to the sustainable market town against any harm.

6.2 **Is the site sustainable?**

6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.

6.2.2 Within the planning statement submitted in support of the application the agent considers that the site is sustainable as it will contribute to the housing supply in the town and county; is close to the town services and facilities; within walking distance of the existing bus stop on Prospect Road; will provide high quality residential development and housing mix, open space, landscaping, ecology enhancements and enhance permeability whilst not resulting in significant traffic movements or impact and will also contribute to council tax and new homes bonus. The agent acknowledges the impact of the loss of the agricultural land which is considered later in this report.

6.2.3 Local objectors have questioned the need for the development proposed, the lack of employment, leisure or entertainment facilities and whether there are brownfield sites which should be developed first. These concerns are noted, however the application forms part of the wider allocation in the SAMDev for approximately 400 houses which is expected over the lifetime of the SAMDev. The agent has estimated a completion rate of 25-30 per year and as such for the 162 houses proposed on this application would be likely to be completed in approximately 7 years. In response to the brownfield question officers are not aware of sufficient brownfield land available around Market Drayton which could accommodate a similar scale of development. The majority of developed land in the town remains in active use. Furthermore the housing target in Market Drayton is greater than the proposed allocation and relies on windfall development which is most likely to come from brownfield sites should they become available.

6.3 **Economic considerations?**

6.3.1 The construction of new housing in, or on the edge of, Market Drayton would support the businesses within the town and residential areas. Furthermore, the development will result in construction jobs, new homes bonus, new residents, increased household expenditure and the resultant opportunities to support local shops and facilities. The applicant's planning statement provides estimated figures for construction spending, jobs created, potential additional expenditure and demand for new public services. It is the agent's opinion that the economic benefits of the scheme far outweigh the economic potential of the land in

agricultural use.

- 6.3.2 Concerns have been raised about the lack of jobs available in the town however this is not a site specific objection to the development. Officers do not have any evidence that there are not job opportunities in the town and new opportunities being made available. The town has one of the County's largest employers in Muller's which has recently gained consent for a new production facility which once built will create additional employment. In addition there is consent for a new food store in the town, recent consents for other new businesses including the relocation of Hales Sawmills and employment land available and allocated within the SAMDev. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.
- 6.3.3 The development will also be liable for payment of the Community Infrastructure Levy (CIL) which for this site would be at the £40 per square metre rate and be used in accordance with policy CS9 to support local infrastructure requirements. This money can be used to assist in resolving the issues raised within the local place plan. The CIL fund would also be used to fund the improvements required at the primary school to accommodate the predicted additional pupil numbers noted by the Council Learning and Skills team. It is not considered necessary or reasonable to request an additional contribution beyond the CIL payment for education given that the place plan identifies education as a priority which CIL will be used for.
- 6.4 **Social considerations?**
- 6.4.1 The proposed development has social impacts and social benefits. The scale of the proposed development would increase pressure on local facilities and services such as the school and doctors as noted by the objectors. However, it also provides the opportunity for social benefits such the contribution towards community infrastructure levy (CIL). The Council Learning and Skills Team has commented that they would expect the development of 162 dwellings to yield 30 primary school pupils (rounded). Longlands Primary School, one of the two primary school catchments in the town, has a small amount of unfilled places at present. However, overall development in the plan period will take numbers significantly over capacity. Therefore, to keep things simple, and as this is one of the more significant housing investment sites in the town, to treat this application in isolation, fractionally over 30 pupils at a DfE cost of £11,767 translates into £355,412 to provide the places.
- 6.4.2 In addition the residential development of the land will also enable the provision of new public open spaces, the extension of the existing play area and a contribution towards the enhancement of Greenfields recreation facilities. These are all social benefits. The details of the size of the open space and the footpaths would need to form part of the reserved matters applications and would need to show how the open space is coordinated across the whole of the proposed sites allocated in the SAMDev; would need to comply with the interim planning guidance on open space and confirmation would also be required of who is to be responsible for maintaining these facilities. In order to achieve coordinated open space provision rather than small pockets of open space which is neither manageable or of significant use to the community, officers advice is that a condition is imposed on

the outline to require further details to be submitted. The Council would be seeking to achieve an extension to the existing play area close to Rush Lane and open space to be linked to the land either side of the application site to provide usable and well connected space.

- 6.4.3 As advised by the Council Affordable Housing Officer 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 a full application or a reserved matters application. The current prevailing target rate for affordable housing came into force on the 1st September 2013 and in this area is 10%, which would provide 16 affordable homes on site; however this will be reviewed in line with the target rate at the time when full applications or reserved matters are submitted. It is acknowledged that the reserved matters may come in a number of different applications and therefore each would need to provide the level of affordable housing required at the time of submission. The assumed tenure split of the affordable homes is currently 70% for affordable rent and 30% for low cost home ownership.
- 6.4.4 The Affordable Housing Statement submitted with the application notes that there are already a high number of 1 bed units available but fewer 2 and 3 bed properties and the statement suggest a mix and tenure split of housing provided in small clusters across the site designed to be of a similar appearance to the open market housing. However this conflicts in part with the advice from the Affordable Housing Officer which states that there is a need for all house types in Market Drayton and there are people on the housing register requiring everything from 1 bed up to and including 5 bed homes and that the Low Cost Home Ownership properties should be pepper potted around the site as these do not need to be clustered as the Housing Associations do not manage them. At this outline stage the principle of affordable housing as part of the wider development of the site is acceptable. The means to secure affordable housing would need to be via a section 106 legal agreement to ensure affordability in perpetuity and also to ensure the occupation is in accordance with the Council's adopted policy.
- 6.5 **Environmental considerations?**
- 6.5.1 The agent has confirmed that the land is grade 2 and 3a agricultural land. A report has been submitted with the application which advises that the site was surveyed and that the majority, 5.7 hectares, is free draining, loamy over sandy, soil and as such is grade 2 land. The remaining 1.2 hectares is poorly draining due to underlying clay and was considered to be grade 3a. The report makes recommendations for protecting the quality of the soil during the construction works to ensure permeability and improve landscape benefits. Given the majority of the site is grade 2 it is considered to be best and most versatile agricultural land and the development of this is an acknowledged harm. The National Planning Policy guides local authorities to consider the economic and other benefits of agricultural land and, where significant development is necessary, to use lower quality land in preference to higher quality land. Although the development of this site will result in the loss of some higher quality land the site has been considered as the most appropriate land to provide the scale of housing required in Market Drayton, without extending beyond the A53, for the forthcoming plan period. As

noted on other recent applications the development of higher grade agricultural land can not be avoided as there is insufficient brownfield or lower grade land available for the scale of development required for the County as a whole. Furthermore, as noted already within this report, the agent considers that the economic benefits of the proposed development far outweigh the economic benefits of retaining the land in agricultural use. The need for retaining agricultural land for food production does not outweigh the presumption in favour of sustainable development. Overall, although the loss of agricultural land is a harm resulting from the development this harm is not considered to outweigh the benefits.

6.5.2 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.

6.6 **Layout, scale and design**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 seeks to identify, protect, enhance and expand Shropshire's environmental assets, aiming to prevent development which adversely affects visual values or which does not contribute to local distinctiveness. Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character.

6.6.2 A master plan has been submitted with the application and an amended master plan submitted during the consideration of the application. Both documents seek to identify the areas within the application site, and within the wider SAMDev allocation site, where housing can be developed taking into account the need for a buffer along the A53, the flood zone and the access point. The master plan does not detail the precise layout and this would be a matter for consideration under an application for approval of reserved matters. In principle the construction of housing on this site is supported as it is being promoted within the SAMDev, the additional information provided by the master plan is intended to show the opportunities to link this site with the remainder of the SAMDev allocation and also the protection of the flood zone through the creation of open space in this area.

6.6.3 However, it is officers opinion that both master plans show limited information. The first iteration of the master plan showed the current application site with its proposed roundabout access, the flood zone un-developed and retention of hedges. It also shows the adjacent site with a new priority junction off the A53 and the potential for redevelopment of the Greenfields Lane sports facilities. In terms of showing coordinated development the master plan shows arrows where potential vehicular access links could be provided from the application site to the surrounding sites and an area for an ecology corridor on the adjacent land, next to the dismantled railway line. The second plan shows similar information in terms of vehicular links through the site though the roundabout is no longer shown, there are no bridges required over the watercourse and there is a potential for a further

estate road crossing Rush Lane to serve the land to the west.

- 6.6.4 In addition to the plan the application has been submitted with a design and access statement (D&A), revised design and access statement (D&A revision) and a landscape and visual impact assessment (LVIA). The D&A assesses the local context and character of Market Drayton and the immediate area around the application site by providing photographs of the site and area, historic maps and written assessments. The D&A acknowledges that hedges, trees, the flood zone and public rights of way are constraints of developing the site. It also accepts that the greenfield nature of the site makes it sensitive and comments that careful design of the built form and character will be required. The statement sets principles for the future development of the site suggesting that the layout will create interesting spaces and views and that the dwellings will be predominately 2 storey with the occasional 2.5 and 3 storey to define key corners or terminate views.
- 6.6.5 The D&A indicates the proposal to provide the 162 houses on 5.68 hectares of the site with the remaining 1.74 hectares providing open space, formal play areas and informal amenity green areas, areas for new planting and the provision of a sustainable drainage system. Although it is acknowledged that once outline consent is granted the land will be sold to developer(s) it is also possible to condition that the future development of the site is done in accordance with the D&A.
- 6.6.6 The D&A revision includes some additional support for the master plan which it advises is seeking to show how the site would work as part of a comprehensive development of the SAMDev allocation. The D&A revision suggests that, in the opinion of the applicant's consultant, that the master plan shows that the development will form a series of characterful places and integrated community, screens and softens the visual impact of the site, creates a well connected place with access for vehicles, pedestrians and cyclists and open space. However officers remain concerned about the ability of the master plan, which the D&A revision notes is not submitted for consideration and is indicative only, can achieve what it is suggesting.
- 6.6.7 Furthermore, although meetings have been held between the land owners and the agents submitting the two applications, it is noted that at the time of writing this report the SAMDev allocation has been submitted as two separate planning applications. There is a potential for two independently, isolated, sites to be developed without any form of connection or coordination which would be contrary to the forthcoming SAMDev and would be harmful to the overall development of Market Drayton, would be counter to community cohesion and would not amount to good planning. A condition is therefore recommended to ensure that the two sites work together.
- 6.6.8 The LVIA intends to assess the visual impact of the proposed development and notes that the site is gently undulating and considers it is heavily influenced by its urban fringe location. The assessment notes that the site lies within the national landscape character area of Shropshire, Cheshire and Staffordshire Plain and that within the Shropshire Landscape Typology document the site is part of the urban area with the land north of the A53 forming part of the Estate Farmland and

Settled Pastoral Farmland character areas. The assessment also confirms that there are no listed buildings or conservation areas on the site and that the nearest listed buildings are 900 metres to the northwest and 700 metres to the southeast.

- 6.6.9 Within the assessment the consultant considers that the site is surrounded by species poor hedgerows and that the landscape value of the site is affected by the A53, the adjoining residential developments and the sports fields. However, the author acknowledges that there are potential visual receptors affected by the proposed development including users of the rights of way, the sports pitches and road users and the existing dwellings. In assessing these receptors the consultant considers that the users of the public footpaths will experience partial views which will be restricted by trees and hedges. The views of users of the bridleway and byway vary depending on which section of the bridleway is being used. For part the site will only be partially visible whereas full views are available from the section which crosses the site. Users of the sports pitches views will be partial and distant and users of the road will have clear, though passing, views.
- 6.6.10 Some of the existing residential properties also have clear views of the site and others have partial or oblique views and the assessment submitted details the view from every adjacent property. The report acknowledges that these views are valued by the occupiers of the properties and as such recommends off setting the boundary landscaping. Furthermore, it is acknowledged within the LVIA that the character of the site will be changed significantly by the development but also considered that this is consistent with the grain of the townscape and the proposed development of the site is not expected to adversely affect the wider landscape. The report recommends the retention and improvement of hedgerows and trees and careful treatment of the edge along the A53 along with additional landscaping.
- 6.6.11 The information provided in both the D&A and the LVIA is useful in considering the potential impact of the development on the existing town and the wider landscape. However, as noted previously the application site is both a site being promoted in the SAMDev and is also the only remaining site which can accommodate the level of housing required for the town within the constraints of the Tern Valley to the south of the town and the A53 to the north. The impact on the views of residents is noted, however the right to a view is not a planning matter providing the development is appropriately laid out so as not to adversely affect amenities and to protect important community views and areas. The final layout of the site will be considered at the reserved matters stage and, in principle, the site is considered capable of accommodating new housing and is part of the wider site for accommodating the housing requirements of the town.

6.7 **Impact on residential amenity**

- 6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. As an outline application with all matters reserved for later approval it is not possible to fully consider the impact on the amenities of neighbouring residents in terms of overlooking or loss of light as the layout of the proposed housing is not yet known. Objections have raised concern about loss of privacy, increased noise and light pollution and impact on private water supplies and sewerage systems. The main issue raised by residents is the potential impact on

Rush Lane and the residents along it.

- 6.7.2 It is acknowledged that there are existing residential properties around the application site. Longslow Road and Croft Way both back onto the site. The properties along Longslow Road have sizeable rear gardens and as such any new dwellings within the application site would be of a sufficient distance from the existing dwellings. The properties on Croft Way have shorter gardens and first floor windows which overlook the site. It will therefore be essential to ensure that any development in this section of the site is provided with appropriate separation distances to protect amenity. The main impact will be on the properties along Rush Lane. These are made up of a variety of house styles, sizes and ages and with the potential for these existing properties to be close to new dwellings on the application site. In terms of loss of privacy and light it is considered that the development of the site could be laid out with sufficient distance between new and existing properties to ensure that the impact is not unacceptable. It is accepted that the development of the site will alter the outlook from these properties and will also alter the noise levels and light levels. However as a proposed residential development adjacent to residential development the impact would not be beyond what could reasonably be expected in similar situations. The land is not protected and the town needs to grow and provide new housing. As noted previously within the report this is part of a wider site which provides the only land capable of providing the scale of additional new housing required in the town without extending beyond the bypass. Officers consider that the development of the site could be achieved without substantial adverse impact on the amenities of the existing properties and would not result in overlooking or loss of light.
- 6.7.3 The application has also been submitted with an Air Quality assessment which has considered the air quality before, during and after development, assessed the potential for dust during demolition and construction and road traffic emissions before and after development. The conclusion of this report is that emissions will not exceed annual mean objectives and that the impact of the development on existing properties, in terms of dust and emissions, will be negligible. However the report recommends mitigation to control dust during construction.
- 6.7.4 A Noise Survey has also been undertaken and submitted with the application recording road traffic noise and bird song as the existing noise sources. The survey considers the potential impact on existing properties and on the future residents of the proposed development acknowledging the close proximity of existing properties and the location of the site in relation to the A53. The results of the survey work show that the noise levels at outdoor areas near the A53 would exceed World Health Organisation limits. As such the consultant recommends a 60m buffer between the road and the housing closest to the road and the layout of the site so that these nearest houses face the A53 with private gardens on the town side of the houses. Furthermore the report advises that standard double glazing will be sufficient to protect amenity when the windows are closed but that the properties nearest the road will require acoustic ventilation in living rooms and bedrooms facing the A53 to ensure ventilation is available without opening windows.
- 6.7.5 The Council Public Protection Officer has considered both of these documents and the proposed development and recommends conditions on the outline

consent to require details of dust mitigation, wheel washing facilities and further contamination assessment and the consideration of ultra-low NOx boilers in all properties and noise mitigation during the determination of the layout and design of the dwellings at reserved matters.

- 6.7.6 With regard to the use of Rush Lane concerns have been raised that the residents of the new development will use Rush Lane to access the town and that this will cause conflict, congestion and maintenance issues on the Lane and in the wider area. In order to alleviate these concerns the applicant has proposed 2 options for restricting the use of Rush Lane. Option A proposes reducing the width of Rush Lane to a single vehicle width and providing the estate road at an alignment which would require vehicles turning from the new estate road into Rush Lane to take a very severe right angle turn, which the reduced width of Rush Lane would make very difficult. This option is intended to not constrain the existing use of Rush Lane but it is also accepted that this would not prevent the new residents using Rush Lane, especially on motorcycles.
- 6.7.7 Option B recommends the installation of bollards on Rush Lane at the point where the proposed estate road crosses. The residents of the single property on Rush Lane which would lie beyond the bollards would have an electronic device to enable the bollards to be lowered and re-raised. The bollards would also have to be set up to lower for emergency vehicles such as fire engines and ambulances. This would prevent the residents of the new development from using Rush Lane without reducing the width of Rush Lane but would also prevent any vehicles that are not associated with the single property, Rushdon, using the lane beyond the bollards. At this time is it not essential to deal with this matter in full. The layout of the housing development is subject to later approval and as such it may not be necessary to cross Rush Lane at this point. Furthermore, any changes to the alignment, surfacing or the installation of bollards will require consent from the Council Rights of Way Team as any such work would affect a right of way.
- 6.7.8 Notwithstanding this, the information provided to date, in the form of an outline planning application, master plan, landscape and visual impact assessment and the technical reports have shown that it would be possible to develop the application site without adversely affecting the amenities of the existing residents that are within and around the site in accordance with policy CS6 and the requirements of the Type and Affordability of Housing SPD.
- 6.8 **Highways, access, parking and rights of way**
- 6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
- 6.8.2 A new access is proposed off the A53 in the form of a new roundabout. This is intended to serve the application development, the surrounding land being put forward for allocation in the SAMDev and the sports facilities off Greenfields Lane, either as a sports facility or following redevelopment. The application site does

not have any other vehicular access. The existing Rush Lane is proposed to be used for emergency access, pedestrian and cycle access and additional information has been submitted showing the proposals for restricting access on Rush Lane and for an estate road crossing Rush Lane.

- 6.8.3 Both a Transport Assessment and Travel Plan have been submitted with the application. The TA notes the existing width of Rush Lane, that it is an unadopted, unsurfaced track with no footways or street lighting. The A53 is the main route for travelling around Market Drayton or to access the north of the town. It is currently a two way carriageway with roundabouts and priority junctions serving the town and employment sites outside the A53. It currently forms a boundary to the edge of the built development with only employment uses on the opposite side at key roundabout junctions.
- 6.8.4 Traffic count data is provided within the TA showing details of the traffic counts undertaken by the consultant on the A53 and the junctions of the A53 and Adderley Road, the A53 and Bridge Road and Bridge Road and Longslow Road. The assessment has then used national database information to estimate vehicle movements for the proposed development. The report advises that during the am peak hour approximately 121 movements are expected and 114 during the pm peak hour. Taking into account the traffic counts the traffic movements are expected to result in a 10% increase in traffic on the A53 and as such the TA considers that this impact would be marginal at worse.
- 6.8.5 The TA comments that the town centre and local schools are within 2km of the site, the nearest bus stop is 400m from the site with buses every 30mins between 7am and 6:30pm. The Design and Access Statement includes a plan showing what parts of the town are within 5 minutes, 10 minutes and 15 minutes walk and includes the bus stops, town and school. There are existing footpaths from the edge of the site through the residential areas leading to the town, services and facilities. The TA suggest that the development of the site will improve pedestrian connectivity by providing improved access around the site and surrounding area and that the proposed roundabout will also provide a safer point for pedestrians wishing to cross the A53 to access the footpaths in the wider area.
- 6.8.6 The TP seeks to form a “long term strategy for reducing dependence of residents and visitors on travel by private car”. It is proposed to promote reducing car trips by providing residents with a welcome pack including information on public transport, walking and cycling routes and information on cycle safety training. Notice boards will also be provided around the application site in communal areas advising residents of information. A travel plan co-ordinator is recommended in the TP to market and promote alternative means of travel and car sharing, monitor and update the information and advice and provide regular surveys of residents travel patterns.
- 6.8.7 In considering the application and the submitted information the Council Highway Officer has advised that the principle of developing the site is acceptable and so is the principle of a point of access, in the form of a roundabout, off the A53. However, although this is acceptable in principle, the Council Highway Officer has advised that the proposed location of the roundabout is not the only position along the A53 which would provide an appropriate location for a roundabout.

Furthermore it is not recommended that the application site is served purely from the access off the A53 in that links will also need to be provided to the surrounding land and existing roads surrounding the site.

- 6.8.8 Dealing with this first matter first the Highway Officer has noted that there are a number of different land owners who hold a land interest in the development of the wider SAMDev allocation. This can be seen from the other two applications which are relevant to the consideration of this application. Application 14/02630/FUL is for a vehicular access, in the form of a priority junction, off the A53, submitted by HOW Planning on behalf of the adjacent land owner. Application 14/03782/OUT is an outline planning application for residential development which proposes to utilise the access applied for under 14/02630/FUL. These two applications are seeking an alternative access to the one proposed in the application to which this report relates. The Highway Officer has confirmed that more than one access off the A53 would be harmful to highway safety and traffic flows given that the A53 is primarily a bypass around the outside of Market Drayton. As such it is a matter for members, on advice from officers, to consider which of the two accesses is the most appropriate. Officers advise that the proposal within the application to which this report relates is a roundabout and as such provides a safe means of access to the development site and surrounding land with the least level of risk to highway safety and free flow of traffic. The application 14/02630/FUL proposes a priority junction and as the advice from the Highway Officer is that a roundabout would be preferred this alternative would not, in its current form, propose the preferred means of access.
- 6.8.9 This is not to say that a priority junction would not be suitable, purely that the advice is that a roundabout would be preferred. Furthermore, officers advise that some weight can also be given to the options for accessing the land being put forward in the SAMDev. As it stands there are two planning applications, this application 14/01982/OUT and the other application 14/03782/OUT which between them cover most of the land being put forward for allocation in the SAMDev. The proposed access off the A53 is the only means of vehicular access available to the current planning application whereas the other application has access off Hampton Drive available for use. The agent for the other application has confirmed that the other application could be developed from Hampton Drive and as such there would be no impediment to the commencement of the housing development. Whereas the application to which this report relates could not be developed without an access off the A53 or without waiting for the development of the surrounding land. As such, giving weight to the National priority for house building, enabling both applications to commence development would promote house building and add to the supply of housing in the district.
- 6.8.10 The issue of linking the proposed access from the A53, through the application site, to the surrounding allocated land is a significant issue. The proposed SAMDev allocation advises that the sites may be developed independently, however they must demonstrate how they work together to deliver a coordinated residential scheme for the town including appropriate access and access improvements, cycle and pedestrian links towards the town centre. As a stand alone outline planning application there is a risk that the development of this site would result in 169 dwellings served off an access off the A53 with only pedestrian and cycle links to the town. As such all vehicle movements would be directed out

onto the A53 and away from the town. This would not promote the town or its facilities and would not constitute good planning. The application has been submitted with a master plan which the agent advises shows the potential for links through to the surrounding land, however officers advice is that this needs to be strengthened and further detail provided to ensure that the development of this site is connected to the developments either side and that there are routes through for traffic.

- 6.8.11 This is also essential for public transport. Currently to serve the site a bus would also have to access the site from the town via the A53. Although the Council Public Transport Commissioner has advised on a indication of gross subsidy cost for public transport provision this is dependant on the bus being able to go through the site and the adjacent sites. The cost would be substantially greater if the bus was required to use the A53 to enter and leave the site via the roundabout. Furthermore, at this stage, without further detail on the layout of the site in relation to the adjacent land it is not possible to fully understand the cost of bus enhancements.
- 6.8.12 It is essential that, although officers are recommending approval for the roundabout, that this is not then used to financially or physically ransom the development of the surrounding land. It is not a matter for the Council how the cost of the roundabout is apportioned amongst the future developments served by the roundabout, however it is necessary to ensure that this junction is provided at an early stage and that access to this junction is made available to the land outside of the application site. Although, as noted by the Council Highway Officer, the TA only considers the impact on the roundabout, A53 and other junctions in the area from the proposed scale of the development, it is officers opinion that an appropriate roundabout could be provided at this point on the A53 to serve the application site, the remainder of the SAMDev allocation and the sports facilities, either as sports or redeveloped for housing.
- 6.8.13 The Council Highway Officer has also provided advice on the proposals to cross Rush Lane, which although detailed plans have been provided, are not a matter for consideration at this stage as these would need to be dealt with at reserved matters, and also advice on the potential traffic levels and construction traffic and no objection has been raised in regard to these matters.
- 6.8.14 Rush Lane is a restricted byway and as such is a public right of way which can be used for use by non motorised vehicles, people on horses, pedal cycles or on foot. The existing residential properties along Rush Lane have established rights to use the lane with motorised vehicles but this right does not necessarily extend to the surrounding land. However the application site does not include Rush Lane other than proposing use as emergency access and proposing means of limiting access. The means of restricting the access will need to be discussed with the Council Rights of Way Team. Greenfields Lane also crosses the application site as a bridleway and any changes to the alignment of this public right of way will need to be through a legal order, an application to the Rights of Way department. However, at outline stage it is not possible to confirm the alignment of the bridleway. It would be preferential to retain it in its existing alignment and condition but this will need to be considered when the layout is proposed at reserved matters.

6.8.15 In conclusion the principle of a roundabout junction onto the A53 is acceptable, however this can not be the only means of access to the housing developed on the application site, and as such a condition is recommended to ensure that, amongst other things, the development of this site works with the development of the surrounding land to provide a coordinated and comprehensive development. The level of traffic movements from the development is not considered to result in a severe impact and the design specifications of the roundabout and internal estate roads can be controlled by condition. As such, the principle of the development is acceptable.

6.9 Ecology and trees

6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. An ecology assessment and survey have been undertaken and submitted with the current application and this was considered by the Council's Ecologist and Tree Officer.

6.9.2 The assessment included a desk study and assessments of the site, existing buildings, trees, hedges and the surrounding area. There are no statutory designated sites within the area, two County Wildlife sites lie approximately 1.2 and 1.3km from the site and the report notes that Sych Brook is part of a Local BAP Habitat Action Plan. There is historic record evidence of badgers, bats, water vole, otter, hedgehog, grass snake, great crested newts, barn owls and a variety of species of birds. The on site survey work notes the species and quality of the fauna, hedges and grassland and has also considered the potential for all of the above species.

6.9.3 Within the assessment it is recommended that hedgerow retention should be maximised and gaps filled in. This is acknowledged to provide wildlife benefits and corridors for commuting. Furthermore the report supports the proposal to retain the area around the Sych Brook as an open space and enhance this area for wildlife. With regard to protected species the report recommends further survey work for bats as one building may be appropriate for bats and further survey work for Great Crested Newts. The exclusion of the site for badgers and the closure of the existing sett close to the site is also recommended, however the surveyor suggests that this is an outlier sett and as such the closure would not be detrimental to the local population. Site clearance is recommended outside of bird nesting season or following thorough checks of the hedges, trees and buildings and artificial nests are recommended.

6.9.4 The assessment advises that there is unlikely to be a risk to water vole and otter, that the development will not result in the loss of habitat for hedgehogs providing that gaps are provided in the garden fences. Enhancements are also recommended in the form of appropriate landscaping, planting of wildflowers, provision of nest boxes for barn owls and birds and roosting boxes for bats.

6.9.5 In considering the information the Council Ecologist has confirmed that the closest Site of Special Scientific Interest to the site, Tynley Canal Cutting is 4.8km away. Hodnet Heath SSSI is 9km distance and Brown Moss SSSI and Ramsar site is

11.5km from the application site. The Council Ecologist has considered discharges of water or liquid waste from the site however there are no pathways by which the development could affect these SSSI's. In considering the impact on protected species the Council Ecologist advised that further survey work was required for Great Crested Newts, recommended a condition to ensure the closure of the existing badger sett, conditions requiring details of lighting, the provision of 10 bat boxes and the provision of 10 artificial nests.

- 6.9.6 Following submission of the additional ecology information the Council Ecologist has provided a fully detailed consultation response as detailed above. Overall the additional information provided has overcome the previous concerns raised regarding Great Crested Newts and Bats and, subject to conditions, the development will not have a significant adverse effect on statutorily protected species.
- 6.9.7 An Arboricultural Assessment has been submitted with the application which advises that there are no trees covered by Tree Protection Orders but that there are existing mature broadleaf trees, conifers, groups of trees and native hedgerows mostly off site, adjacent to the site boundaries and within adjacent fields. Of the surveyed trees 6 trees and 1 group of trees are considered to be of high quality and value, 10 trees and 9 groups considered to be moderate and 8 trees and 35 groups of low quality. 2 trees, a mature sycamore and a mature English Oak are category A trees (best quality) and lie within the application site. The other high quality trees are outside the site boundaries. Other trees within the site are common hawthorn and are of lower value.
- 6.9.8 The proposal is to retain as many existing trees and hedges as possible and provide green corridors and open spaces. Some trees will need to be removed to create the access point and internal estate roads, however at this time the layout of the estate roads is unknown. The report recommends a further survey be submitted at reserved matters and concludes that the development can maintain the majority of the trees and mitigate the small losses. Furthermore it recommends the erection of protective fencing and working procedures to protect retained trees. The Council Tree Officer has confirmed that there is no objection from an arboricultural perspective and that the findings and conclusions from the submitted tree report are satisfactory. The Council Tree Officer agrees with the recommendation for further information to be submitted at reserved matters.
- 6.9.9 Overall, subject to the conditions recommended by the Council Ecologist and, subject to a further arboricultural assessment at the time of the reserved matters application, the development can be undertaken without significant adverse impact on statutorily protected species or on important trees and hedges. Landscaping and ecology enhancements and mitigation is proposed and as such the development of the site would comply with requirements of the relevant policy.
- 6.10 **Drainage**
- 6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Given the size of the site and that part of the site is identified within the Environment Agency flood zones a Flood Risk Assessment has been

submitted. The majority of the site is within flood zone 1 but the northern section around Sych Brook is zones 2 and 3. The master plan submitted with the application and the FRA both advise that the proposal is to exclude the area within flood zones 2 and 3 from residential development. The access road will cross through the flood zone but it is not proposed to construct any housing within this area and mitigation is proposed to compensate flood capacity lost through the construction of the road.

- 6.10.2 The FRA concludes that there is no indication of ground water flooding, no risk from surface water from off site and no sewer flooding. The Environment Agency has advised that they have no objection to the proposal confirming that the site is partially located within Flood Zone 3 of the Sych Brook, which is classified as a 'main river' and is considered high probability of fluvial flooding. Part is also within flood zone 2, the remainder is located within flood zone 1. It is recognised that the development of housing is classed as 'more vulnerable' development and as such there is a requirement for the application to be considered against the sequential test as set out in the NPPF. This test requires either the local authority or the applicant to test whether there are other sites available which are at lower risk of flooding.
- 6.10.3 Whether a site passes the sequential test is a matter for the Council to determine. In the case of the application site, as part of a wider site being promoted for allocation in the SAMDev, the Council has undertaken the sequential test for the site. Although it is accepted that there are other sites available for housing development in Market Drayton none of the sites are capable of providing the scale of development that is required for the town or the scale of development that the proposed site can deliver. Given the sequential test has been undertaken for the SAMDev it is not considered necessary or reasonable to re-assess the test or to consider sites in other towns as potential alternative sites. In this situation there is a requirement for new housing to be allocated and provided in Market Drayton and the application site has been assessed as the preferred option.
- 6.10.4 However, weight can be given to the proposal to locate all of the built development outside of flood zone 3. The EA have advised that based on the scale and nature of the proposals which are affected by flood zone 3 as confirmed in the FRA (ie access road from the A53 and roundabout) that they will not be making any bespoke comments on the sequential test and that they do not require detailed hydraulic modelling of the river.
- 6.10.5 Surface water is proposed to be discharged to Sych Brook following attenuation to ensure that the discharge rate is no greater than the existing greenfield rate. The attenuation is proposed to be in pipes within the development site and also through the provision of an on site attenuation pond within the open space and within the area identified as within flood zones 2 and 3. Sych Brook runs along the north east boundary of the site and leads into the River Ducklow. 1.5km west of the site. The use of water butts and permeable surfacing will also reduce surface water. The surface water drainage pipes are to be submitted for adoption by the utility company and the attenuation pond is to be maintained by a management company. The applicant has submitted a letter from United Utilities accepting the surface water drainage proposals. However, this is also a matter, similar to vehicular access, where a system is required that can provide a

comprehensive development of the wider SAMDev site. The Council would not consider that treating the surface water of the application site independently from the surface water from the wider allocation is appropriate and would, in the longer term, be aiming to see a sustainable drainage system which deals with the surface water drainage from the whole of the SAMDev allocation and reduces surface water. It is not intended that the drainage for the whole allocation is dealt with in the current application site, but that the application site forms part of a SAMDev allocation wide drainage system and at this stage it is not possible to confirm that the proposals would achieve this.

- 6.10.6 Foul drainage is proposed to be connected to the existing mains drainage system. United Utilities has confirmed to the applicant that foul drainage connection can be provided and that there are no concerns regarding the ability of the public sewerage system or treatment plan accommodating the development. There are existing sewers in Longslow Road and a pumping station adjacent to the site. Connection is proposed via the narrow strip of land which runs parallel with Rush Lane. Although concerns have been raised by local residents about the capacity of sewers this concern is not reflected in the advice from the sewerage undertaker and the responsible service provider United Utilities. Concern has also been raised that the applicant does not have sufficient land to connect to the mains system, however the use of other land is a private matter between land owners.
- 6.10.7 The Council Drainage Engineer has commented on the surface water proposals and advised that drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted. This information will also have to resolve the concern raised by the Drainage Engineer regarding groundwater flooding and the water table, however in principle the Council Drainage Engineer has no objection to the proposed development of the site. As such, taking into consideration the advice given by the Environment Agency and the Council Drainage Engineer, the information provided by the applicant and the local objectors it is Officers advice that the development of the site can comply with the requirements of policy CS18 and the NPPF with regard to flood risk and drainage but that further information is required to show how it will be part of a comprehensive development.
- 6.10 **Other matters**
- 6.10.1 The Council Archaeologist has advised that the site is located within the area of the former town fields and over the Devensian fluvio-glacial drift deposits which may have been settled and exploited from the later prehistoric period onwards. There is therefore some potential for currently unknown archaeological deposits and features of prehistoric and Roman date to be present. The report submitted on behalf of the applicant advises that there are no recorded designations or archaeological finds within the site and as such considers that there is low to no potential for archaeological deposits. Given this conflict the Council Archaeologist has discussed the matter with the applicant's consultant and following negotiations the conclusion recommends a condition be imposed to secure the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a sample geophysical survey and targeted trial trenching of any anomalies thus identified (up to a 2% sample of the study area), followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes

shall be approved in writing by the Planning Authority prior to the commencement of works.

- 6.10.2 Although predominately agricultural land the applicant has accepted the potential that the site contains some contamination. A Ground Conditions report has been submitted identifying existing uses, previous uses and potential for contamination. It is noted that parts of the site had previous sand and gravel extraction but the majority of the site has been agricultural and open since prior to 1879. Overall the report considers that based on historic land uses and current use the contamination risk is low but recommends trial pits and soil testing. Furthermore it identifies the probability of contamination from made ground and petroleum as being likely but that this risk is moderate. As noted previously in the report the Council Public Protection Officer has advised that a condition is imposed to require further assessment of contamination. This is considered to be sufficient to ensure that there is not harm to existing or future residents and that the construction works are undertaken appropriately.
- 6.10.3 The Council Economic Development Officer has requested a Local Employment and Training Agreement be included as a condition of the consent. Although the employment and training of local people would be something which could be commended and supported by the Council a condition to require it would not comply with the tests set out in the National Planning Guidance as it would not be a matter against which the application could be refused without such a condition. Furthermore, at this outline stage, the application has been submitted by a planning agent and is not currently within the control of a house builder or developer. As such it may be that the site is sold to a local builder or sold to a company who do employ local construction workers, however it would not be reasonable or required to make the development acceptable to insist on this.
- 6.10.4 One objector has also noted the requirement for Market Drayton Town Council to provide sufficient supply of allotments. This is a matter for the Town Council. However the legislation does not require the Town Council to provide an allotment for every resident who requests one, it is for the Town Council to manage supply and provide further allotments if there is a demand and it is recognised by The National Allotment Society that contacting the Council can, in most cases, be getting your name on a waiting list. As such this issue is not a material planning consideration in the determination of the application.

7.0 CONCLUSION

- 7.1 The site is located outside the current development boundary for Market Drayton and is therefore classed as a departure from the development plan. However, the site is part of the three sites being promoted for future housing development in the SAMDev and it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.
- 7.2 The proposed access is acceptable in principle as one means of access to the

site, the development of the site would not result in severe traffic impacts, increase flood risk or adversely affect statutorily protected species and can be developed in a way that would not significantly affect the amenities of existing or future residents. However the development of this site will have to coordinate with the surrounding land in regards to access, internal layout, vehicular connectivity to the surrounding sites, public transport routes, surface water drainage, ecology mitigation and open space. It is accepted by the Council that the application site can be developed independently of the surrounding land but that a condition is required to show how the application site will form part of the wider allocation and comprehensive development of the wider allocation.

- 7.3 Accordingly, it is considered that, in principle, the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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.

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 - written representations, a hearing or inquiry.

The decision is 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 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**

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**

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

10.2 Relevant planning history:

14/01982/OUT Outline application (access for approval) for mixed residential development (up to 162 dwellings), associated open space and landscaping PCO

11. **ADDITIONAL INFORMATION**

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

Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Roger Hughes Cllr David Minnery
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development, the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall commence until a Master Plan showing how the permitted development will integrate with the remainder of the land identified for allocation under policy S11.1a of the Site Allocations and Management of Development (SAMDev) Plan Pre-Submission Draft (Final Plan) dated 17th March 2014 ("the S11.1a Land") has been submitted to and approved in writing by the Local Planning Authority.

The Master Plan shall address the following:

- Pedestrian and cycle links with the S11.1a Land to the east and west of the site and to the existing public right of way
- Vehicular links, including for public transport, from the approved access roundabout to the remainder of the S11.1a Land to the east and west of the site
- The provision of public open space.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

5. Applications for approval of reserved matters shall thereafter be in accordance with the approved Master Plan.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

6. 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.

7.
 - a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.
 - b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
 - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
 - e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

8. No site clearance works within 30 metres of the badger sett on site shall commence until the sett on site has been closed under licence accordance with details given in the Ecological Assessment by FPCR submitted on 22nd April 2014

Reason: To ensure the protection of badgers, under the Badgers Act (1992)

9. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a sample geophysical survey and targeted trial trenching of any anomalies thus identified (up to a 2% sample of the study area), followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site holds archaeological interest

10. No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site. The approved scheme shall be retained on site for the duration of the construction works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

11. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

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

12. Prior to the first occupation of the dwellings details of ten 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

13. Prior to the first occupation of the dwellings details of ten 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

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

14. 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.

15. During the demolition and construction of the site no burning shall occur on site at any time. This includes the burning of vegetation from clearance work.

Reason: to protect the amenity of the area

16. Construction work, including the arrival of deliveries and unloading of deliveries, shall only be carried out between the following hours: Monday to Friday 07:30-18:00, Saturday 08:00-13:00. No work shall be permitted on Sundays or Bank Holidays without written consent from the Local Planning Authority.

Reason: to protect nearby residential amenity and the health and wellbeing of residents living in close proximity to the development.



Committee and Date
 North Planning Committee
 18 November 2014

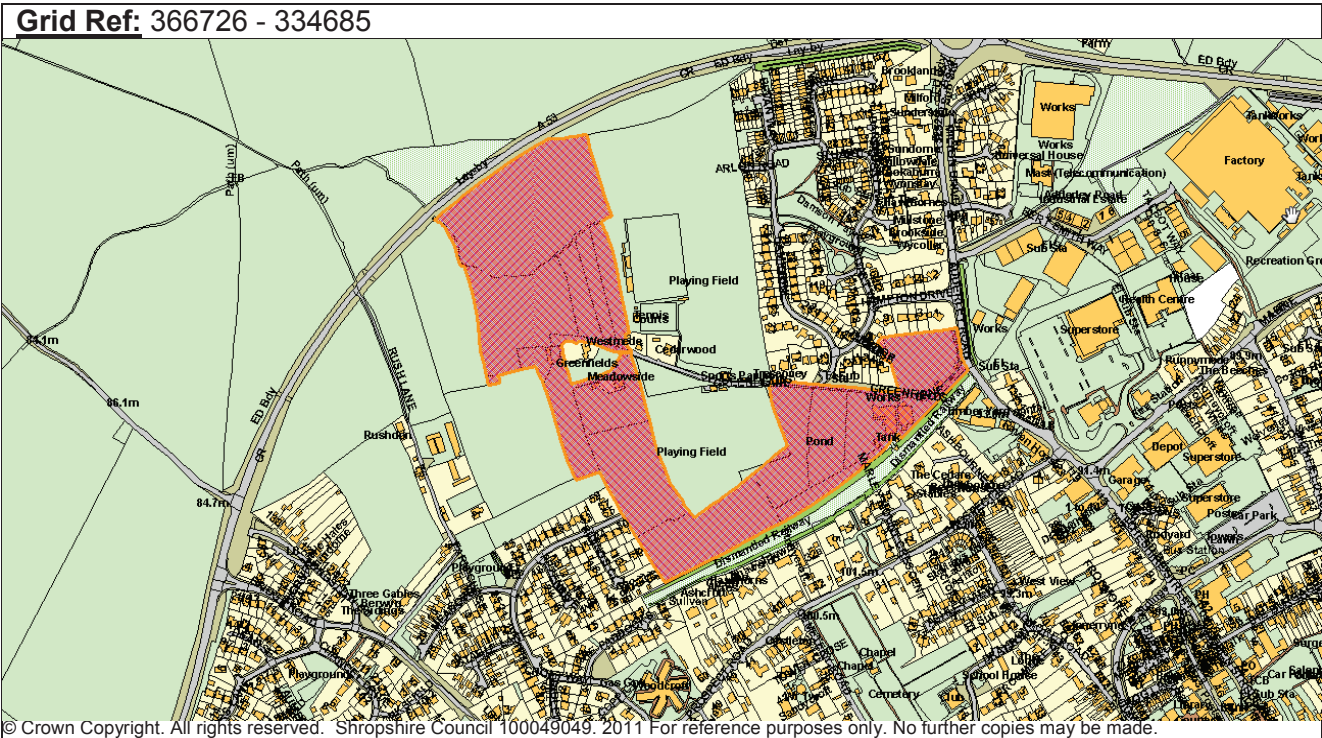
Item
6
 Public

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> 14/03782/OUT	<u>Parish:</u>	Market Drayton Town
<u>Proposal:</u> Outline application (access for approval) for the residential development of upto 250dwellings; to include demolition of existing structures on site; formation of vehicular accesses from the A53 and Hampton Drive		
<u>Site Address:</u> Land Off Greenfields Lane Market Drayton Shropshire		
<u>Applicant:</u> Danbank Developments Ltd		
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk	



Recommendation:- Subject to the satisfactory resolution of the outstanding ecology matters and removal of the objection from the Environment Agency GRANT planning

permission subject to the applicants entering into a S106 agreement to secure affordable housing and a contribution towards public transport and also subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is for outline planning permission with only access submitted at this time for consideration. All other matters of layout, scale, appearance and landscaping are reserved for later approval. The application proposes up to 250 houses, vehicular access off Hampton Drive and the A53, areas of open space, landscaping and associated works. Two means of access are proposed, an extension of the existing estate road in Hampton Drive and a new junction off the A53 in the form of a priority, ghost island, junction. An indicative layout and artists impressions have been sent with the application to show how the site could be developed and also how the development of this site will connect to the adjacent site which is being considered under a separate application.
- 1.2 To support the proposal the application has been submitted with the following documents: Planning Statement, Design and Access Statement, Heritage Assessment, Transport Assessment, Travel Plan, Geo-environmental reports, Ecology Appraisal and Flood Risk Assessment.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This application site is 11 hectares in area and predominately farm land but also includes the site of PD Stephens and an area of previously developed land in the south east of the site. It is L shaped around the existing sports pitches off Greenfields Lane and lies to the south of the A53. Greenfields Lane, which is a bridleway, runs through the site and is currently used by the existing businesses, sports facilities and a small number of houses. The sports facilities include rugby and football pitches and tennis courts and their associated buildings and structures. The disused Market Drayton railway line sits to the south of the site on an embankment with residential development to the south and the modern housing estate of Hampton Drive lies to the east.
- 2.2 The land is generally level with only a small change in fall but is lower than the A53 and also has Sych Brook, an existing watercourse, running across the site which itself is at a lower level than the surrounding land. The existing buildings at PD Stephens would be demolished and the land redeveloped and one dwelling at the end of Greenfields Lane would be retained as it is outside the applicants ownership. The site will be highly visible from the A53 and also from the surrounding housing development.
- 2.3 The site lies on the northern edge of Market Drayton, within the bypass formed by the A53. The town centre is south of the site and approximately 2km away. Market Drayton is identified in both the North Shropshire Local Plan and the Shropshire Core Strategy as a Market Town and as such a key focus for new development.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is considered by the Planning Services Manager to be a complex

major application with relevant material considerations which would benefit from debate by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Market Drayton Town Council – Objection To recommend refusal of the application on the grounds that a roundabout is needed on the junction with the A53 and the proposed 'T' junction would be inadequate and unsafe. It was suggested that a risk assessment of the traffic in the area would be needed.

4.1.2 Moreton Say Parish Council – No comments received at time of writing report

4.1.3 Affordable Housing – No objection 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.

4.1.4 Recreation and open space – No objection As the outline planning application has no bed numbers and it is difficult to measure the open space allocation from the maps provided assumptions have been made. On the basis of 250 houses providing 750 bed spaces with a requirement of 30sqm per bed space the open space requirement for this development would be 22,250sqm. There appears to be slightly more than the required amount in this design if the attenuation pond, central greenspace, southern fringe of woodland and wildlife corridor are included. The allocation of greenspace will need to be checked in more detail when more detail is available.

The design of the open space is good with a large recreational space with points of interest, access and footpaths along with potential for this to be expanded along the valley as neighbouring developments arise. Perhaps seating and other infrastructure provision, including natural and formal play equipment, will be part of the final plan. There is also additional open space with access, ecological and landscape benefit on the site.

4.1.5 Sport England – No objection. The application relates to an outline proposal for the construction of up to 250 dwellings on land adjacent to existing playing fields. The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation.

Sport England has assessed the application in the light of Sport England's Land Use Planning Policy Statement 'Planning for Sport Aims and Objectives'. A copy of which can be found at:

http://www.sportengland.org/media/162412/planning-for-sport_aims-objectives-june-2013.pdf

The statement details Sport England's three objectives in its involvement in planning matters;

- 1) To prevent the loss of sports facilities and land along with access to natural resources used for sport.
- 2) To ensure that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable.
- 3) To ensure that new sports facilities are planned for and provided in a positive and integrated way and that opportunities for new facilities are identified to meet current and future demands for sporting participation.

It is considered that the proposal would be consistent with Policy Objective 1 subject to access to the current sports facilities being maintained during and after implementation of the development, should the Council be minded to approve the application, which appears to be the position based on the details provided as part of the application.

This being the case, Sport England does not wish to raise an objection to this application

The absence of an objection to this application in the context of the Town and Country Planning Acts, does not in any way commit Sport England's or any National Governing Body of Sport's support for any related application for grants funding.

We would be grateful if you would advise us of the outcome of the application by sending a copy of the decision notice. If you would like any further information or advice please contact the undersigned at the address below.

4.1.6 **Learning and Skills** – No comments received at time of writing report

4.1.7 **Archaeology – No objection.** The proposed development site is located on the north-western edge of Market Drayton and is understood to comprise an overall area of approximately 11ha. Located within the former town fields, an Archaeological Desk Based Assessment submitted as part of the planning application confirms that earthwork remains of medieval/ post-medieval ridge and furrow survive within a limited area near the south-east corner of the site (between the playing fields and the industrial units at the eastern end of the site). No other heritage assets with archaeological interest are currently recorded on the Shropshire Historic Environment Record or identified within the Desk Based Assessment. Beyond the area containing earthwork remains of ridge and furrow, the Assessment concludes there is nil-low potential for remains of prehistoric, Roman and medieval date. However, there have been no previous archaeological field evaluations within the area of the proposed development site and its potential therefore remains untested. In this respect, it is noted that the site overlies Devensian fluvio-glacial drift deposits which in Shropshire have been settled and exploited from the later prehistoric period onwards.

It is advised that the archaeological Desk Based Assessment by CGMS

Consulting which has been submitted with the application provides a satisfactory level of baseline information about the archaeological interest of the site in relation to Paragraph 128 of the NPPF. Given the assessed level of archaeological interest of the proposed development site, and the caveats cited above relating to this, it is advised that a phased programme of archaeological work be made a condition of any planning permission for the proposed development. This should comprise a pre-commencement Level 2 survey of the archaeological earthworks that conforms with English Heritage's guidance on 'Understanding the Archaeology of Landscapes: A guide to good recording practice' (2009), together with a field evaluation of the remainder of the site comprising a sample geophysical survey and targeted trial trenching (up to a 2% sample of the survey areas). Thereafter, further archaeological mitigation may be required as appropriate, but to include as a minimum an archaeological watching brief during the groundworks phase of the development within the area containing the earthwork remains of ridge and furrow.

- 4.1.8 **Conservation** – Within the site it is noted that the farm buildings at Greenfields still exist, however, there would appear to be no plans to reuse them as part of the scheme (they appear to be on the general site of the square in the centre of the site).

The information regarding the buildings provided within the Heritage Statement is not sufficient when judged against the requirements of para 128 of the NPPF, they comment on the buildings and note the Farmstead Characterisation work undertaken by Charlotte Baxter (which was a rapid desk based assessment of the 1902 historic maps with no field assessment having been carried out) and therefore dismiss the buildings with no actual assessment of their significance being described, including any contribution made by their setting. As the buildings are intended to be demolished they should be appropriately assessed to ensure that the Local Authority is satisfied that it is appropriate to demolish them and not incorporate them within the proposal.

The design of any proposed dwellings should reflect the local vernacular detail in terms of scale, details, materials and layout. Developments of this type have the potential to have an adverse impact on the landscape character of the area. However, this is not something which the Historic Environment Team can advise on. We would therefore recommend that Development Management consider obtaining the opinion of an appropriately qualified Landscape professional.

- 4.1.9 **Highway – No objection.** This application, submitted by Danbank, seeks to promote part of the land within the SAMDev land allocation which is currently under examination. The land therefore forms part of the 2 residential development sites being promoted, the other which is the subject of applications 14/01982/OUT (subject of appeal) and 14/04701/OUT both submitted by Gladman.

In addition to the above Danbank submitted an initial application Ref 14/02630/FUL for the construction of an access only proposal onto the A53, showing a ghost island junction layout or otherwise known as a right turning lane junction arrangement. However at that time it was clear that a further outline application was to be submitted by Danbank to promote residential development of the site. In essence therefore the submission of the outline residential

application 14/03782/OUT would to all intents and purposes supersede the stand alone access application 14/02630/FUL. However, in terms of the consideration of the later application the highway authority consider that the submitted information in both applications pertaining to highways is relevant.

This application therefore proposes up to 250 houses, with principal access onto the A53 as set out above, with access also via Hampton Drive which thereafter links to Adderley Road. The Masterplan drawing provides an indicative layout and alignment of a spine road through the land linking the A53 and Hampton Drive. The site therefore provides the ability to link the A53 to the town centre via Hampton Drive. Such a link however would need to be carefully designed to ensure that it would have the potential to become a 'rat run'. In essence therefore the infrastructure road layout would be to allow development traffic to gravitate to and from the A53 and town centre direction. In addition the Masterplan drawing shows potential linkage to the Gladman site to the west although both site abut one another and therefore there are a number of options in how the 2 parcels of land being promoted by Danbank and Gladman could link. The highway authority is aware also that Danbank have land ownership adjacent to Longslow Road which would allow access into the Gladman development land.

As in the case of the Gladman's application and to make the highway authority's position clear on the issue of access, only one access point onto the A53 will be permitted. The A53 forms an important route with strategic principal county highway network which was built to by-pass Market Drayton. Its core function therefore is to allow the movement of traffic and to minimise its disruption. Nevertheless as part of the SAMDev site coming forward to deliver housing in Market Drayton, as part of Shropshire Council's requirements to meet housing needs in the County, the highway authority recognise the importance of delivering this site with a requirement to construct a new access onto the A53.

Having regard to ongoing discussions between the principle land owners/developers promoting the SAMDev site, access off the A53 is key as clearly its position will fall in a particular land ownership. The interested parties therefore acknowledge access to developing the various parcels of land within the SAMDev site as key and pivotal in terms of costs and the ability to develop land without delay caused by other parties own development interests and timescales. On the basis that only a single point of access will be permitted onto the A53 the positioning on an agreed access point should not be used which would otherwise fetter the delivery of the SAMDev site as a comprehensive and coordinated development which provides alternative vehicular, pedestrian and cycling linkages to the town centre. In short, in agreeing to a new access onto the A53 the highway authority's stance is that any permission consent issued should only be granted so as to deliver the fundamental aims of a 'Masterplan' approach of the SAMDev site which provide connectivity as set out above.

As set out above, in terms of the development principle access onto the A53, the application shows the provision of a ghost island junction. This would allow the flow of traffic to be maintained along the A53 with right turning traffic waiting within a central stacking lane. This is the same arrangement as at the Bridge Road junction onto the A53.

The proposed junction type therefore fundamentally differs to the access solution in respect of the Gladman application, where a roundabout arrangement is shown. Whilst this meets the criteria in terms capacity it is not the preferred option of the Town Council who favour a roundabout junction arrangement. The highway authority's preference is a roundabout although it is recognised that this impacts upon the movement of traffic along the A53 but is considered a safer junction option. Any design however would ultimately be subject to the usual Safety Audit checks to address any safety issues.

As in the case of the Gladman application, the highway authority have concerns regarding the delivery of the SAMDev site with difficulties with both Danbank and Gladman seemingly not able to coordinate or demonstrate the development of the SAMDev site in full and how this would be achieved.

On the basis however that the aspirations for the delivery of the SAMDev site can be conditioned via a suitable worded Grampian Style condition, the highway authority would raise no objection to the granting of outline consent in respect of the application currently before us.

In addition to the above the highway authority consider that the junction onto the A53 should be used as the principle construction access to the site and therefore the junction arrangement onto the A53 should be in place prior to dwellings being first occupied.

In respect of the delivery of public transport penetrating into and out of this site and the SAMDev site as a whole, it is difficult at this stage to estimate the level of funding required and over what period as this would be dependent upon the timescale for introducing a service into the site but also the time period where a bus were able to traffic through the site. As part of a Section 106 therefore this aspect would, at this stage, need to be suitably worded as a 'Heads of Terms' item.

4.1.10 **Public Transport** – No comments received at time of writing report

4.1.11 **Rights of Way** – Public Bridleway 9, Market Drayton runs through the site identified and will be affected by the proposed development. The route leaves Adderley Road at its eastern end and runs generally westerly through the site along Greenfields Lane to exit onto the A53 just beyond the western boundary of the site. The legally recorded line of the bridleway is shown on the plan attached. The route will need to be taken into consideration when processing this application as it will be directly affected where it is proposed to site a public square and may need diverting at this point onto an alternative line if it is not safe for walkers, cyclists and horse riders to use the route through the centre of the proposed square. It is also proposed to widen part of the bridleway where it enters the site off Hampton Drive and also to place bollards at this point. The applicants will need to seek agreement with the mapping and enforcement team for any changes to the surface of the bridleway and for the specification of the bollards which should be designed to reduce any possibility of injury to horses and riders.

In general the applicants should be mindful of the following criteria in respect of the Bridleway:-

' The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

' Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.

' Building materials, debris, etc must not be stored or deposited on the right of way.

' There must be no reduction of the width of the right of way.

' The alignment of the right of way must not be altered.

' The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.

' No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

- 4.1.12 **Waste Management** – It is vital new homes have adequate storage space to contain waste for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

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

Would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <http://new.shropshire.gov.uk/media/102056/Supplementary-Planning-Guidance-domestic-waste-storage-and-collection.pdf>

- 4.1.13 **Ecology** – A bat mitigation strategy for loss of the bat roost and impact on foraging and commuting areas must be submitted in order to carry out the EPS 3 tests.

Further details of the water vole survey in the vicinity of the proposed access road crossing the brook are required.

Further information on reptiles is requested.

It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision (Government Circular 06/2005).

In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Some initial conditions and informatives have been recommended.

Bats

Penny Anderson Associates (PAA) carried out inspections of all buildings within

the application site boundary. A common pipistrelle and brown long-eared bat feeding roost was confirmed within building B4 constructed of brick and corrugated metal sheeting at the far eastern end of the site. PAA (2014) advise that an European Protected Species licence would be required before B4 could be demolished. Replacement bat roost features would need to be provided and details should be provided now of the strategy for this.

In addition, roosting potential was identified in Buildings 9, 10, 11 and 12, however the 3 bat activity surveys undertaken found no bat emergence and therefore no confirmed roost is present. However as a precaution it is recommended that buildings 9 – 12 are demolished outside of the summer roosting period.

Three common lime trees on the southern section of the site were subject to emergence/re-entry surveys in 2013. These confirmed common pipistrelle bat roosts in Trees 1 and 2. These trees are outside of the current application boundary and therefore will not be affected by the proposals.

Bat activity surveys recorded key areas of bat activity along the railway cutting to the south and the tree-lined brook to the north. The Masterplan shows the brook course retained as open space with road access across it. Provided lighting is controlled this feature will remain as a bat flight corridor.

PAA (2014) recommend that an undeveloped buffer 10 – 30 m to the railway cutting is retained (partly for badger reasons). This would also protect the bat flight lines along the edge of the railway cutting. However the plans are unclear whether this buffer is allowed for in the layout plans. The Bat Mitigation Plan requested above should also provide details of the open space areas to be enhanced for bats.

Once an acceptable Bat Mitigation Plan has been submitted I will be able to carry out the EPS 3 tests under the Habitats Regulations. Also recommends conditions.

Great Crested Newts

The pond within the proposed site no longer holds standing water and is almost completely vegetated (PAA 2014), recommends an informative should be on the decision notice.

Reptiles

No information is provided in the Ecology Survey Report on the potential or evidence of reptiles on the site. Please can PAA confirm that there is no potential habitat across the site and no requirement for further survey or mitigation?

Water vole

PAA (2014) state that the brook was found to be unsuitable for water vole and no evidence was found. This brook links to the Shropshire Union Canal, where numerous water vole records exist. A road is intended to cross the brook therefore further details of the survey undertaken and the brook characteristics in this area are necessary in order to give confidence that no water voles could be affected or mitigation is required.

Nesting birds

Trees and hedgerows on the site have potential to support nesting birds and as such recommends an informative.

Badgers

PAA report the presence of a probable main badger sett, probable annex sett and five outlier setts. The proposed development would result in a loss of grassland and hedgerow habitats likely to be used by the badger social group and the potential to isolate the setts from foraging areas.

To mitigate for the impact on badgers PAA (2014) state that a buffer zone is proposed with a minimum width of 30m where adjacent to a sett. Some planting and fencing works would be required within 30m of the setts. In addition a habitat corridor would be created. This will allow areas for the badgers to continue foraging. With these measures it not anticipated to be necessary for a licence from Natural England for the development.

The Masterplan indicates roads and houses within this buffer zone. As the layout plans stand I would interpret them as requiring a licence from Natural England. The habitat link to the stream is partly outside of the red line boundary. Please can a plan be provided of the proposed buffer areas and habitat corridor (which will need to be fenced off during construction and thereafter) which can be conditioned?

- 4.1.14 **Trees – No objection** in principle on the grounds of trees. Agrees with the findings of the submitted Tree Survey Report. The three A category groups are shown as retained (two are not within the development boundary - G42 and G28). A veteran Ash tree (T39) is described as requiring some structural work and would not appear to be suitable to be within a back garden and should be left in an undisturbed area based on its RPA (root protection area).

A full application will require a Method Statement with fencing specification and a Tree Protection Plan.

- 4.1.14 **Drainage – No objection** The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

Whilst the FRA identifies Flood Zones 2 and 3 and demonstrates that proposed housing is outside of these zones, The FRA should be extended to include:

- ' Surface water flooding (from overland flows originating from both inside and outside the development site)
- ' Groundwater flooding
- ' Flooding from artificial drainage systems (from a public sewerage system, for example)
- ' Flooding due to infrastructure failure (from a blocked culvert, for example)

The outline parameters for the surface water run-off are acceptable, though calculations should be provided to verify the assumptions to ensure that all potential flood risk to the development has been addressed.

Full details, plan and calculations of the proposed SuDS should be submitted for

approval. This should illustrate how the development will comply with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures to reduce surface water. Furthermore information will be required on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility.

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. To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

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

- 4.1.15 **Severn Trent Water** – No comments received at time of writing report
- 4.1.16 **United Utilities** – No comments received at time of writing report
- 4.1.17 **Environment Agency** – Currently **object** to the proposed development as insufficient information has been submitted to allow an assessment of flood risk to be made.

Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed development site is partially located within Flood Zone 3 of the Sych Brook, which is classified as 'Main River' in this location.

In accordance with Table 1: Flood Zones within the Flood Risk Section of the National Planning Practice Guidance (NPPG), Flood Zone 3 is considered 'high' probability of fluvial flooding and comprises of land assessed as having a 1 in 100 year or greater annual probability of river flooding (>1%).

Whilst the northern area of the site is located within Flood Zones 2 and 3, the remainder of the site is located within Flood Zone 1; 'low probability' of fluvial flooding.

We have no modelled flood level data available for the Sych Brook in this location. The Flood Risk Assessment (FRA) by Integra Consulting Environmental (dated

July 2014, ref. 2744) has undertaken a mapping exercise, using our 'indicative' Flood Map for Planning and a topographical survey of the site, to locate the proposed dwellings on land outside of the floodplain i.e. within Flood Zone 1. The proposed access to the north crosses the Sych Brook and Flood Zone 3 and 2 extents.

Development Proposals and the National Planning Policy Framework (NPPF):

The proposed development would be considered as 'more vulnerable' development; buildings used for dwelling houses, based on Table 2 of the NPPG. Development of this nature within this Flood Zone will be required to pass both the Sequential and Exception Test (in accordance with Table 3 of the NPPG).

Sequential Test (ST):

Paragraph 101 of the NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. It states that "*Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding*". Further detail is provided in the NPPG. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the ET if required (see Paragraph 102 of the NPPF).

Based on the scale and nature of the proposals which are affected by Flood Zone 3 (i.e. access road from A53), we would not make any bespoke comments on the ST, in this instance. Providing you are satisfied that the ST has been passed, then we can provide the following comments on the FRA.

FRA:

As noted above, the FRA has undertaken a mapping exercise to attempt to further define our Flood Map for Planning, in locating development within Flood Zone 1. However, insufficient information has been submitted to assess the level of flood risk to the proposed access road that crosses the floodplain, the access crossing and any potential impacts on the floodplain as a result of the proposals. In addition, the Sych Brook flows under the A53 on the northern boundary of the site. Therefore an assessment of blockage scenarios for the culvert structure under the A53 should also be undertaken in establishing the flood risk and considering safe development requirements, particularly for the dwellings proposed within the north-west corner of the site. Some local flood modelling of the watercourse outlines for Flood Zone 3b (1 in 25 Year), Zone 3a (1 in 100 year) plus climate change and Zone 2 (1 in 1000 year flood level) would assist in obtaining the above information and clarifying the flood risk.

Notwithstanding the above, in considering safe development requirements it is noted that the proposed dwellings to the south are located within Flood Zone 1 and that a safe pedestrian access route is available to the east via Greenfields Lane onto Adderley Road. The NPPG (ID 7, Paragraph 039) states that vehicular access should be designed "*...to allow the emergency services to safely reach the development during design flood conditions*". It is unclear whether the route along Greenfields Lane is suitable for vehicular access, in considering the availability of an emergency access for the site during a flood event. You may seek further

clarification on this access route in consultation with your Emergency Planners/the Emergency Services.

Flood Defence Consent Informative – The Sych Brook is designated as "Main River" in this location. In accordance with the Water Resources Act 1991 and the Land Drainage Byelaws, our prior written consent is required for any proposed works or structures in, under, over or within 8 metres of the top of the banks of the brook. The proposed access road crossing over the Sych Brook will require such consent. The proposed crossing should preferably be a clear span bridge, as this would have least impact on the Sych Brook. The bridge would need to be of sufficient size so that river flood levels are not affected for up to the 1% annual probability (1 in 100 year) event, including allowances for climate change and freeboard. Therefore local flood modelling would also be required to inform the design and suitability of the access crossing as part of a Flood Defence Consent application.

Surface Water Drainage – Given the low risk of fluvial flooding to the majority of the site (as outlined above), and the scale and nature of the proposed development, we would expect your Council's Flood and Water Management Team, as the Lead Local Flood Authority (LLFA), to lead on and approve the detailed surface water drainage design. We would also refer you to our local area 'Planning – FRA Guidance Note 3' for further information.

Contaminated Land

The NPPF supports the protection and enhancement of natural and local environments with planning decisions to ensure that new development is appropriate for its location (paragraphs 109 and 120).

A Phase 1 Geo-environmental Site Investigation report undertaken by Integra Consulting Environmental (dated July 2014, ref. 2744) has been submitted as part of the planning application. The site is located on a secondary (mudstone) and principal aquifer (sandstone and conglomerate). Based on the information submitted there are a number of potentially contaminating activities including spraying, vehicle manufacture, storage, repair, light engineering, etc, that may have resulted in ground contamination, particularly within the south-eastern area of the site. There may also be structures such as underground storage tanks, interceptors, etc, that are yet to be identified. We have previously commented (planning application 13/02273/OUT) on the need for a detailed site investigation scheme to better define the ground conditions/contamination on site to inform remediation and validation requirements. The scope of site investigation proposes a detailed scheme which could then be secured through conditions as part of any permission granted. Subject to receipt of an updated FRA that addresses our flood risk comments (above), we would wish to comment further on the scope of SI proposed within the Phase 1 report and recommend conditions where appropriate. We would request that the scope of SI detailed within section 7 of the report is illustrated on a plan of the site.

Our comments relate to controlled waters (ground and surface waters). We would recommend that you seek the views of your Public Protection team in relation to human health matters.

Summary

At this time, insufficient information has been submitted to assess the flood risk to the proposed development, specifically for the proposed access crossing and proposed dwellings to the north of the site. The application may therefore be considered contrary to the NPPF and Policy CS18 (Sustainable Water Management) of your Council's Core Strategy and may be refused on this basis. The applicant should submit a more detailed assessment of flood risk to inform the site layout and safe development requirements. Upon receipt of this information we will be able to comment further on the proposed development.

- 4.1.18 **Public Protection – No objection** Having considered the proposed location of dwellings it is noted that a small number of residential dwellings are proposed within close proximity of the ring road (A53). As a result the impact from noise should be considered at these locations. As a result would recommend a condition is placed should this application be granted permission to require noise assessment to be undertaken and submitted prior to the final layout of the site being designed.

After considering the air quality assessment report has no further comments on this application. Air Quality modelled and not expected to be any issues as a result.

4.2 **Public Comments**

- 4.2.1 14 letters of representation have been received raising the following concerns:

- Lack of site notice
- Sufficient infill and brownfield sites available
- Peaceful and safe neighbourhood would be spoilt
- Loss of green space and recreational land referred to as sports field
- No commitment to relocate sports facilities
- Loss of agricultural land
- Lack of allotments
- Schools, medical centre and dentist are at capacity
- Lack of job opportunities
- Connecting to Croft Way would make it a free for all
- Use of Hampton Drive would encroach on private land
- Use of Hampton Drive and Tudor Close is dangerous, would damage the surface and are not wide enough
- Increase in traffic and associated noise
- Fields naturally pond and no flood risk assessment for this area
- Insufficient capacity in foul sewers

- 4.2.2 1 letter of support has been received on the basis that the application will bring benefits to the town to make the town and services more sustainable.

5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Environmental considerations
- Social considerations

- Layout principles and impact on neighbours amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Flood risk
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & 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. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The development plan for consideration of this application is the Shropshire Core Strategy which sets Market Drayton as one of the market towns in the north east of Shropshire and as therefore providing foci for balanced housing and employment development. The saved North Shropshire Local Plan (NSLP) is also relevant and provides a development boundary for Market Drayton and a positive policy for housing development within the boundary. The forthcoming SAMDev is also a material consideration, however given that it has yet to be tested at examination officers advise that it can only be given limited weight. What weight can be given to the Core Strategy and the NSLP depends on whether the Council has a 5 year supply of housing land, as required by the NPPF.
- 6.1.3 It is acknowledged that the housing land supply is constantly changing. In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate and the Council considers it can now demonstrate a 5 years supply. As such the Core Strategy can be given weight in the determination of the application and it is a matter of balancing the benefits and the harm of the development. If the Council were not able to identify a 5 year supply then the harm of the development would have to be significant and demonstrable to outweigh the benefits of new housing, however with a 5 year supply the Council is still required to undertake a planning balance and given that we have only just over 5 years supply the fact that a development is providing new housing is still a significant material consideration.
- 6.1.4 It is also accepted that the site is outside the development boundary previously set within the North Shropshire Local Plan and as such the application has been advertised as a departure from the adopted local plan. However, firstly, this policy can not now be given weight due to its age and furthermore the site is being promoted as part of the preferred option site within the Site Allocations and

Management of Development (SAMDev). The site has progressed through all the stages of the SAMDev; and remains in the pre-submission draft sent to the Planning Inspector. Although the SAMDev has limited weight, as it has not yet been through the public examination stage and is not adopted, to refuse an application on a site which is being promoted in the SAMDev would be unreasonable as the site would be likely to gain consent following adoption of the SAMDev. The key consideration for this application is determining whether it is sustainable development against the criteria in the NPPF.

- 6.1.5 As previously noted Market Drayton is identified in the Core Strategy and the SAMDev as a market town and a key focus for development. Policy CS3 of the Core Strategy notes that Market Drayton is proposed to have “substantial development that balances business development with housing development and enhances the town’s infrastructure and facilities and its role as a centre for food production.” The fact that the application aims to deliver this policy should also be given weight in the consideration of the application. Officers advice is currently that SAMDev should be given limited weight due to outstanding unresolved objections which have not yet been tested and will not be tested until the examination in public. However, the proposed site does form part of an allocation which has been through all stages of the SAMDev assessment and against which there are no outstanding objections. The issue in Market Drayton is not whether this site should be allocated but whether additional sites, including this one, should be provided so as to closer meet the housing requirements for the town. As such it could be argued that more than limited weight could be given to the SAMDev with regards to Market Drayton.
- 6.1.6 The submitted SAMDev promotes Market Drayton as proving a focus for development in the north eastern part of the county with a housing guideline of around 1200 dwellings and 16 hectares of employment land. New housing development will be delivered through the allocation of greenfield sites together with a windfall allowance. The current application forms part of the greenfield allocation and the policy acknowledges that whilst the sites may be developed independently, they must demonstrate how they work together to deliver a coordinated residential scheme for the town. The infrastructure required to support this includes, appropriate access, which may include a new access off the A53, financial contributions towards the expansion of existing primary school provision and enhancement of the Greenfields sports facility, including potential relocation of the existing site.
- 6.1.7 The whole of the allocation is formed from three sites, two identified as ‘MD030’ and one identified as ‘MD010 and MD028’. All three have guidelines of the development being part of a coordinated scheme including access improvements, cycle and pedestrian links, provision of open space and a landscaped buffer along the A53. Overall the three sites together will provide an allocation of 400 houses, it is therefore acknowledged by officers that there is a shortfall between the housing within the allocation and the housing target for the town. As such, subject to an appropriate layout and no unacceptable adverse impacts it would be appropriate to consider an increase in the overall housing numbers across the SAMDev allocation. As such the proposal for approximately 250 houses would not be objected to in principle.

- 6.1.8 However the key issue is how this planning application, separate to the rest of the SAMDev allocation, will work with the surrounding sites to deliver the coordinated scheme. The coordination of highways matters including access, accessibility through the site for vehicles, pedestrians and cyclists and access for public transport; surface water drainage matters in providing the ability for the whole of the SAMDev allocation to be served by a comprehensive surface water drainage system; and to ensure that public open space is provided in a useable format and doesn't result in small pockets of space scattered across the area and to ensure that the mitigation for ecology provides connectivity and corridors to enhance the existing environmental network. These issues will all be considered in greater detail in the report, however it is an area of concern as officers would not wish to see the site developed in isolation.
- 6.1.9 Shropshire Core Strategy policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.10 Policies MD2, MD3 and MD8 of the SAMDev have also been submitted for consideration by the planning inspector and as such can be given some, but limited, weight. Policy MD3 seeks to ensure sustainable design through seeking to promote community led plans, town or village design statements, neighbourhood plans and place plans with regard to design, appearance and how a place functions. The policy also seeks to ensure that development reflects local form and function, design and materials, historic and natural assets; incorporates sustainable drainage, landscaping and open space; considers the existing infrastructure of the settlement and any need for new or improved infrastructure. Policy MD3 provides additional support for MD2 and for the development guidelines set out for each allocation. Policy MD8 requires development to ensure sufficient existing infrastructure capacity is available and also promotes the development of new infrastructure.
- 6.1.11 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. The planning balance which needs to be considered is balancing the benefit of the provision of new housing in close proximity to the sustainable market town against any harm.
- 6.2 **Is the site sustainable?**
- 6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and

the presumption in favour of sustainable development advises that, unless there are material considerations which outweigh the benefits, consent should be granted.

- 6.2.2 Within the planning statement submitted in support of the application the agent considers the issue of sustainability and has considered the proposal against all three parts of sustainability in the NPPF.
- 6.2.3 Local objectors have questioned the need for the development proposed based on infill and brownfield land being available; the loss of green space and recreation land; the lack of job opportunities, leisure or entertainment facilities and the lack of allotments. These concerns are noted, however the application forms part of the wider allocation in the SAMDev for approximately 400 houses which is expected over the lifetime of the SAMDev. In response to the brownfield question officers are not aware of sufficient brownfield land available around Market Drayton which could accommodate a similar scale of development. The majority of developed land in the town remains in active use. Furthermore the housing target in Market Drayton is greater than the proposed allocation and relies on windfall development which is most likely to come from brownfield sites should they become available.
- 6.3 **Economic considerations?**
- 6.3.1 The planning statement notes that the development would boost housing supply, local economy, new homes bonus, CIL, construction jobs and increase local spending. It is acknowledged by officers that the construction of new housing in, or on the edge of, Market Drayton would support the businesses, facilities and services within the town and residential areas and also acknowledge the other benefits noted by the agent.
- 6.3.2 Concerns have been raised about the lack of jobs available in the town however this is not a site specific objection to the development. Officers do not have any evidence that there are not job opportunities in the town and new opportunities being made available. The town has one of the County's largest employers in Muller's which has recently gained consent for a new production facility which once built will create additional employment. In addition there is consent for a new food store in the town, recent consents for other new businesses including the relocation of Hales Sawmills and employment land available and allocated within the SAMDev. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.
- 6.3.3 The Planning Statement accepts that the proposed housing development of the application site will result in the loss of existing employment buildings but the agent has confirmed that this business intends to move to larger and more modern premises and that the economic benefits of construction jobs far outweigh the loss of the employment land. The removal of this employer from an area close to existing residential properties and the sports facilities is also considered to be positive.
- 6.3.4 The development will also be liable for payment of the Community Infrastructure Levy (CIL) which for this site would be at the £40 per square metre rate and be used in accordance with policy CS9 to support local infrastructure requirements.

This money can be used to assist in resolving the issues raised within the local place plan. The CIL fund would also be used to fund the improvements required at the primary school to accommodate the predicted additional pupil numbers noted by the Council Learning and Skills team. It is not considered necessary or reasonable to request an additional contribution beyond the CIL payment for education given that the place plan identifies education as a priority which CIL will be used for.

6.4 **Social considerations?**

- 6.4.1 The agent has suggested that the development will provide social benefits in providing a mix of housing, open space, cycle routes and high design quality. However the development also has social impacts. The scale of the proposed development would increase pressure on local facilities and services such as the school and doctors as noted by the objectors. However, it also provides the opportunity for social benefits such the contribution towards community infrastructure levy (CIL). For the adjacent site the Council Learning and Skills Team has commented that they would expect the development of 162 dwellings to yield 30 primary school pupils (rounded) as such the development on this site of 250 houses could be around 37. Longlands Primary School, one of the two primary school catchments in the town, has a small amount of unfilled places at present. However, overall development in the plan period will take numbers significantly over capacity. Therefore, to keep things simple, and as this is one of the more significant housing investment sites in the town, to treat this application in isolation, fractionally over 30 pupils at a DfE cost of £11,767 translates into £355,412 to provide the places.
- 6.4.2 In addition the residential development of the land will also enable the provision of new public open spaces and improved access to Greenfields recreation facilities. These are all social benefits. The details of the size of the open space and the footpaths would need to form part of the reserved matters applications and would need to show how the open space is coordinated across the whole of the proposed sites allocated in the SAMDev; would need to comply with the interim planning guidance on open space and confirmation would also be required of who is to be responsible for maintaining these facilities. In order to achieve coordinated open space provision rather than small pockets of open space which is neither manageable or of significant use to the community, officers advice is that a condition is imposed on the outline to require further details to be submitted.
- 6.4.3 As advised by the Council Affordable Housing Officer 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 a full application or a reserved matters application. The current prevailing target rate for affordable housing came into force on the 1st September 2013 and in this area is 10%, which would provide 16 affordable homes on site; however this will be reviewed in line with the target rate at the time when full applications or reserved matters are submitted. It is acknowledged that the reserved matters may come in a number of different applications and therefore each would need to provide the level of affordable housing required at the time of submission. The assumed tenure split of the affordable homes is currently 70% for affordable rent and 30% for low cost home

ownership. At this outline stage the principle of affordable housing as part of the wider development of the site is acceptable. The means to secure affordable housing would need to be via a section 106 legal agreement to ensure affordability in perpetuity and also to ensure the occupation is in accordance with the Council's adopted policy.

6.5 **Environmental considerations?**

6.5.1 This application has not given a detailed assessment of the quality of the agricultural land. However, given the adjacent site is predominately grade 2 it is considered most likely that this site is grade 2 or below. As such it is considered to be best and most versatile agricultural land and the development of this is an acknowledged harm. The National Planning Policy guides local authorities to consider the economic and other benefits of agricultural land and, where significant development is necessary, to use lower quality land in preference to higher quality land. Although the development of this site will result in the loss of some higher quality land the site has been considered as the most appropriate land to provide the scale of housing required in Market Drayton, without extending beyond the A53, for the forthcoming plan period. As noted on other recent applications the development of higher grade agricultural land can not be avoided as there is insufficient brownfield or lower grade land available for the scale of development required for the County as a whole. Furthermore, it is officers opinion that the economic benefits of the proposed development outweigh the economic benefits of retaining the land in agricultural use. The need for retaining agricultural land for food production does not outweigh the presumption in favour of sustainable development. Overall, although the loss of agricultural land is a harm resulting from the development this harm is not considered to outweigh the benefits.

6.5.2 However, as noted previously in the report, part of the site is previously developed land, with part of that land still being in active commercial use. This commercial use is one which is not ideal within a residential environment given the potential for noise, dust and fumes, the existing buildings are large and visually intrusive and the other part of the previously developed land is currently an area of hard standing. The proposed housing development provides an opportunity for betterment by removing these two uses and the potential impact on amenities and traffic and reducing the amount of hard standing on these two parts of the wider site. This benefit also needs to be taken into account in the planning balance.

6.5.3 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.

6.6 **Layout, scale and design**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 seeks to identify, protect, enhance and expand Shropshire's environmental assets, aiming to prevent development which adversely affects visual values or which does not contribute to local distinctiveness. Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out

expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character.

- 6.6.2 A master plan has been submitted with the application which shows an indicative layout for the site showing a potential layout for the estate road running from the proposed access off the A53, through the site to Hampton Drive with cul-de-sacs and link roads to the adjacent land leading off this main estate road. Although the plan shows an indicative layout of housing and roads the precise layout would be a matter for consideration under an application for approval of reserved matters. In principle the construction of housing on this site is supported as it is being promoted within the SAMDev the layout is not for approval at this time and officers consider could be improved to provide greater variety in the streets, reduce the 'over engineered' feel of all of some of the cul-de-sacs and provide areas of different character or layout. Furthermore it is officers opinion that the proposed "square" is not wholly necessary, appropriately designed or, given its location on the main estate road question whether it would function as a square or as a large traffic junction and furthermore that the housing proposed along the A53 may be too close to this major road.
- 6.6.3 However, the indicative layout does show that the site can be developed with respect to the character and layout of the existing housing, protect the area around the watercourse and railway line but that further work is required on the layout to take into account the ecology issues raised by the Council Ecologist and also the view of the development from the A53 and the amenities of the future residents along this road. In terms of showing coordinated development the master plan shows a single road connecting to the adjacent land to the west and a single road to the land to the east. As with the other application currently under consideration it is officers opinion that further work is required to ensure that the two sites work together, it is noted that at the time of writing this report the SAMDev allocation has been submitted as two separate planning applications. There is a potential for two independently, isolated, sites to be developed without any form of connection or coordination which would be contrary to the forthcoming SAMDev and would be harmful to the overall development of Market Drayton, would be counter to community cohesion and would not amount to good planning. A condition is therefore recommended to ensure that the two sites work together.
- 6.6.4 In addition to the plan the application has been submitted with a design and access statement (D&A) and a planning statement. The D&A suggests that the indicative layout will provide attractive frontages, overlook open spaces, have tree lined roads, defensible private spaces and parking and that the dwellings will be built of red brick and render. It also advises that the proposal is to retain existing landscape features and expand them. The planning statement comments that the development will provide a mix of houses, detached, semi-detached and mews from single storey up to two and a half storey at a density of approximately 22 per hectare with 2.8 hectares of open space. Although it is acknowledged that once outline consent is granted the land will be sold to developer(s) it is also possible to condition that the future development of the site is done in accordance with the D&A.
- 6.6.5 The information provided in both the D&A and the planning statement is of some,

but limited, use. However, as noted previously the application site is both a site being promoted in the SAMDev and is also the only remaining site which can accommodate the level of housing required for the town within the constraints of the Tern Valley to the south of the town and the A53 to the north. The final layout of the site will be considered at the reserved matters stage and, in principle, the site is considered capable of accommodating new housing and is part of the wider site for accommodating the housing requirements of the town.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. As an outline application with all matters reserved for later approval it is not possible to fully consider the impact on the amenities of neighbouring residents in terms of overlooking or loss of light as the layout of the proposed housing is not yet known. Objections have raised concern about the impact on the existing peaceful and safe neighbourhood and the increase in traffic. This latter matter is considered later in the report.

6.7.2 It is acknowledged that there are existing residential properties around the application site. There are a few properties on Greenfields Lane which currently have the outlook of sports facilities and agricultural land; houses on Hampton Drive and Tudor Close back onto Greenfields Lane and as such would back onto the site; to the west Croft Way and Ridings Close properties lie side on and rear facing towards the site and on the opposite side of the disused railway there are properties off Prospect Road, Mount Crescent and Ashbourne Drive. These properties on the opposite side of the railway would be a sufficient distance from any proposed housing to not be affected to an unacceptable extent. The other properties noted off Greenfields Lane and the estates to the east and west would need to be carefully considered at the time of submission of the reserved matters to ensure that appropriate separation distances were provided as several of these properties have first floor windows overlooking the site and therefore the potential to be overlooked. The main impact will be on the existing properties on Greenfields Lane and officers consider that the development of the site could be laid out with sufficient distance between new and existing properties to ensure that the impact is not unacceptable. It is accepted that the development of the site will alter the outlook from these properties and will also alter the noise levels and light levels. However as a proposed residential development adjacent to residential development the impact would not be beyond what could reasonably be expected in similar situations. The land is not protected and the town needs to grow and provide new housing. As noted previously within the report this is part of a wider site which provides the only land capable of providing the scale of additional new housing required in the town without extending beyond the bypass. Officers consider that the development of the site could be achieved without substantial adverse impact on the amenities of the existing properties and would not result in overlooking or loss of light.

6.7.3 An air quality assessment has also been submitted during the consideration of the application which has considered the existing air quality; an assessment of suitability for residential use in relation to transport related emissions and takes into account recorded background emissions, including those produced by the Council, and traffic levels. The report provides an analysis of the existing

conditions and the potential conditions at 2019 both with and without the development and considers the potential impact on existing sensitive receptors in the area and the proposed new housing. The report concludes that, from the assessment undertaken by the consultant, that the emissions predicted would not exceed air quality objectives and that traffic emissions would be negligible.

- 6.7.4 The Council Public Protection Officer has commented on the close proximity of some of the dwellings as shown on the indicative plan advising that there are close to the A53 and may therefore be affected by noise. It is advised that a noise survey be undertaken and submitted for consideration by the Council prior to the confirmation of the final layout of the scheme. However at this time this would not affect the outline application currently under consideration. The layout is for indicative purposes only and as such the area closest to the A53 may not be developed as part of the reserved matters application, following consideration of the noise assessment and the visual impact of these houses.
- 6.7.5 One objection has been received commenting that the use of Hampton Drive would encroach on private land, however this has not been supported by any evidence of ownership. The application proposes using the existing width of Hampton Drive, including retaining the narrow section where it currently joins Greenfields Lane, but that the new estate road beyond this narrow section would widen back out to 6m wide. As such there is no proposed widening of the existing Hampton Drive and none of the section to be used is a private road or driveway.
- 6.7.6 As such it is considered by officers that the information provided to date, in the form of an outline planning application, master plan and the technical reports have shown that it would be possible to develop the application site without adversely affecting the amenities of the existing residents that are within and around the site in accordance with policy CS6 and the requirements of the Type and Affordability of Housing SPD.
- 6.8 **Highways, access, parking and rights of way**
- 6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
- 6.8.2 A new access is proposed off the A53 in the form of a new ghost island priority junction. A separate application has been submitted to consider this access separate from the current outline application, but it also forms part of the current application. In addition the proposal is to extend Hampton Drive into the site and amend Greenfields Lane by widening the section to the sports pitches and closing off the eastern section with raising bollards. This would prevent Greenfields Lane from being used by any vehicle other than those with existing rights. The two proposed vehicular access points are intended to serve the application development, the surrounding land being put forward for allocation in the SAMDev and the sports facilities off Greenfields Lane, either as a sports facility or following redevelopment.

- 6.8.3 Both a Transport Assessment and Travel Plan have been submitted with the application. The TA notes that the A53 is 7.4m wide, de-restricted and therefore 60mph with no footway and mainly unlit, except at junctions. The existing roundabouts at the Gingerbread Man and Mullers are 2.8km apart and there are three existing junctions between the roundabouts. The existing junctions which serve Bridge Road and New Street Lane are both ghost priority junctions and the junction of Bridge Road, which previously served a small number of dwellings was re-aligned for the recent housing development. Rush Lane also joins the A53 but is a restricted bridleway, single width and gated part way down.
- 6.8.4 The TA considers the impact of the proposed development on the access proposed; the junction of Adderley Road and Hampton Drive; the junction of the A53 and Bridge Road and the junction of the A529 and Prospect Road. It also predicts traffic flows and shows evidence of speed recordings undertaken and details accident data as only showing a small number of accidents in the immediate area. The A53 and A529 were shown to be operating significantly below capacity during the consideration of the proposed Sainsbury food store and would continue to do so following the development of the food store. The TA notes that Hampton Drive provides access off the A529 to the existing housing estate of 193 dwellings, is 6m wide and also connects to Greenfields Lane, which itself joins the A529, is single a carriageway serving a small number of dwellings and sports facilities with no footway or lighting.
- 6.8.5 The applicant's highway consultant considers that all routes are operating well within capacity with no significant delay and only minimal queuing at junctions. With regard to Hampton Drive, which residents have raised concerns about, the consultant notes that there was no queuing observed to enter Hampton Drive and a small number of vehicles queuing to exit during weekday morning peak hour but that this cleared quickly. With regard to the A53 the consultant notes the high proportion of HGV traffic and therefore considers that the primary function for this road is to accommodate through traffic with as little disruption as possible and that traffic speeds are not an issue. It is therefore the applicant's consultant's opinion that there is no justification for a roundabout on the A53 and that a ghost priority junction, with a right turn lane, is the most appropriate junction in this location. The new road would be 6m wide with at least 190m visibility in both directions, and designed to Design Manual for Roads and Bridges standard.
- 6.8.6 Pedestrian and cycle access to the town is also noted in the report and confirms that there are existing footways from Hampton Drive to the town centre and existing on-road based advisory cycle routes. The report also notes the distance from the site to the infant school and nursery school is 1.2km, the primary school is 1.5km and the high school is 1.5km, the large food store is 800m, health facilities 800m and the town centre 900m from the site. The closest bus stop is 550m and the bus station is 800m away with regular bus services around the town and to other local towns. The consultant therefore concludes that, in their opinion, the site is within walking and cycling distance of the services and facilities and that these, and the bus facilities, represent a reasonable alternative to the use of the car.
- 6.8.7 The TA has also considered the potential impact on existing and future residents

from the proposal to close the end of Greenfields Lane from the use of Hampton Drive to access the sports facilities. Although the sports facilities could also, in the long term, be accessed from the new access off the A53, the closing of the end of Greenfields Lane will divert traffic through Hampton Drive. The report details the times at which the facilities are used and notes that they are not currently used week day morning or evening peak hours. As such the consultant considers that Hampton Drive can accommodate this traffic in addition to the proposed housing without any conflict at the peak times and that weekend traffic would be no worse than peak hour traffic.

- 6.8.8 In considering the application and the submitted information the Council Highway Officer has advised that the principle of developing the site is acceptable and so is the principle of a point of access, in the form of a ghost propriety junction, off the A53. However, as with the other application off Rush Lane the Highway Officer is clear in that only one access point onto the A53 should be permitted as more than one access off the A53 would be harmful to highway safety and traffic flows given that the A53 is primarily a bypass around the outside of Market Drayton. Whichever access is granted consent will need to deliver the aims of the SAMDev and provide connectivity to the town.
- 6.8.9 The Highway Officer has advised that the ghost priority junction, the same as Bridge Road, with a central stacking land for right turning traffic is technically acceptable but notes that this is not the preferred junction form of either the Town Council or the Highway Authority. The preference is for a roundabout, although it is recognised that this impacts upon the movement of traffic on the A53 a roundabout is considered to be a safer junction option. The roundabout is being promoted as the preferred option for the SAMDev allocation given the size of the development and its links to the town and sports facilities. As such it is a matter for members, on advice from officers, to consider which of the two accesses is the most appropriate. Officers advise that the proposal within the application to which this report relates is a ghost priority junction and, although it will provide a safe means of access, the alternative being proposed in application 14/04701/OUT provides a safer form of access and therefore the least level of risk to highway safety and free flow of traffic.
- 6.8.10 However, as with the alternative proposal (14/04701/OUT) the key issue is the matter of linking the proposed access from the A53, through the application site, to the surrounding allocated land, which if the roundabout is approved therefore includes the land associated with this planning application. The proposed SAMDev allocation advises that the sites may be developed independently, however they must demonstrate how they work together to deliver a coordinated residential scheme for the town including appropriate access and access improvements, cycle and pedestrian links towards the town centre. This application can be approved without an access off the A53 as some housing can be developed from Hampton Drive, however it is essential to ensure that, for long term accessibility and safe traffic movements that this site is linked to the roundabout being proposed by Gladman.
- 6.8.11 On the converse, if the ghost priority junction being proposed as part of this application is considered to be more suitable by members, the roundabout being proposed by Gladman should be refused and this site will need to provide access

to the Gladman site. To ensure these works and connectivity is provided a condition is being proposed by officers which has been worked up following legal advice and investigation of similar worded conditions on Planning Inspector's decisions.

- 6.8.12 Although concerns have been raised locally about the use of Hampton Drive the Highway Officer has noted the necessity for a secondary access off Hampton Drive to ensure that the development is not served purely from one single point of access off the A52. It will be necessary to ensure that the design of the estate road through the site does not have the potential to become a 'rat run' and also that there is long term potential for future access to Longslow Road through the site being promoted by Gladman developments.
- 6.8.13 In respect of the delivery of public transport penetrating into and out of this site and the SAMDev site as a whole, it is difficult at this stage to estimate the level of funding required and over what period as this would be dependent upon the timescale for introducing a service into the site but also the time period where a bus were able to travel through the site. At this stage, without further detail on the layout of the site in relation to the adjacent land it is not possible to fully understand the cost of bus enhancements. As part of a Section 106 therefore this aspect would, at this stage, need to be suitably worded.
- 6.8.14 In conclusion the principle of a ghost priority junction onto the A53 is acceptable, however only one new access should be permitted off the A53 and the Council preference for highway safety reasons is a roundabout. Notwithstanding this the roundabout being promoted by the adjacent site can not be the only means of access to the housing developed on the wider SAMDev site and a secondary access off Hampton Drive is promoted by the Council Highway Officer as a safe means of access. A condition is recommended to ensure that, amongst other things, the development of this site works with the development of the surrounding land to provide a coordinated and comprehensive development. The level of traffic movements from the development is not considered to result in a severe impact and the design specifications of the roundabout and internal estate roads can be controlled by condition. As such, the principle of the development is acceptable.

6.9 Ecology and trees

- 6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. An ecology assessment and survey have been undertaken and submitted with the current application and this was considered by the Council's Ecologist and Tree Officer.
- 6.9.2 The assessment notes the position of the site, that the nearest County wildlife site is approximately 2km from the site at the River Tern and the different areas within the site including the watercourse, employment uses, yard, agricultural buildings and farm land. The desk based survey results show records of great crested newts, snakes, invertibrates and water vole the survey results found no evidence of these species. Furthermore records show evidence of bird species in the area including barn owl. The on site survey work recorded the presence of bat roosts

in two of the lime trees and one building, the presence of a defunct pond and varying quality of grassland and hedges.

- 6.9.3 The applicant's ecologist has advised that, in their opinion, Sych Brook is not suitable for water vole, no sign of the species were observed and the nearest recorded sighting is 1.5km to the east, on the canal. No potential for reptiles (including great crested newts) was identified and that there is no suitable habitat present. With regard to birds the report notes the species which have been recorded and also that the site provides suitable nesting habitat. Overall the report notes that the site functions for a range of protected species and wildlife generally, supports foraging and commuting for bats, that the majority of the buildings within the site do not support bat roosts but buildings and trees outside of the site do. As such the report recommends controlling lighting; demolition of buildings outside of bat roosting times as a precautionary measure; works to the hedges and trees outside of bird nesting season; the provision of a wildlife buffer along the railway cutting and Sych Brook; planting of native or fruit trees; the provision of bat boxes; and a European Protected Species Licence for the demolition of the building containing the bat roost.
- 6.9.4 A separate, confidential, badger report has also been submitted which identifies the potential presence of badgers near to the site, survey work undertaken, the potential impact of the development on badgers and their setts and the need for a pre-commencement site check and mitigation. Due to their protected nature no further information can be provided, however members should be assured that the Council Ecologist has had sight of this confidential report and is aware of the presence of the species.
- 6.9.5 In considering the information the Council Ecologist has requested additional information in respect to bat mitigation due to the need for the site to have a European Protected Species Licence and further information on water voles and reptiles. The Council Ecologist has also advised that several of the existing buildings should only be demolished outside of bat summer roosting period, control of lighting to protect flight corridors, provision of a 10-30m buffer along the railway cutting and the provision of a ecology corridor though also notes that the indicative layout plan shows development within the buffer and as such should be amended.
- 6.9.6 The applicant has submitted an updated ecology report aims to overcome the concerns raised by the Council Ecologist and this has been sent to the Council Ecologist for comment. At the time of writing the report the Ecologist response had not been received and it is hoped that an update can be provided to members at the meeting.
- 6.9.7 An Arboricultural Assessment has been submitted with the application which advises that of 13 individual and 44 groups of trees 1 tree and 3 groups are category A, 5 trees and 4 groups are category B and the remaining are category C. The majority are Hawthorn groups which individually are considered by the applicant's consultant as low or average quality but form part of a wider landscape value. There is 1 large Ash near the southern boundary of the site which has high value but also has structural defects and the consultant has recommended crown pruning. The most significant trees are along the railway embankment a line of

lime trees within the playing field and a line of lime trees within an existing garden and as such are all outside of the application site. The report concludes advising the retention of the category A and B trees, that some of the C category trees could be removed and replaced with new planting subject to a detailed scheme and that protective fencing should be used around retained trees.

6.9.8 The Council Tree Officer has advised that they agree with the findings of the submitted Tree Survey Report but that the single veteran Ash tree (T39) would not appear to be suitable to be within a back garden and should be left in an undisturbed area based on its RPA (root protection area) and that a Method Statement with fencing specification and a Tree Protection Plan will be required with the reserved matters application.

6.9.9 In conclusion, at the time of writing the report there are outstanding issues regarding ecology, however, as noted above the updated report has been submitted. As such officers are requesting delegated powers be granted to officers to resolve the ecology issue prior to granting consent but that in principle the site is capable of being developed without significant adverse impact on statutorily protected species or on important trees and hedges.

6.10 **Drainage**

6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Given the size of the site and that part of the site is identified within the Environment Agency flood zones a Flood Risk Assessment has been submitted which has undertaken a detailed mapping exercise to establish flood zone boundaries in the site. The majority of the site is within flood zone 1 but the northern section around Sych Brook is zones 2 and 3. The D&A advises that the foul drainage connection is to be agreed, but is to be connected to the existing mains drainage system and that surface water is to be discharged via a sustainable drainage system. The FRA notes the presence of existing foul and surface water drains in Hampton Drive, Croft Way and Ridings Close providing options for the sewerage provider to enable a connection.

6.10.2 The FRA concludes that soakaways are not considered feasible for the site and as such proposes discharge of the surface water to Sych Brook with restricted flow rates controlled through on-site attenuation. The report considers that the development will not result in any loss of flood plain, that safe emergency access can be maintained and proposes all of the new dwellings be constructed in flood zone 1, the area with the lowest probability of flooding.

6.10.3 The FRA has been considered by both the Council Drainage Engineer and by the Environment Agency. The Council Drainage Engineer has confirmed that they have no objection to the proposal subject to detailed information and further information to support the FRA being provided by condition. However the Environment Agency (EA) have submitted an objection to the proposal based on lack of information in the FRA assessing the proposed access road which will cross the flood plain. The road will have the potential to impact on the flood plain and the flood plain may also affect the road. The EA have also noted that Sych Brook flows under the A53 close to the site and that the FRA should consider

potential blockage scenarios.

- 6.10.3 The EA have also commented on the need for a sequential test as part of the site is within flood zone 2 and 3. Whether a site passes the sequential test is a matter for the Council to determine. In the case of the application site, as part of a wider site being promoted for allocation in the SAMDev, the Council has undertaken the sequential test for the site. Although it is accepted that there are other sites available for housing development in Market Drayton none of the sites are capable of providing the scale of development that is required for the town or the scale of development that the proposed site can deliver. Given the sequential test has been undertaken for the SAMDev it is not considered necessary or reasonable to re-asses the test or to consider sites in other towns as potential alternative sites. In this situation there is a requirement for new housing to be allocated and provided in Market Drayton and the application site has been assessed as the preferred option.
- 6.10.4 Further information has been received from the agent in response to the EA objection. However, at the time of writing the report, there remains an outstanding objection from the Environment Agency and as such officers are requesting delegated powers to approve the proposal subject to the resolution of the EA objection.
- 6.10 **Other matters**
- 6.10.1 The report submitted on behalf of the applicant advises that the site is sufficient distance from the conservation areas and nearest listed buildings, that there is a possible area of post medieval ridge and furrow and that the farmhouse in the centre of the site, Greenfields, is a 19th century farmhouse which has suffered serious losses to its fabric and is therefore considered to be of limited historic interest. The report concludes that there is no impact on designated heritage assets and low to nil potential for archaeological evidence. However, noting the Devensian fluvio-glacial drift deposits and that there is evidence of earthwork remains of medieval/ post-medieval ridge and furrow in a limited area near the south-east corner of the site the Council Archaeologist therefore recommends a condition requiring a phased programme of archaeological work.
- 6.10.2 A geo-environmental ground condition survey has also been undertaken which notes the potential for made ground, petroleum, ground gas, asbestos and pesticides and records the history of each part of the site. The report advises that the north west and southern parts are undeveloped except for agricultural use and therefore pose a low risk. The south east has undergone development in the form of the railway cutting, bund and light industrial uses and as such the consultant considers that this is low to moderate risk of contamination. The report makes recommendations for further chemical testing of site materials and waters, addition ground testing and a further assessment be undertaken of the water tank and shaft on the railway bund. The Council Public Protection Officer has not provided any specific advice in this regard however the Environment Agency have requested a detailed site investigation scheme which could then secured through conditions as part of any permission granted.
- 6.10.3 One objector has also noted the requirement for Market Drayton Town Council to provide sufficient supply of allotments. This is a matter for the Town Council.

However the legislation does not require the Town Council to provide an allotment for every resident who requests one, it is for the Town Council to manage supply and provide further allotments if there is a demand and it is recognised by The National Allotment Society that contacting the Council can, in most cases, be getting your name on a waiting list. As such this issue is not a material planning consideration in the determination of the application.

7.0 CONCLUSION

7.1 The site is located outside the current development boundary for Market Drayton and is therefore classed as a departure from the development plan. However, the site is part of the three sites being promoted for future housing development in the SAMDev and it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The proposed access off Hampton Drive is acceptable in principle as one means of access to the site, the development of the site would not result in severe traffic impacts, increase flood risk or adversely affect statutorily protected species and can be developed in a way that would not significantly affect the amenities of existing or future residents. However the development of this site will have to coordinate with the surrounding land in regards to access, internal layout, vehicular connectivity to the surrounding sites, public transport routes, surface water drainage, ecology mitigation and open space. It is accepted by the Council that the application site can be developed independently of the surrounding land but that a condition is required to show how the application site will form part of the wider allocation and comprehensive development of the wider allocation.

7.3 Accordingly, it is considered that, in principle, the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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.

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 - written representations, a hearing or inquiry.

The decision is 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 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**

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**

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt
 CS6 - Sustainable Design and Development Principles
 CS9 - Infrastructure Contributions
 CS11 - Type and Affordability of housing
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management

10.2 Relevant planning history:

NS/06/02755/OUT Outline proposed recreational and residential development
 WITHDRAWN 12th March 2007
 NS/08/00268/OUT Outline proposed residential development to include formation of new
 access WITHDRAWN 28th February 2011

11. ADDITIONAL INFORMATION

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

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development, the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 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. Work shall be carried out strictly in accordance with the Bat Mitigation Strategy to be submitted.

Reason: To ensure the protection of bats, a European Protected Species

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall commence until a Master Plan showing how the permitted development will integrate with the remainder of the land identified for allocation under policy S11.1a of the Site Allocations and Management of Development (SAMDev) Plan Pre-Submission Draft (Final Plan) dated 17th March 2014 ("the S11.1a Land") has been submitted to and approved in writing by the Local Planning Authority.

The Master Plan shall address the following:

- Pedestrian and cycle links with the S11.1a Land to the east and west of the site and to the existing public right of way
- Vehicular links, including for public transport, from the approved access roundabout to the remainder of the S11.1a Land to the east and west of the site
- The provision of public open space.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

6. Applications for approval of reserved matters shall thereafter be in accordance with the approved Master Plan.

Reason: To ensure that the development of the site does not prevent the development of the wider SAMDev allocation and enables comprehensive development of the SAMDev allocation.

7. 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.

8. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the

land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

9. No site clearance works within 30 metres of the badger sett on site shall commence until the sett on site has been closed under licence accordance with details given in the Ecological Assessment by FPCR submitted on 22nd April 2014

Reason: To ensure the protection of badgers, under the Badgers Act (1992)

10. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a sample geophysical survey and targeted trial trenching of any anomalies thus identified (up to a 2% sample of the study area), followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site holds archaeological interest

11. No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site. The approved scheme shall be retained on site for the duration of the construction works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

12. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

13. Demolition of Building 4 as identified in Figure 1 of the Ecology Survey Report by Penny Anderson Associates dated August 2014 shall not in any circumstances commence unless the local planning authority has been provided with either:
 - a) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or

- b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.

Reason: To ensure the protection of bats, a European Protected Species

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

14. As part of the reserved matters details of the location and design of bat boxes or bat bricks 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. 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

15. Buildings 9 to 12 shall only be demolished between the months of September to April unless otherwise agreed with the Local Planning Authority.

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

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

16. Prior to occupation, a 'lighting design strategy for biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) Identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.
- All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

17. During the demolition and construction of the site no burning shall occur on site at any time. This includes the burning of vegetation from clearance work.

Reason: to protect the amenity of the area

18. Construction work, including the arrival of deliveries and unloading of deliveries, shall only be carried out between the following hours: Monday to Friday 07:30-18:00,

Saturday 08:00-13:00. No work shall be permitted on Sundays or Bank Holidays without written consent from the Local Planning Authority.

Reason: to protect nearby residential amenity and the health and wellbeing of residents living in close proximity to the development.

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Committee and Date

North Planning Committee

18 November 2014

Item

7

Public

Development Management Report

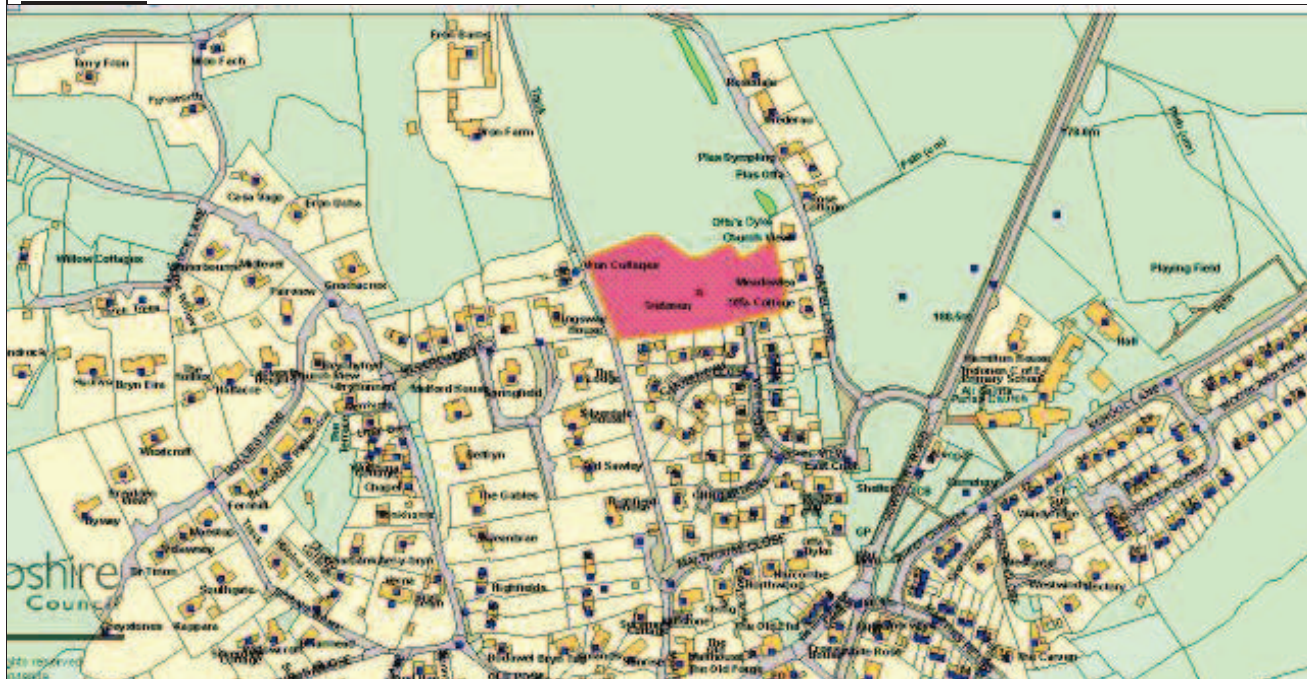
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/00536/OUT	Parish:	Oswestry Rural
Proposal: Outline application for the erection of twelve dwellings (to include access)		
Site Address: Land North Of Whitridge Way Trefonen Shropshire		
Applicant: R F Trustee Company Ltd		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 325903 - 326950



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Recommendation:- Grant planning permission subject to the conditions set out in Appendix 1, the applicant entering into a S106 to secure affordable housing contributions and subject to resolving Ecology matters.

REPORT

1.0 THE PROPOSAL

1.1 The submitted application seeks outline planning for a residential development. The appearance, landscaping, layout and scale are all reserved for later approval. The applicant has indicated that the site would be suitable for accommodating the erection of 12 dwellings.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site covers an area of 0.54 hectares and is approximately half of an existing agricultural field. The field is located to the north of a modern housing estate containing Carneddau Close, Whitridge Way, Onan Gardens and Chapel View. The estate is made up of various cul-de-sacs with the main one terminating at the southern boundary of the site are the rear boundaries of the three properties fronting onto Chapel Lane. To the west there is a track which is also the route of the Offa's Dyke National Trail. Offa's Dyke itself, which is a scheduled ancient monument is to the north and runs adjacent to Chapel Lane. In August 2014 the extent of scheduling was increased so that this particular scheduled section now extends from the northern most section of the field to the northern boundary of Church View, bringing it to within 15 metres of the edge of the application site.

2.2 The application site climbs away from the rear boundaries of the Chapel Lane properties up towards the Offa's Dyke. The boundaries of the site consist of native hedgerows along the southern boundary with the neighbouring housing estate, panel fence along the eastern boundary, and mainly post and wire fencing along the western boundary.

2.3 The entire application site falls outside of Trefonen's development boundary as defined in the Oswestry Local Plan.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Area Manager in consultation with the committee chairman and the Local Member considers that the application raises significant material planning issues and that should be considered by committee

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.1 Parish Council-

28/8/14- The Parish Council do not support this application. The results of a survey that went out to all households in the Parish showed that the majority of respondents in Trefonen with Treflach ward do not want building on greenfield sites. They want conversion of existing buildings, affordable single plots or infill of one or two houses. The Parish Council also stated that they did not want to be in a hub or cluster.

26/3/14-

Planning Applications 14/00536/OUT and 14/00426/OUT

Oswestry Rural Parish Council does not support either of these applications. The two applications should be considered in tandem as they potentially will have a major impact on Trefonen village. ORPC held a public meeting on 1st March 2014 with nearly 200 people attending. Trefonen is a small rural village but the response from the community against these applications for 34 houses has been extraordinary and the planners should take into consideration the total of 191 objections and 3 with no objections, lodged with ORPC and numerous other respondents who registered their objections directly with Shropshire Councils planning portal. With the emerging SAMDev and ORPC Parish Plan Survey at an advanced stage of production would it not be sensible to delay any planning decisions where the local community are so against them until the SAMDev and Parish Plan are completed. Both of these will help identify areas for development which the local community would support.

Highlighted are some of the concerns raised by local people.

Local affordable housing, to allow young people to remain in the village Paragraph 7 a social role in supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Paragraph 14 sustainable development.

Paragraph 54 plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Negative impact on open aspect of the village Paragraph 7 an environmental role contributing to protecting and enhancing our natural environment. Development and style of houses not in keeping with the already established rural character. Paragraph 86 the character of the village needs to be protected.

There is no demand for this type of housing in the village. Currently there are 24 houses for sale in the Trefonen area, last year 9 were sold. There are P 82, 3 or 4 bed roomed houses within a 3 mile radius of Trefonen. Paragraph 14 there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision-taking.

High unemployment in the Oswestry area and no jobs in Trefonen. People will need to travel away to work and the village will become a dormitory with very few of the residents contributing to the local community.

Paragraph 37 people should be encouraged to minimise journey lengths for Employment There will be a pinch point at the proposed new roundabout where 4 roads will meet and the cars generated by the proposals will exceed 68. Heavy construction traffic will be a hazard and as there is no mains gas delivery of bottled gas, oil, refuse collection and deliveries from internet purchases will all add to this congestion. A narrow country lane will be the access, there are already problems with parking at the Church for funerals and farms further up Chapel Lane report problems with access for farm machinery and milk tankers etc. Paragraph 32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

The opportunities for sustainable transport modes have been taken up

Safe and suitable access to the site can be achieved for all people; and Improvements can be undertaken within the transport network that cost effectively limit the impacts of the development Offas Dyke a very important tourist attraction will be compromised Paragraph 109. The planning system should contribute to and enhance the natural and local environment by:

Protecting and enhancing valued landscapes. Paragraph 130 where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account. Paragraph 133 Where a proposed development will lead to substantial harm to or total loss of significance, local planning authorities should refuse consent.

There is no shop or post office, necessitating a 3 mile drive to Oswestry for shopping. This will increase the potential for added pollution. Paragraph 28 promote the retention and developments of local services and community facilities in villages, such as local shops.

The developments go against the Village Design Statement. Paragraph 47 local planning authorities should set out their own approach to housing density to reflect local circumstances.

There is a very poor bus service with 1 bus into Oswestry at 10.26am returning at 1.35pm to Trefonen. Paragraphs 29 , 30, 31, 32, 34 Plans and decision should ensure developments that generate significant travel will be minimised and the use of sustainable transport modes can be maximised.

Childrens safety is a risk. There has already been an accident on the zebra crossing where a child at the primary school sustained fractured zygoma. The increase in traffic on the main road will increase the potential for road safety incidents.

Trefonen is already overdeveloped.

There is a flooding risk especially with 14/00426/OUT. This field is flooded now and results in the flooding progressing to the main road. Paragraph 100 Inappropriate development in areas at risk from flooding should be avoided. Both sites are on Greenfield. There will be loss of countryside and loss of agricultural land. Paragraph 77 The Local Green Space designations will not be appropriate for most green areas or open spaces. 80 Green Belt serves five purposes:
To check the unrestricted sprawl of large built up areas;
To prevent neighbouring towns merging into one another;
To assist in safeguarding the countryside from encroachment; to preserve the setting and character of historic sites;
To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The Primary School Governors are worried about the increased pressure on the School. Over 1/3 of pre-school and school children are out of the catchment area which will leave a large shortfall for the actual village. Paragraph 72 The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities

- 4.1.2 **Highways**- No objection subject to conditions. The adjoining residential road and its junctions with Chapel Lane and Trefonen Road were designed and laid out in such a manner that would cater for further residential development. The layout of the Whitridge Way is in line with desired standards and is considered therefore to have the capacity to also accommodate the vehicular movements likely to be generated by the proposed extension to Whitridge Way.
- 4.1.3 **Drainage** – No objection, drainage details, plan and calculations should be conditioned and submitted for approval at the reserved matters stage if outline planning permission is to be granted.
- 4.1.4 **English Heritage**-
 2/9/14- do not consider that the revised scheduling gives reason to change our advice overall regarding the amended development proposal.
 We note that the applicant's amended proposals exclude the eastern part of the development area pending an archaeological evaluation. We understand that proposal remains unchanged, as does our response to it dated 14th August 2014.
- 14/8/14- no objection to the approach of conditioning any planning permission to ensure that a decision on whether development takes place within the shaded area (plots 1-4) is informed by an archaeological field evaluation as a reserved matter. Development should only be allowed in the shaded area if the field evaluation demonstrates that there would be no adverse impact upon archaeology relating to Offa's Dyke.
- 4.1.5 **Ecology** – no comments received at time of writing report.
- 6.1.6 **Coal Authority**- The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the Risk Assessment to be submitted of for the Coal Authority to be consulted.
- 4.1.7 **Archaeology** – No objection subject to plots 1-4 being subject to an archaeological evaluation and geophysical survey to demonstrate that there would be no adverse impact on any underground remains of Offa's Dyke or its setting.
- 4.1.8 **Affordable Housing** – any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.
- 4.1.9 **Rights of Way**- no objection. Bridleway 150 Oswestry Rural runs along the western boundary of the development site and does not appear to be affected by the proposal.
- 4.2 **- Public Comments**

A large number of representations have been received. However, an exact

figure cannot be given as it has become apparent some objection letters have been written and signed in the name of individuals unaware of the planning application. Notwithstanding this all of the comments received are summarised below. Objections received relate to the following:

Objections

- The proposal contradicts SAMDev
- Number of dwellings will overwhelm the village
- Increase in traffic which will cause congestion
- Inadequate access / highway safety
- Whitridge way unsuitable for construction traffic
- Impact on Offa's Dyke footpath a national amenity
- Over development for the site which will affect the character of the village
- Impact on the historic value of Offas Dyke
- Estate road not in accordance with Council specification
- Impact upon the setting of Offas Dyke
- Drainage / flooding concerns / surface water
- No guarantee of the deliverability of the scheme
- Children wouldn't be able to play near their homes
- Visual impact on the village – result in urban sprawl
- Light pollution
- Loss of water pressure
- No employment opportunities in the village
- Scheme will set a precedent
- Scheme doesn't consider the topography of the site
- Scheme has no consideration to character of the village
- Children wont be able to use end of cul-de-sac to play
- Smaller 2/3 bedroom dwelling are required not large properties
- No need for housing in the village, properties are up for sale and have been for some time
- Impact upon 'stone hedges'
- Loss of green space within the village
- Loss of view of the centre of the village from Offas Dyke Path
- Lack of public amenities (infrastructure) to support such a development
- Proposed parking not in the best location
- Poor bus service currently in place (3 buses a day) to local amenities
- No sustainable gain from the proposed
- Unsustainable expansion to the village
- Deter tourists from visiting the village
- Over looking of existing properties resulting in loss of privacy
- proposals do not contribute, support, protect or enhance the economic, social or environmental aspects of Trefonen village community
- Lack of affordable housing
- Scheme does not comply with the NPPF
- The heritage asset is irreplaceable
- Land is needed for agricultural purposes
- NPPF states 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’.

- Contradicts village design statement
- No gas supply all properties are heated by oil – new development will increase carbon emissions
- Impact upon undisturbed section of the Dyke (remains of the ditch) are on the edge of the development site. Impact upon 19th century industrial features which are heritage assets
- Impact upon protected species
- Increased traffic on the approach road to Oswestry

Support

- New homes should be affordable allowing young families to live in the village
- School only has 51% of pupils from its catchment
- Only 3 houses for sale in village for under £200,000
- Extra houses help secure future of the school

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Impact on Neighbours
Highway Safety
Impact on Ecology
Impact on Archaeology

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. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. 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.

- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.
- 6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 It is acknowledged that the site is outside the Trefonen development boundary previously set within the Oswestry Borough Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, these policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.6 Trefonen has not been put forward as either a hub or a cluster and as such the Parish wishes to be considered as countryside for the purposes of SAMDev. In such locations there would typically be a presumption against new residential development. It is acknowledged that local residents feel that proposal is contrary to their SAMDev allocation as open countryside. However at this time SAMDev still only holds limited weight until its formal adoption. Officers are sympathetic with the local community who want to be considered as open countryside. As such the application must still be considered in light of the presumption in favour of sustainable development as required by the NPPF.
- 6.1.7 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and

services. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location. Policy CS17 requires that 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, geological, heritage or recreational values of these assets.

- 6.1.8 Members will recall that Trefonen has also recent been subject to another planning application for approximately 22 dwelling, which like this application also attracted a large amount of objection. (application no. 14/00426/OUT). This application was refused planning permission on the 5th September for the following reason:

It was acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply to which significant weight was given. However it was considered that this was outweighed by the harm identified. Furthermore weight was given to the fact that the proposed development was not plan led being contrary to both current saved policies of the Oswestry Local Plan and emerging policies in the Site Allocations and Management of Development DPD albeit that limited weight was given to those policies in view of the age of the saved policies and the fact that the emerging policies are subject to unresolved objections and have not yet been subject to examination in public. It was considered that the development of this site would have an adverse impact on the intrinsic rural character and beauty of the village, take up a visually valuable green space, be development on valuable agricultural land and not contribute towards conserving and enhancing the natural environment contrary to policies CS5 and CS6 of the Shropshire Core Strategy and the NPPF. It was not considered that this development in the settlement was sustainable due to the limited number of services available to future residents in Trefonen and the consequent need to travel to access services but with limited public transport, and opportunities for non-car based travel to do so. The harm resulting from the development would therefore significantly outweigh the benefits of the proposed development and would fail the environmental role of sustainable development contrary to the National Planning Policy Framework.

- 6.1.9 At the time of writing this report no appeal against the decision had been submitted, although the applicant has until March 2015 in which to do so.

6.2 Is the site sustainable?

- 6.2.1 Whether a site is sustainable is not judged purely on the distance from services, facilities or employment. The Council's adopted Core Strategy sets out the principle that new housing development will be supported in designated Hubs and Clusters. The effect of this is that the Core Strategy encourages rural communities to be more sustainable by allowing development that helps to rebalance rural communities. This can be achieved by providing facilities, economic development or housing for local needs that is of a scale that is appropriate to the settlement. Whilst it is recognised that the Parish Council have not wanted Trefonen to be either a hub or a cluster it is still a rural community and therefore the principles of the Core Strategy which encourages sustainable development away from the main market towns should apply. Trefonen does have a quantity of services that are typical of a medium sized village which includes a public house, primary school,

church, village hall, sports pitch and play ground and until fairly recently it did have a village shop. The village also benefits from a bus service to Oswestry.

6.2.2 As with the previous planning application on another site nearby which is referred to above representations have been received commenting that Trefonen is an unsustainable location because it has very limited services and this was referred to in the reason for refusal detailed above. The distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance alongside issues of impact on highway safety, ecology, archaeology and development of agricultural land. Despite the previous refusal on the nearby site it remains Officer's opinion that Trefonen does have a range of accessible service and facilities which help contribute towards the overall sustainability of the settlement. .

6.2.3 The strands of sustainability referred to in paragraph 7 of the NPPF are economic, social and environmental, further consideration of how the proposed development impacts upon these elements is set out below.

6.3 **Economic Consideration**

6.3.1 In economic terms the proposed development will provide employment during the constructions process and support suppliers, Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts; although it is acknowledged that these benefits would be achieved by any new housing development and in any location. The most important economic benefit would be the spending power of new residents who would have the potential to support local services such as the pub and possibly increase the likelihood of the village shop reopening (although the precise reasons for its original closure are not known). The site is also well connected to Oswestry, the centre of which is 2.6 miles away and there is a bus service, although it recognised that it is an infrequent service with three buses a day. As the site is close to Oswestry and there is a public transport link it is likely that residents will also help to support the services that Oswestry has to offer as well as those in Trefonen itself.

6.3.2 Concerns have been raised that there are no job opportunities available in Trefonen and that residents would need to travel out of the village to work. It is however a relatively short distance to Oswestry by a good quality and well used road, where there are employment opportunities and through SAMDev further employment opportunities are likely to be available in the future with significant land allocated for employment to the east of the town. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.

6.3.3 Objectors have commented on the economic benefits that tourism brings to the village because of its position on the Offa's Dyke National Trail. A number of objectors feel that the development of housing so close to Offa's Dyke would discourage visitors to the area. Offa's Dykes in various positions along its route passes close to built development including the existing Whitridge Way estate. There is no evidence to show that previous developments have impacted upon visitors to the area as a consequence of new housing development. Whilst there is a risk that some visitors may not come to Trefonen, it is considered that this is an

extremely low risk which can only be attributed a small amount of weight in the overall planning balance. It must also be noted that neither English Heritage or the Council's Rights of Way Officer have any objection in terms of the impact on the Dyke.

6.3.4 The site is classified as Grade 3 agricultural land so of good/ moderate quality, the land does contribute economically to the farming industry. Whilst the loss of the land will result in a slight economic loss with regards to agricultural it would only be a small area and would not be a significant harm.

6.4 **Social Considerations**

6.4.1 Socially the scheme will provide both affordable and open market housing of which there is a proven need across Shropshire as set out in policy CS11 of the Core Strategy. More people living in the village would also provide support for local services such as the school and sports/ social clubs. Currently, the school is only around 75-80% full, as of January 2014 there were 77 children of primary school age living in the Trefonen catchment with a capacity of 157 at the school. The school had 120 pupils on roll for the last academic year which was heavily supplemented by out-of-catchment children. The proposed development would also provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent. The CIL contribution would provide for infrastructure enhancements. The proposed development is unlikely to have a significant impact on the need for extra school places as the site is moderately small and therefore limiting the number of dwellings that could be built.

6.4.2 It is recognised that increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. The application is for only 12 dwellings and it is Officer's opinion that this would form a natural continuation of an existing housing estate which currently ends abruptly at its boundary with the application site. The size of the proposed development would not overwhelm the rest of the village and is of an appropriate scale where over time it can be absorbed into the context of the existing housing estate without feeling disconnected or isolated from the rest of the community or the built fabric of the rest of the village.

6.4.3 The layout of Trefonen is varied with a wide mix of dwelling types and sizes. The adjacent modern housing estate contains a mix of dwelling types ranging from small detached bungalows to large 4 bedroom properties. Overall Trefonen contains a high proportion of large dwellings which are often un-affordable to many who grow up and wish to stay within the village. Whilst this is only an outline application the applicant has revised the types of dwellings that have shown on their indicative layout. This is in recognition of the community's wish for smaller dwellings. The applicant has stated that the number of 2 and 3 bedroom properties has been increased from 4 to 8. Two bungalows are also proposed. Members should be aware that the types of dwellings referred to in the application are only

indicative and the exact mix of dwelling types and sizes will be subject to a subsequent reserved matters application.

6.4.4 Overall it is considered that the proposed addition of 12 dwellings would not result in such a large amount of pressure being placed on local infrastructure to justify refusing the application. The site is within walking distance of a bus stop, school, and community facilities and there is quick access to Oswestry by either bus or car, although it is recognised that the bus service may be limited with 3 buses to and from Oswestry per day; they are however at suitable times for someone working standard 9-5 office hours. Oswestry has a good range of services and facilities, shopping and employment opportunities and land being allocated for further employment uses and the development provides new housing, including affordable housing and a financial contribution towards infrastructure.

6.5 **Environmental Considerations**

6.5.1 Environmentally it is recognised that the scheme would result in the partial loss of an agricultural field which is clearly valued by the community for a number of different reasons. Firstly, it provides an open space on the edge of the village; although there are no public rights of way crossing the site, it provides a greenfield back drop to Offa's Dykes when viewed from Chapel Lane and it provides an attractive setting for the Offa's Dyke Trail which runs the length of the field before heading either into the village or further into the countryside.

6.5.2 The application has attracted large amounts of objection from people both locally and from further afield, it has also attracted objection from various non-statutory heritage and archaeological organisations because of the impact it is felt that the development would have on the setting of Offa's Dykes and the impact upon archaeological remains. Both Local Planning Policy in policy CS17 and the NPPF recognise the value of heritage assets. Para 126 of the NPPF it states that, "In doing so, they [The LPA] should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance", and should take into account the following:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- the desirability of new development making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment to the character of a place.

6.5.3 The existence of Offa's Dyke within close proximity of the site should be awarded significant weight in the consideration of the application given its status as a nationally imported heritage asset.

6.5.4 The proposed development is on a parcel of Grade 3 agricultural land that sits outside of the built environment of Trefonen. Building houses on undeveloped parts of the countryside would conflict with the core planning principles, set out in paragraph 17 of the NPPF which aims to conserve and enhance the natural

environment and encouraging the effective use of land by reusing land that has been previously developed. To meet Shropshire's current and future housing needs it will necessitate the development of agricultural land. The key issue is only to develop agricultural land that is not of significant landscape, ecological or historic importance. In this instance it is acknowledged that the land is grade 3 agricultural land so of good/ moderate quality. The historic importance of the site is also an important factor given its proximity to Offa's Dyke is further considered later in this report.

6.5.5 However the site sits adjacent to and officers consider would be a continuation of the existing housing estate as it would sit between the dwellings that front on to Chapel Lane and the small number of dwellings fronting the track to the west. It is Officer's opinion that that the proposed development would represent a logical expansion to the village which would relate well to the existing built fabric of the settlement. The setting of this application site differs from the other recent application in Trefonen which was refused planning permission. In that instance Members of the Committee felt that the proposed development would have an adverse impact on the rural character and beauty of the village. The refused application was on a site that was separated from existing built development by the road and would not be seen within the context of other similar built development. It would have also changed the view of the village from the main road. In this current application the site tightly abuts and would be an extension of an existing modern housing estate rather than as an isolated or detached housing scheme.

6.6 **Siting, scale and design of structure**

6.6.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. The applicant has provided an indicative plan showing that the Whitridge Way estate road would be continued into the site where there would be a turning head, adjacent to which the applicant would be willing to provide a series of public parking spaces, a footpath link to Offa's Dyke Trail and an interpretation panel to explain the history and archaeology of the Dyke. It has not been demonstrated that there is a particular need for these items however they are of some small community benefits which can be awarded some weight in the overall planning consideration.

6.6.2 It is acknowledged that the appearance of this part of Trefonen would change, the nature of Trefonen is a hill side village with clear views towards dwellings from long vantage points. The larger field which contains the application site is visible from the main Trefonen to Oswestry Road although a clear view of the application site is partially interrupted by the existing dwellings fronting Chapel Lane. Whilst the additional proposed dwellings would be visible it is Officer opinion that the development would still have the appearance of a logical infill site that sits in amongst other built development. Whilst there would be a loss of a relatively small area of agricultural land it would not be to such an extent where it becomes visually harmful to the rest of the village. The proposal would be seen within the context of the adjacent housing estate which climbs the hill in a similar fashion. It is considered that by ensuring an appropriate form of development the village would continue to be characterised by its semi-rural character and its surrounding greenfields.

6.6.3 The submitted plans are only indicative at this stage and the layout of the

development would still be subject to full consideration at the reserved matters stage. What the indicative plans do show it that the site is large enough so that it can be developed with a density that is appropriate for the context of the site and comparable to neighbouring development and there is an opportunity to provide a layout and landscaping that allows a transition between the urban village and its rural surroundings. An appropriate design could provide a 'softer' and more natural transition than the current straight rear boundaries of the dwellings on Carneddau Close.

6.7 **Visual impact and landscaping**

6.7.1 The site rises in height away from Chapel Lane up towards the track that is part of the Offa's Dyke trail. Views across the site are clearly possible from the trail as there is only a post and wire fence separating them. The views of the site from Chapel Lane are more obscured firstly because four adjacent dwellings fronting Chapel Lane and then by the mature road side hedgerow which extends up to the north-western corner of the field which significantly obscures views of the application site. Following the development of the site the views of the top of the houses are more likely to be visible depending upon their height. The view of the application site is more visible from the section of Chapel Lane at the north western corner of the field where it joins the Offa's Dyke Trail, this is where there is a more elevated position and the hedgerows are thinner; especially during the winter months. Although from this position the proposed site is around 200 metres away and the development would have the back drop of the existing Whitridge Way estate and the rest of the village.

6.7.2 Following the changes to size of the area covered by the scheduling of this section of the Dyke it now covers a strip of land all the way along the edge of eastern edge of the field and up to the side boundary of the dwelling fronting Chapel Lane, it however does not extend as far as the application site. A large number of objections have commented on the reduction in the view towards the Dyke because of the additional housing. The proposed housing will restrict the view towards the Dyke, as it would for a short stretch obscure a view diagonally across the field towards the Dyke when travelling along the Offa's Dyke trail. However, this would only be for a short distance given the small size of the development and any views of the Dyke are from a significant distance of approximately 135 metres. Once past the proposed dwelling the view would open up and the Dyke would again be seen from a similar distance.

6.7.3 A longer view of the site is from the Trefonen to Oswestry road where the application site can be seen as a green strip of land running behind the dwellings fronting Chapel Lane which includes Offa's Dyke. The field then gives way to the hillside dwellings up to the horizon. Only a small portion of this 'green strip' would be lost as a result of the proposed development and it would only be the portion that sits behind the existing Chapel Lane properties. Whilst it is likely that the ridgelines of the proposed dwellings would sit above the Chapel Lane dwellings due to the incline of the site this is considered by Officers that this is unlikely to be significantly different in its appearance to the existing situation of the dwellings on Carneddau Close.

6.7.4 It is considered by Officers that the proposed development would sit comfortably against the built form of Trefonen and would result in a logical expansion of the

adjacent housing estate by not creating a new standalone housing development. The proposed dwellings would be viewed against a back drop of other residential development and is far enough away from Offa's Dyke to ensure that it would not detrimentally harm the Dykes visual prominence in the landscape.

6.7.5 As this application is only seeking an outline permission the layout, scale and form of the development would be subject to reserved matters approval. However, it is considered that subject to an appropriate design and layout there is an opportunity to create an attractive development that would sit comfortably within the context of the site and that integrates with the existing fabric and character of the settlement without detrimentally harming the surrounding landscape.

6.8 **Impact on Neighbours**

6.8.1 The introduction of an extension to a housing estate will inevitably increase the number of vehicle movements and increase the amount of activity on a site that is currently used for agricultural purposes. The only way that vehicles would access the development would be by Whitridge Way. Since the Whitridge Way was constructed residents have enjoyed the benefit of it being a cul-de-sac at its northernmost point. To open up the end of Whitridge Way to the proposed development would result in existing residents experiencing additional vehicle and pedestrian movements past their properties which could ordinarily lead to increased disturbance. The existing dwellings on Whitridge Way are positioned close to and lower than the level of the passing pavement. Members of the public already have the right to pass these properties where residents they may already experience some privacy issues because of the small distance between the pavement and their windows, although this is currently likely to be infrequent because the road is currently blocked off. The opening up of the road and the addition of 12 extra dwellings would result in more pedestrians passing existing properties, however it is considered by Officers that this would not be to such a level of intensity where it detrimentally impacts upon the neighbour's privacy.

6.8.2 The residents on Chapel Lane currently have an outlook across an open agricultural field which would be partially lost by the development of housing adjacent to their rear boundary. The site is elevated above and continues to rise away from the rear gardens of the Chapel Lane properties and those on Carnneddau Close, whilst their outlook would change it is considered that the site could be developed without resulting in the proposed dwellings being harmfully dominant or overbearing on neighbours and that adequate separation between properties could be achieved to preserve the neighbours' privacy. This will be fully considered at the reserved matters stage where the distance and relationship between existing and proposed dwellings would be fully considered.

6.8.3 At this outline stage it is considered by Officers that it is possible to develop the site without there being any detrimental harm to the amenities of neighbouring occupiers in terms of privacy and loss of light.

6.9 **Highway Safety**

6.9.1 The means of access to the site is not one of the reserved matters and therefore needs to be fully considered as part of the outline planning application. The access would simply be to continue Whitridge Way into the proposed development which would extend the length of the cul-de-sac and provide an appropriate turning area.

- 6.9.2 The Council's Highways Officer has confirmed that the adjoining residential road and its junctions with Chapel Lane and Trefonen Road were designed and laid out in such a manner that would cater for further residential development. The layout of Whitridge Way is in line with desired standards and is considered therefore to have the capacity to also accommodate the vehicular movements likely to be generated by the proposed development of 12 dwellings.
- 6.9.3 The new section of the estate road would need to continue with the same design and layout as the existing road with footway provision on both sides and a standard turning head should be provided at the end of the cul-de-sac. The exact details of the proposed estate road and the position of the public car parking spaces will be fully considered as part of any subsequent reserved matters application.
- 6.9.4 Representations received have commented on the number of cars being parked on the highway and how on occasions the lower part of the estate road are used by people attending the church, where the combination of parked cars and increased traffic movement could have a detrimental impact upon the safety of highway users pedestrians and children playing in the street. Members are advised that the highway network's primary role is to allow the passage of traffic. In the event that on street parking impacts upon the safe passage of vehicles parking enforcement measures could be introduced.
- 6.9.5 Objections have been received about how the proposed development in conjunction with other proposed schemes could have an impact upon traffic flows and the wider highway network. The proposed development will inevitably result in more vehicle movements to and from Trefonen and towards Oswestry. It is acknowledged that on some of the approach roads there are constraints such as narrow sections of road and one way priority traffic junctions. However, the planning process is required to balance all of the material planning considerations against current planning policies. In this instance the limited harm that may be caused to the highway network as a result of extra traffic from the proposed development is not considered sufficient to outweigh the wider benefits of the scheme.
- 6.10 **Affordable Housing**
- 6.10.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. Based on the number of dwellings shown on the indicative layout (12 dwellings) and the current target rate for the area this would equate to one on site affordable dwellings and a small financial contribution. However, the exact amount will depend upon the target rate at the time the reserved matters application is submitted. The affordable housing contribution would be secured by a S106 in accordance with the Shropshire Viability Index as set out in the adopted SPD.
- 6.11 **Ecology**
- 6.11.1 In support of the application the applicant has provided a Phase 1 habitat survey. The report has identified that there may be an impact on great crested newts because there were two ponds within 250 metres of the site. One of the ponds has a history of use as a breeding pond for Great Crested Newts. As such there is the

prediction of an offence being 'likely' as a result of the development. As such it will be necessary to apply for a licence from natural England in order for the development to commence. The licence application is also likely to require appropriate mitigation. The Council's Ecologist assessed the proposal and required additional information to be provided with regards to Great Crested Newts, this information has been provided and is currently being considered by the Council's Ecology Team.

6.13 Impact Public Right of Way

6.13.1 The Offa's Dyke Trail which is a public right of way and runs just outside of the site along its western boundary. The proposed development would not have any on walkers wanting to use the path, although it is recognised that the proposed development would change the character of a short stretch of the path as it would pass built rather than agricultural land. The applicant has proposed that a new footpath connection would be provided from the small car parking area to allow easy access onto the Offa's Dyke Trail, improving its connectivity. This is considered to be of some benefit to the local community although the overall weight awarded to it in the consideration of the application is limited. The Council's Rights of Way Officer has not raised any objection to the proposal.

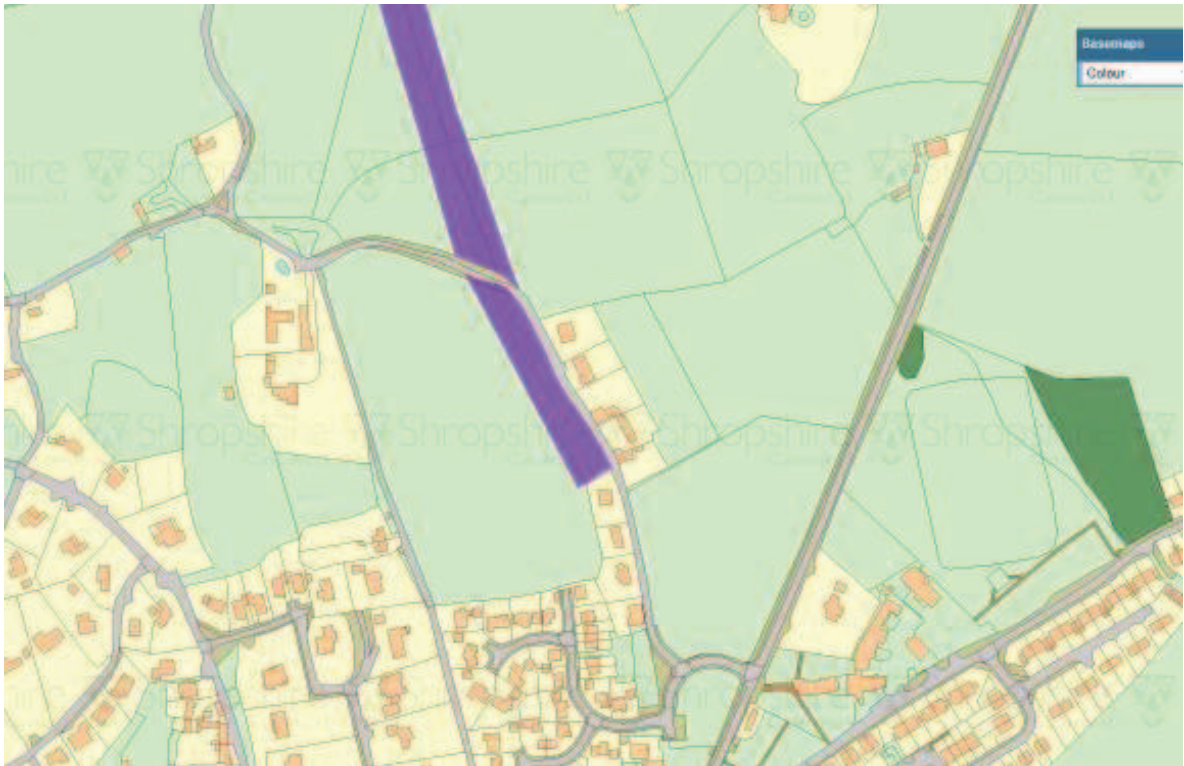
6.14 Drainage

6.14.1 To accompany the application the applicant has provided a drainage assessment. The assessment suggest that all surface water would be dealt with by a sustainable drainage system and soakaways with foul drainage being to the existing mains system.

6.14.2 The Council's Drainage Officer has not raised any objection to the proposal and is satisfied that the drainage details including any relevant plans and calculations can be dealt with by an appropriate planning condition.

6.15 Impact on Archaeology

6.15.1 As referred to above the issue of the site's proximity to Offas Dyke has been the subject of much discussion concerning both the setting of the Dyke and the impact on archaeological remains. Since the submission of the planning application English Heritage received an application to consider scheduling an additional section of Offa's Dyke immediately north of Church View. Most of the best-preserved section of Offa's Dyke were already scheduled but previously the scheduled section of the Dyke adjacent to Chapel Lane stopped approximately 50m short of the boundary with Church View. On 5 September 2014 English Heritage determined the application and amended the Scheduled area to include the previously non-designated section immediately north of Church View.



Now Schedule Section of Offas Dyke

- 6.15.2 The section of Offa's Dyke immediately north of Church View is aligned north-west to south-east and is approximately 135m in length. At its northern end the bank has been cut slightly along its east side by a hollow way created by the road (Chapel Lane) which runs from Fron to Trefonen, before it turns sharply west and cuts through the Dyke. Although the bank has been spread by ploughing it is visible here as an earthwork bank with traces of the ditch on the west side which, although largely infilled over time, remain visible. The central part of this section was formerly occupied by a public house known as the Royal Oak which is depicted on the Tithe Map of 1838 but had been demolished by 1901. Although the construction of this building has resulted in the loss of the bank here, the parallel section of ditch is considered to survive below the ground surface. Beyond this, to the south, the profile of the bank has been much reduced by cultivation, but is visible as a wide, spread earthwork and the ditch, although infilled, will survive as a buried feature. To the south the bank has been substantially removed by the construction of the dwelling known as Church View and the other properties to its south, along the west side of Church Lane. The amendment that English Heritage made to scheduled area means that it now includes the section of the Dyke adjacent to Church View, therefore bringing the designated area closer to the application site.
- 6.15.3 To the south of the newly scheduled section of Dyke the bank has been substantially damaged, and largely destroyed, by the construction of several houses and their gardens, namely Church View, Meadowlea and Offa Cottage, alongside Chapel Lane. Objectors contend that the associated section of ditch to the west may survive as a buried feature which extends into the adjacent field (application site). English Heritage considered that the loss of the associated bank means that this section of Offa's Dyke cannot be considered to survive well when compared with other better-preserved sections of the Dyke where not only the ditch survives but also evidence of the bank. English Heritage therefore concludes that

the section of Offa's Dyke beneath and adjacent to Church View and the neighbouring properties, and possibly into the application site, does not therefore survive sufficiently well to be considered of national importance and did not merit scheduling.

- 6.15.4 As part of the application and prior to the amendment to the Schedule entry the Council's Archaeologist and English Heritage requested, in accordance with paragraph 128 of the NPPF, that a heritage assessment should be submitted to provide an assessment of the significance of any archaeological remains and an assessment upon the setting of Offa's Dyke. The report has since been submitted and it states that further archaeological survey should be undertaken to further establish the character and significance of the heritage assets within the proposed development site. Para 135 of the NPPF requires that non-designated heritage assets of archaeological interest should be taken into account when determining planning applications, and that a balanced judgement is required with regard to the scale of any harm or loss and the significance of the heritage assets affected. The applicant has agreed to carry out the additional survey work. However they have said that the costs of the work are prohibitive at this stage of the planning process. The applicant has been advised that the most important part of the site is to the east (plots 1 to 4) where it has been suggested that remains of the ditch to Offa's Dyke may survive below ground. As such it is considered appropriate to impose a planning condition which will exclude the development of plots 1-4 from development until it is demonstrated to the satisfaction of the Local Planning Authority, by the submission of an archaeological evaluation, demonstrating that there would be no adverse impact on any underground remains of Offa's Dyke or its setting. As expressed by English Heritage, if any remains of the ditch of Offa's Dyke extend into the development site they are not considered to survive sufficiently well to be considered of national importance. Therefore it is considered reasonable and proportionate to not require this additional survey work prior to the granting of outline planning permission and instead to deal with this by way of a planning condition that requires submission of a field evaluation with any application for reserved matters. This is considered to comply with Para 128 of the NPPF which requires the level of detail of the heritage assessment to be "proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance".
- 6.15.5 Whilst the application site falls outside the area designated as a Scheduled Ancient Monument, Para 132 – 134 of the NPPF require that consideration is given to any loss of significance as a result of development within its setting. Comments were provided by both English Heritage and the Council's Archaeologist prior to the amendments to the Schedule Entry for the Dyke. Both have since been re-consulted and have stated that the amendment to the schedule does not change their original comments.
- 6.15.6 Objectors have challenged the Heritage Assessment that has been submitted by the applicant with the opinion that it does not meet the professional Standards and Guidance of the Institute for Archaeologists, this opinion has not been accepted by the Council's Archaeologist. To support the argument of the objectors they have also submitted their own Heritage Statement which was produced on behalf of the Trefonen Rural Protection Group. The Council's Archaeologist and English Heritage have both had regard to Archaeological Assessments by the applicant and

the objectors in formulating their comments. English Heritage and the Council's Archaeologist are satisfied that the proposed development would not have an adverse impact on the setting of the Scheduled area of Offa's Dykes and both consider that the revised scheduling does not give reason to change their advice overall regarding the proposal. Further, it is considered that, following English Heritage's revision of the designated area of the Scheduled Monument, a further request to update the applicant's Heritage Assessment could be considered unreasonable, and would incur a risk of an appeal against non-determination of the application.

- 6.15.7 It is considered that the applicant has adequately demonstrated the significance of the heritage asset the contribution made by its setting and the impact of the proposed development. Whilst the proposed scheme is close to Offa's Dyke, by the imposition of appropriate planning conditions it is considered in relation to paragraph 132 of the NPPF that it would not result in substantial harm to the heritage assets which would justify a refusal of planning permission. With regard to paragraph 134 of the NPPF the limited harm that may be caused by the loss of long view towards a small section of the Dyke is considered to be outweighed by provision of housing in a sustainable village location which overall would have limited impact upon the character and appearance of the area. The proposal is therefore considered to comply with section 12 of the NPPF and policy CS17 of the Core Strategy in this respect.

7.1 CONCLUSION

- 7.1.1 The site is located outside of the current Trefonen development boundary and is therefore classed as a departure from the development plan. Significant weight must be awarded to paragraphs 7 and 8 of the NPPF where there is a presumption in favour of sustainable development.
- 7.1.2 It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development adjacent to the village. The detailed, appearance, landscaping, and scale designs would be considered at the reserved matters stage along with further archaeological assessment for plots 1-4. It is considered that the proposed development would not have a detrimental impact upon the setting of the scheduled ancient monument.
- 7.1.3 Whilst Trefonen does not have a large number of services and facilities it is a sizeable settlement and has a number of facilities which help meet the day to day needs of residents such as the school, church, village hall and a public house. The existing infrastructure is sufficient to support the proposed development and the proposal will provide affordable housing and will be liable for the required CIL payment. It is considered that Trefonen is a sustainable location for new dwellings with good access to all essential services such as the school which is currently occupied significantly below full capacity. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote 'strong, vibrant and healthy communities'. It is therefore recommended that members approve the application in line with guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure the provision of affordable housing

in accordance with the Councils adopted policy.

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

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:
CS4- Community Hubs and Clusters
CS6- Sustainable Design and Development Principles
CS9- Infrastructure Contributions
CS11- Type and Affordability of Housing
CS17- Environmental Networks.

RELEVANT PLANNING HISTORY:

11. Additional Information

[View details online:](#)

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

Cllr M. Price

Local Member

Cllr Joyce Barrow

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 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 12 month from the date of this permission

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

5. The area of land hatched in black (plots 1-4) on the Revised Conceptual Layout Plan July 2014 (received 30th July 2014) shall only be developed if an archaeological evaluation and geophysical survey satisfactorily demonstrates to the local planning authority that there would be no adverse impact on any underground remains of Offa's Dyke, or on its setting. The report shall be submitted as part of the first reserved matters.

Reason: To protect the archaeological interest of this part of the development site.

6. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a geophysical survey and trial trenching, followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site holds archaeological interest

7. Details of the design and construction of any new roads, footways, accesses, and standard turning head together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority before the development begins. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

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

8. The continuation/junction of the new estate road with the adjoining highway shall be constructed in accordance with the Local Planning Authority's specification for the time being in force for residential and industrial estate roads.

Reason: To ensure the formation of a satisfactory estate road junction to serve as a means of access to the development.

9. A minimum of 2 car parking spaces shall be provided for each unit of living accommodation in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To provide for the parking, loading and unloading of vehicles off the highway in the interests of highway safety.

-



Committee and Date

North Planning Committee

18 November 2014

Item

8

Public

Development Management Report

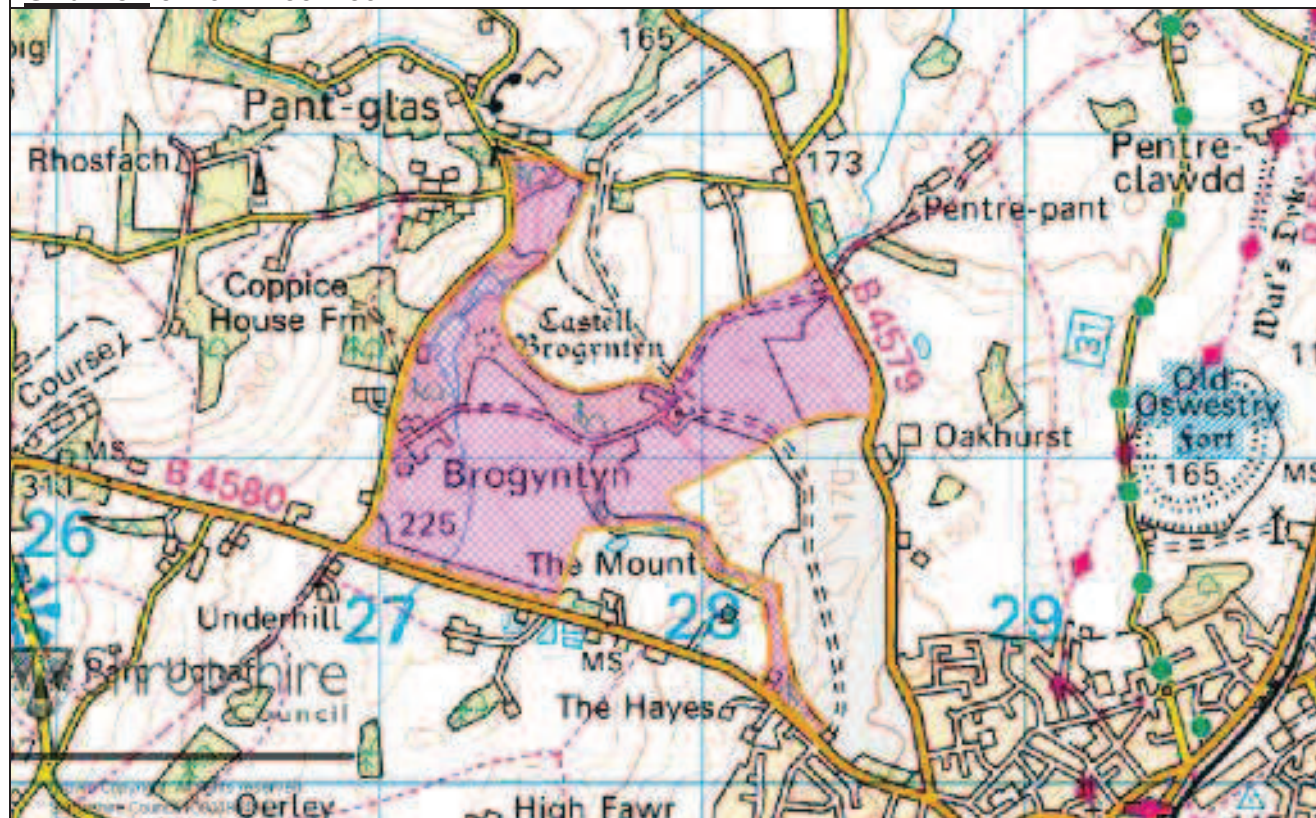
Responsible Officer: Tim Rogers

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

Summary of Application

<u>Application Number</u> : 14/03184/FUL	<u>Parish</u> :	Selattyn And Gobowen
<u>Proposal</u> : Change of hall from offices to residential with associated alterations to include demolition of service wing; conversion of Home Farm into 11 residential units; demolition of estate office and agricultural sheds; alterations to existing farm house and Dairy Cottage; erection of 50 dwellings within grounds; formation of vehicular access to B4580		
<u>Site Address</u> : Brogyntyn Hall Brogyntyn Oswestry SY10 7DA		
<u>Applicant</u> : J.Ross Developments Ltd		
<u>Case Officer</u> : Karen Townend	<u>email</u> : planningdmne@shropshire.gov.uk	

Grid Ref: 327921 - 331139



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Recommendation:- Subject to satisfactory resolution of the outstanding ecology issues and the submission of amended plans for the buildings at Home Farm GRANT planning permission subject to the applicants entering into a S106 agreement to secure the repair and restoration of the grade II* listed building and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for three parts of an overall scheme, the proposal has been submitted as one planning application due to the linkages between the three parts. A separate application for listed building consent has also been submitted. The three parts of the proposal are as follows: firstly the change of use of the grade II* listed building Brogyntyn Hall from its most recent use as offices to a single residential property. To enable the change of use works are proposed to the building, including demolition of one wing and the erection of new extensions to the building. The second part of the application is the conversion of the existing buildings at Home Farm into 11 residential units, including demolition of the estate office and some agricultural sheds, alterations to the existing farm house and Dairy Cottage, adjacent to the farm. The third part is the proposed erection of 50 dwellings within grounds of Brogyntyn Hall and the formation of a new vehicular access to B4580.
- 1.2 In support of the planning application the following documents have been submitted: full plans, Design and Access Statement, statement of community involvement, Hall condition report, Hall heritage statement, building regulations statement, heritage impact assessment, development justification statement, landscape and visual impact assessment, road safety audit, ecology report, landscape management plan, flood risk assessment, geo-environmental report.
- 1.3 In addition a set of confidential reports have been submitted detailing the financial costings of the work required to renovate and bring Brogyntyn Hall back into use; the costing and potential income from the proposed conversion of Home Farm and the new houses; the evidence of the marketing of Brogyntyn Hall and the other properties within the estate; and the proposed justification for the enabling development. These reports have been retained as confidential as they include commercially sensitive information.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Brogyntyn Hall is a grade II* listed building set within 93 hectares of grade II registered estate parkland which includes other buildings, houses, woodland, a lake, pastureland, Home Farm, Castell Brogyntyn (an Iron Age Fort). The estate also lies within the Pantglas and Brogyntyn Conservation Area. Several other buildings within the estate are Grade II listed and there are other listed buildings outside the estate. The Hall itself is on the English Heritage at risk register as a category A building as “immediate risk of further rapid deterioration or loss of fabric – no solution agreed” and has been on the register since 1998.
- 2.2 The 93 hectares within the applicants ownership is set within a wider parkland of 230 hectares in separate ownerships. It lies north west of the market town of

Oswestry and close to the border with Wales. The grade II registered park and garden has high value as, though held in a number of ownerships, it survives as a very complete form, without significant built development post-dating the main C18th and C19th phases of park formation. The estate is enclosed with stone boundary walls and the land to which to application relates lies between the B4580 and the B4579 both of which lead north out of Oswestry.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is considered to be a major and controversial application which has been recommended for committee determination by the Area Planning Manager in discussion with the committee chair and vice chair.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Oswestry Town Council** – The Town Council had been officially notified of this application which is clearly outside the Town Councils boundary. As Brogyntyn benefits from being in a conservation area there is an opportunity to provide comments and therefore it was agreed for a shared meeting to be held with Selattyn and Gobowen Parish Council to consider the Town Councils response.

4.1.2 **Selattyn and Gobowen Council** – **Support** the application as it will provide additional housing for the area and will assist the restoration of currently derelict historic buildings.

4.1.3 **English Heritage** – 27.10.14 - **No objection**. Has reviewed the previous comments (below) and, given the time passed and that the potential purchaser has declined to provide further information at this stage, English Heritage would no longer object to the Council determining the application on the grounds of prematurity.

If the Council was minded to approve the application subject to securing a section 106 agreement (setting out an appropriate programme, timetable and monitoring arrangements for the release of funds and implementation of repairs to the hall) English Heritage would welcome the opportunity of advising further. Once approval has been granted the Council comes under significant pressure to agree the content of the S106. The nature of such agreements requires particular expertise and would be happy to provide support.

12/08/14 response - Brogyntyn Hall is a grade II* listed building at risk located in a grade II registered park and garden in the Pant-glas and Brogyntyn Park Conservation Area. The proposed change of use, which incorporates a significant element of demolition results in serious but less than substantial harm to the significance of the listed building. The proposal for an enabling development of 50 new houses results in substantial harm to the significance of the grade II registered park and garden and the conservation area. The justification for the proposals is the public benefit of bringing the hall back into a good state of repair in a form that will render it sustainable as a family house. Enabling development is only ever considered as a last resort and it is essential that the market is tested to explore the potential for alternative proposals which do not contravene planning policy. In this case the marketing exercise has resulted in the emergence of a potential buyer who is not apparently a developer, would not require enabling

development and who does not seek significant demolition of the hall. In these circumstances, English Heritage recommends that the Planning Authority postpones its decision in order to allow the applicant opportunity to complete negotiations for the sale of the hall and such property as is required for its preservation. If the Planning Authority is minded to determine the applications prior to this, English Heritage recommends that they are refused by virtue of the fact that at the current time, the enabling case has not been proved necessary.

Significance

Though there is built evidence of a Tudor house on the site, much of Brogyntyn Hall's value as a highly significant designated heritage asset derives from the quality of the surviving C18th and C19th work by its two main architects: Francis Smith of Warwick (1735) and Benjamin Gummow (1814-16). This significance is best preserved in the south range where the form of Smith's house is still clearly seen though overlaid by Gummow's aggrandisement for Mary Jane Ormsby and her husband William Gore. Gummow transformed the exterior of Smith's building in the neo-classical style, rendering the brickwork and adding a massive ionic portico to the south front. The parkland and gardens were also developed at this time to respond to the new architecture of the house and provide it with an appropriate setting.

There is little evidence that Smith did anything to the east range which retained its C17th form until raised a storey and completely remodelled by Gummow. This range was historically less well integrated with the principal accommodation. Floors at levels reflecting the almost completely eradicated Tudor form of the house compromised circulation, a problem that not even Gummow was able to resolve with great success. It was perhaps for this reason that, when occupied by the Post Office in the mid C20th, it was the east range which saw extensive removal of fabric to create the required institutional accommodation.

The value of the hall is enhanced by its setting in a registered landscape and the survival of numerous ancillary structures (the stable court, walled garden, lodges, terraces, ha-ha, estate cottages and farm buildings etc.) many of which are also listed in their own right. The grade II registered park and garden has high value as, though held in a number of ownerships, it survives as a very complete form, without significant built development post-dating the main C18th and C19th phases of park formation. It is possible to trace the various phases of expansion and development of the park and the way in which they reflect the development of ideas in landscape design complementing the changing architecture of the hall. The land remains in its historic parkland use and though some features have deteriorated over time, enhancement and restoration would be practicable and, indeed, has commenced in those areas subject to a Higher Level Stewardship Agreement with Natural England.

The grade II registered park and garden has high value as, though held in a number of ownerships, it survives as a very complete form, without significant built development post-dating the main C18th and C19th phases of park formation.

Impact of the enabling development

The location of the proposed enabling development has been the subject of much deliberation; planting has been offered to mitigate its visual impact and, all things

considered, is regarded as the least worst option. This option in the context of the grade II* Brogyntyn Hall is relatively successful and English Heritage considers that its impact on the setting of the hall is neutral. The impact upon the registered park and garden and the Pant-glas and Brogyntyn Park Conservation Area is however, considered substantial by virtue of its use, scale and form which are alien to the existing character and appearance of the open parkland and the settlement pattern and landscape character of the conservation area. In the context of a registered landscape which retains so much of its historic form and is notable for its completeness, English Heritage considers that the change of use, the permanent loss of parkland and the visibility of the development would result in substantial harm to the significance of the registered park and garden.

Impact of the proposed alterations and partial demolition of Brogyntyn Hall

The proposals for the hall have been designed to maximise the retention of existing fabric in the south and west ranges. There are minimal modifications to layout and the introduction of services to new bathrooms and the kitchen will not result in significant fabric loss or inappropriate visual intrusions. Evidential value of fabric surviving from the Tudor house, the Smith house, Gummow's alterations and later C19th modifications will all be retained and aesthetic and historical values are conserved. English Heritage has no objection to the proposals for the south and west ranges.

The principal area of impact is the demolition of the east range where the loss of fabric retains the Tudor elements in the basement but removes evidence of the post Tudor pre 1695 phase of alteration which characterised the east range's appearance prior to the reworking by Gummow in the early C19th. This fabric had however, been extensively modified by successive changes. All trace of earlier layout was eradicated by Gummow when he changed the floor levels and added an extra storey of accommodation. The extensive removal of fabric to create office and canteen accommodation in the C20th removed much of the evidence of the C19th plan form. The evidential value of this range is therefore limited and the principal phases of development are well recorded elsewhere in the building. Internally the aesthetic value of this range is compromised in all respects other than the billiard room. Externally, the east range's aesthetic value is diminished by the design compromises made when the earlier structure was incorporated into Gummow's neo-classical remodelling. This wing has gained in visual prominence since unfavourable fragmentation of ownership in the C20th isolated the hall from the principal drive serving the south elevation and front door. Access to the hall is now via the Oakhurst Lodge drive with the east range providing the first views of the building. Radical changes are therefore proposed for this view but the principal views of the hall from the south are conserved. Planting is to be introduced to provide a backdrop to the C19th terraces and shield any distant views in to the revealed service yard.

English Heritage is of the view that on balance, the evidential, historic and aesthetic value of the listed building rests to a greater degree in the south range than in the east range. Though the impact of the proposals is therefore clearly harmful, it does not amount to substantial harm.

Justification

The condition of the hall has been set out in detail in the report by Aroll and Snell

and is evidently poor with water penetration through the roof coverings resulting in repeated outbreaks of dry rot. The building has been on the Heritage at Risk Register since 1998. Two phases of marketing reported in June 2014 suggest that the cost of repairs and the size of the hall are significant factors deterring potential purchasers looking at the property as a family home. It is in this context that the proposals for demolition to create a more sustainable family dwelling have been developed.

A measured cost plan for repair and re-use has been presented as part of a detailed enabling case made by the applicant in accordance with English Heritage's published guidance on enabling development. This case has been scrutinised by independent advisers commissioned by English Heritage and Shropshire Council and we are advised that the conservation deficit has been appropriately calculated, that the development appraisal is reasonable and that it seeks only the minimum amount of enabling development. In these circumstances English Heritage would be minded to accept that the impact of the proposed development, though very harmful, is justified by the public benefit of bringing the hall back into good repair and providing it with a sustainable future. On balance therefore, English Heritage would not therefore object to the applications but would recommend that they were subject to conditions to secure the quality of development proposed and a S.106 agreement setting out an appropriate programme, timetable and monitoring arrangements for the release of funds and implementation of repairs to the hall.

However, a crucial test is whether there would be any other owner who could purchase the building, carry out the repairs necessary to remove it from risk and provide a sustainable future for it without the enabling development. The property has been marketed since January 2014 to test this and in the last month a potential buyer who neither wishes to carry out enabling development nor to demolish the east range has come forward. It is not yet clear whether they are able to deliver this solution but English Heritage considers that while an interest of this type exists it would be premature to approve the application for enabling development, as the development may not, in fact, be necessary.

Recommendation

English Heritage recommends that it is premature to determine the applications for planning permission and listed building consent which would result in significant harm to the designated heritage assets while the possible sale of the property to a new owner, not requiring enabling development or the demolition of the east range, is under negotiation.

If, notwithstanding this, Shropshire Council is minded to determine these applications, English Heritage would object and recommend refusal on the basis that the necessity for the harm remains unproven while such a sale is under negotiation.

- 4.1.4 **Georgian Group – Object.** Whilst the group welcomes the proposed repair and reuse of parts of the house, we nevertheless wish to register a formal objection to certain aspects of these proposals.

This is a complex application which involves works to buildings and a designed

landscape which contain elements from a number of periods; not all of these heritage assets however date either in whole or in part from the period covered by the Group's 1700-1840 date remit. The Georgian Group therefore wishes to defer to the Garden History Society, and Victorian Society over the impact of the proposed enabling development works. The Group also wishes to defer to the Victorian Society over the future of the billiard room range within the mansion, and over the proposed conversion works to the Home Farm buildings. The Georgian Group wishes to limit its comments to the proposed works of demolition, and alteration to the GII* listed house itself.

The Significance of those parts of the house which would be either significantly altered or demolished

Earlier this year after a pre-application site meeting the Group wrote to the applicant's architect expressing its concerns over the written interpretation of the architectural development of the NW wing and over the accompanying assessment of the wing's architectural and historic significance. The Georgian Group remains of the opinion that the use of the term 'service wing' in this case is a misleading and pejorative one. The use for which the seventeenth century classical range was originally designed remains unclear, and we do not agree that there is enough evidence to conclude that it was subservient to the main house as claimed within the document. In the early nineteenth century the upper floors of the range were primarily used for reception rooms and guest bedrooms, and the wing remained part of the house's polite accommodation until at least the time that the billiard room was added. This wing retains Benjamin Gummow's elegant staircase, one of the few surviving features to survive from the early c19th remodelling of the house. It also contains significant evidence of the earliest surviving phase of the house's development. The billiard room range which is attached to its NW end also survives largely intact.

The Proposed Justification for the Works of Demolition

The Georgian Group accepts that there may be a need to rationalize and reduce the available accommodation within the house, however we are not convinced that a strong case has been made for such substantial works of demolition in terms of the criteria laid down by the Secretaries of State in the NPPF.

The justification for the radical remodeling of the internal spaces behind the three retained bays north of the canted bay is a particularly weak one when measured against the criteria contained within the NPPF for such works. For the justification for this element of the demolition work is substantially different from that provided elsewhere. These demolition works are primarily required to allow for the remodeling of the courtyard façade, and to facilitate the relocation of the billiard room paneling. This part of the house presently contains Gummow's elegant early nineteenth century staircase, and significant elements of seventeenth century fabric including a first floor room which retains sections of a substantial moulded seventeenth century cornice. Whilst the rooms are on a different level to those in the main block, this is little more than a minor inconvenience.

The retention of these rooms would preserve in situ some of the earliest fabric to survive within the house, and would also provide a far more convenient site for a kitchen as this part of the wing is located directly by the dining room. There is a

strong case for preserving the Gummow stair in situ for reasons of its architectural significance, and as it provides an important access route to the basement in this part of the house. The possible use of the adjoining area of retained fabric as a kitchen would also potentially allow for a more sympathetic use of the octagonal music room. (If the demolition of the billiard room wing were to be agreed, then its paneling could be re-erected in a further retained single storey section of the wing).

Recommendation

The Georgian Group must advise that it believes that that the architectural and historical significance of those parts of the house's historic fabric which are proposed for demolition has been underplayed within the supporting documentation. The Group questions the need for the scale of demolition proposed, and recommends in particular that a strong case for facading the three southern bays of the NW wing has not been made.

Your authority should look carefully at the proposed plan of the house and judge whether the plan is indeed a practical or a viable one. The scale of the demolition works proposed would leave the principal reception rooms without convenient access to kitchens and other service rooms. In addition to being highly damaging to the house's significance, the Georgian Group believes that this could make the house unattractive to potential purchasers. The present scheme could we therefore advise make a further series of damaging alterations more likely in the medium to long-term. The Georgian Group would recommend therefore that listed building consent is refused.

- 4.1.5 **Shropshire Parks and Gardens Trust** (on behalf of Garden History Society) –
 (i) Proposed alterations to Brogyntyn Hall, including demolition of service wing
 We note that Brogyntyn Hall is Listed Grade II* and that the proposal to demolish what is described as the 'service wing' has, unsurprisingly, caused concern. As both the Georgian Group and English Heritage are closely involved in discussions regarding the building itself, and this falls outside our areas of expertise, we will not comment directly on the effects of the proposed alterations to the building itself.

Our main focus of interest is the *designed landscape* of which Brogyntyn Hall is an integral part. In this, our principal concern is the impact of the proposed alterations to the outward appearance of the building and hence on the apparent design intentions of the surrounding parkland. It is clear that the relationship between the Hall and the landscape is a reciprocal one – the park provides an important part of the setting for the Hall, while the Hall itself is similarly a highly significant, if not irreplaceable, design element in the parkland landscape. We agree that the approach across the parkland from the south and east and in particular the post-1815 drive from Oswestry to Brogyntyn Hall's colonnaded south front, as well as the that through the pleasure ground woods from the south, are highly significant routes in the experience of Brogyntyn Hall itself, of its place in the surrounding landscape, and of the parkland itself.

We note however that these are only two out of five possible approaches, the others being from the north and north-east and in these, it is the 'west' or 'service' wing which is the principal focus in the landscape (this is discussed in detail in our

earlier pre-application response). Its modification as proposed will clearly have a substantial effect on its appearance as seen from the park, although it seems that the proposals as they stand will on the whole produce a 'balanced' structure when viewed from these approaches.

The relationship between the building and the adjacent garden terraces will however be substantially altered and great care must be taken in the treatment of these areas, to rebalance this relationship and provide an appropriate setting for this aspect of the building. We note that outline proposals have been made for these areas, including sketch designs for both a formal garden area and what appears at present to be an open-air swimming pool.

Whatever is done in these areas, we urge that a professional designer be involved who is fully conversant with the relationship between historic buildings and their settings and who has demonstrated this understanding in previous works of this kind. Additional planting may also be required in the parkland itself, to integrate any new works into the surrounding parkland.

Repair and refurbishment proposals for the Stable Block are welcomed. It was understood also that the walled kitchen gardens would similarly be repaired, refurbished and stabilised. Sadly, these no longer house their former greenhouse ranges, but they do incorporate what appears to be an early-19th century 'hot wall' and as such are of great interest and significance. We would in due course wish to see these restored as working gardens, ideally with their glasshouses reinstated.

(ii) Proposed conversion works to Home Farm, with additional buildings as outlined

The area of park at Brogyntyn where the Home Farm is situated appears to have been agricultural in character since at least the creation of the Home Farm in the mid- to late-19th century and the eastern boundary of the proposed development is the stream which feeds the two lakes now within woodland to the north. The proposed 'hamlet' development is well designed and situated and does not appear out of scale. We understand that a loose 'parkland' style of native tree planting (e.g. Oak, Beech, Lime as in the belts to the south) is proposed to the east, with wetland species (Alder, Willow) adjacent to the stream itself. An understory of Hawthorn and other species may also be appropriate within this area, to provide additional screening for the proposed developments.

(iii) The designed landscape of Brogyntyn Park

It is clear from a number of historical sources, and from reports commissioned to inform the current proposals, that the design of the parkland landscape at Brogyntyn was highly finished, strongly suggesting the hand of one or more professional designers, as yet unidentified. Given the above, it is a matter for some concern that the parkland at Brogyntyn, which is included at Grade II on the English Heritage Register of Parks and Gardens of Special Historic Interest, and appears also to correspond to the greatest extent of parkland shown in the later-19th century, is in divided ownership among 7 different titleholders.

It is recognised however that Brogyntyn Hall itself, with the larger part of the park and all of the pleasure ground areas, is currently held as a single unit. We

welcome the placing of these core parkland areas in an existing Higher Level Stewardship agreement with Natural England, with the support and protection which this scheme affords. Ideally, the historic parkland would be under a single ownership, but failing this, we would wish to see a dedicated Conservation Management Plan for the whole of the Registered Parkland area, this to be agreed and implemented by all owners.

The pre-application response has been uploaded to the website for information but is not repeated here

4.1.6 **Affordable Housing** – As this is an enabling development no affordable housing will be provided on site.

4.1.7 **Crime Prevention Design Advisor for West Merica Police** – I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime and /or the fear of crime and to promote community safety.

Therefore should this proposal gain planning approval, I request that the following planning condition be placed upon the said approval.

The applicant should aim to achieve the Secured by Design (SBD) award status for this development. SBD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment, the scheme has a proven track record in crime prevention and reduction. The opportunity for crime to occur can be reduced by up to 75% if Secured By Design is implemented.

The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at www.securedbydesign.com

4.1.8 **Conservation – No objection** is raised to the scheme as a whole. The case for enabling has been made and fits with the EH Guidance on such matters.

The applicants have been endeavouring to find a new viable use for this site for many years, prior to the making of the Unitary Shropshire Council (2009) and this has continued with Shropshire Council. These endeavours have seemed to have covered many different potential uses, none of which were able to be brought to fruition for various reasons, such as viability, economy etc. During this time there has been deterioration of the building but this is not considered to be of entirely the existing owners making, but over a period of time from the occupation of BT through to the current time. Lack of significant repairs to the structure, predominantly the roof, has manifested itself over the last 5 years, and this is the period within which the owners have been in discussion with Shropshire Council and English Heritage with a view to a realistic resolution. This has taken a lengthy period of time in working up details etc. and major repairs to the building are subject of the application under consideration at this time.

Details:

The Hall

The proposed removal of the east range has been discussed within the relevant supporting documents and commented on by English Heritage in their response. It is considered that whilst this is the earliest part of the house, it is by far the most compromised element of the house in terms of the amount of serious alterations having taken place, in the early C19 and the BT occupation in the mid C20. However, its removal cannot be taken lightly and as explained within the scenarios relating to its retention or removal and obtaining the most viable reuse of the building going forwards have been discussed, and the balance to be made between them. The reuse of the remaining Hall and the proposed alterations within it, have been achieved through relatively sensitive modifications resulting in the minimal loss of historic fabric, other than the east range. The visual appearance of the hall from the approach, off Oakhurst Road, will obviously be altered by the proposed demolition but as the terraces are being retained and planting introduced this will partially mitigate the distant views of this part of the site.

The justification put forward for the overall work ie the demolition, refurbishment and works of making good are supported by a detailed marketing report which indicates that the amount of repair needed to the whole Hall and the size of the Hall, as existing, were all factors which served to deter prospective purchasers who had previously shown interest in it as a family home. This justification served to form the basis for the proposed reduction in the size of the Hall which is accepted.

The phasing of the repair of the Hall and how this works with the enabling development will need to be appropriately dealt with by legal obligation. The legal obligation should ensure that the Hall and the other Heritage Assets, subject of this application, are repaired to a condition that is satisfactory to the LA prior to the completion of the enabling development.

Conditions which should be attached to any permission issued for this work should be robust enough to ensure that every detail of existing fabric should be recorded by scaled drawings and any replacement or renewal should match the existing exactly, unless details are otherwise agreed by the LA prior to that element of work being commenced.

Enabling Development

During negotiations that have taken place over the past years, the site of any proposed enabling development has been discussed in great depth, taking into consideration the impact on and the setting of the Designated Heritage Assets, these include the built form and the setting of the Designated Grade II Parkland and Pant Glas and Brogyntyn Park Conservation Area. After much deliberation the proposed site was considered to be the least harmful. However, it is recognised that this does not mean that there is no harm but that the public benefit of the repair, refurbishment and reuse of the Hall, as a nationally significant building at risk, helps to balance this harm together with appropriate planting re-enforcement proposed as part of the application.

A full schedule of repair and refurbishment of the Hall and the conservation cost deficit it showed has been independently reviewed. This review advised that the conservation deficit has been calculated in line with the English Heritage

published Enabling Guidance and this view is concurred with. Therefore, as the basis for providing the minimum of enabling development to facilitate the repair and thus the reuse of the Hall, it is considered that the information submitted is sufficient to comply with paras 55 and 140 of the NPPF and the EH Guidance noted above. However, part of the test for enabling is that there is no one wishing to purchase the building and repair it without the benefit of enabling development, hence the marketing exercise which was required to be undertaken. Whilst this was started in January 2014 it would appear that no one came forward within the 6 month period, but during the course of the application a potential buyer has shown interest in the property. To that end, despite having been requested to provide further information in this regard nothing, to date, has been received from the potential purchaser to suggest that the interest shown could provide a viable alternative to the provision of enabling development to provide a solution for the Hall and therefore cannot be considered.

The phasing of the proposed enabling development and how this facilitates the repair of the Hall will need to be carefully considered. At present the Phasing Plan submitted with the application relates only to the enabling development phasing and makes no reference to how this may be proposed to fit with the works to the Hall. This plan should not be approved as it is submitted, without firstly requesting a costed phasing of development statement and plan for both the Hall and the enabling development to ensure that the Hall is repaired in a timely manner that does not allow too much of the enabling to be completed beyond which is necessary to repair the Hall. It is also a concern that the farm building conversions will be left until last, like the Hall, they are in need urgent attention to avoid unnecessary deterioration within the structure and should not be left until the last phase of the development.

The design of the proposed dwellings is considered acceptable in that they are varied and the layout responds to the constraints of the site. Recommends conditions.

Farm Buildings

The principle of the scheme of conversion of the existing buildings at home farm is considered acceptable, however, the following comments on the farm building conversions, alterations to existing dwellings on site and the access to the site are made:

1. **Farm buildings** - There does not appear to be a comprehensive Heritage Statement for the farm building complex, although I felt sure this had been done. Please request the agents to provide a written statement, as much of the recording element is covered by Archaeology Wales, but no statement of significance has been submitted in line with NPPF para 128. This should include all buildings, including those to be demolished. Other farm buildings being taken down should also be noted within this.
2. Existing and proposed sections of the farm buildings do not appear to have been submitted. These will be required.
3. Inner courtyard elevations will be required for units HF2 and HF5. Also the elevations for the South East side of the conversions is not consistent – elevations should show – one set of elevations showing the internal

- elevations covered under loose yard area etc and one set of elevations with both this and the walls/gates/doors etc shown.
4. It is considered a great shame that the central blacksmith's forge is to be lost. Could this be partially incorporated within the kitchen scheme?
 5. It is unclear where HF Outbuilding shown on drawing HOM/GEN/03A is to be sited, is it the garage and store building for units HF3 and 4?
 6. Machinery, pulleys and wheels etc should be retained where possible and incorporated within the scheme of conversion. It would be useful to have comment on this at this time to ensure that the majority can be retained.
 7. Similarly where there are structural metal ties in the roof structure these should be retained, confirmation of this will be advisable at this stage.
 8. Built in stores within the upper floors – will these be to the ceiling or retained at a lower level and to be able to see the structure more clearly?
 9. Rooflights – this element of the scheme should be revisited in terms of the existing should be clearly shown on the existing drawings and the proposed on the proposed drawings (not just floor plans but elevations too). Any reductions where they are considered unnecessary should be carried out ie ensembles, landings etc.
 10. Are the vents in the main range North East elevations being glazed? What will be the finish? – Could be conditioned.
 11. **Home Farmhouse** - No photo record of the area of change to proposed play room and study are drawing 2607/FHS/GEN/01. Is this entirely necessary as it places the new wall directly adjacent to the chimney breast. No objection is made to making an opening from the play room to the hall but the changes appear for the sake of change.
 12. Details on the South West elevation for the rear entrance hall are not ideal – this could be conditioned.
 13. **Dairy Cottage** – No objection to extension but other alterations should be reduced/omitted –
 - Chimney breast etc to the existing living/kitchen area should remain and the new extension should be the kitchen/breakfast, inc utility in this, and the rest of the internal alterations revised.
 - Chimney to the original scullery should be retained.
 - Original door opening to the dairy should be retained.
 - Proposed window to south elevation should either be omitted or reduced as this alters the character of the building that was constructed ie dairy, albeit for fun, as it would not necessarily have wanted south sun on the building?
 - Stairs should be retained in their original location and not altered and the scheme revised to suit.
 14. **Sawmill** – no objection to the conversion, however, as much as possible of the machinery etc should be retained in situ. A condition will be imposed to deal with this further.
 15. **Farm Office** – It is considered that the replacement of the farm office is unnecessary and it should be retained and reused. There is no statement of significance to suggest that it is of very low heritage value and therefore can be removed. It is more sustainable to reuse existing buildings than remove and rebuild another. This should be included within the current application.
 16. **Demolition of dilapidated buildings at the North end of complex** – No

objection is made to this.

17. Overall comment for the whole of the Home Farm site is with regard to boundary treatments to all the various plots and their garden spaces etc – especially relevant to 1/K, HF3, HF4, HF6, HF7, HF8, and the farm building conversions, Dairy Cottage and Home Farm. The boundary treatments for the new buildings both internal and external to the site will also need to be considered, by condition.
18. General thermal upgrading for all existing and proposed dwellings will need to be provided as there is no reference to this on any drawings so far.
19. Details for the new bridge over the brook will be required, this could form part of the landscaping and boundary treatment condition?
20. New entrance wall – it is unclear from the details provided how far the wall is to be lowered down to 1050 mm back from the new entrance. This needs to be made clear at this stage and shown on a plan.

Recommends that the above alterations should be made prior to consent being issued and also recommends conditions relating to the farm buildings.

- 4.1.9 **Archaeology – No objection.** The proposed development site is located within Brogyntyn park, which has been included on English Heritage's Register of Historic Parks and Gardens of England (at Grade II – National Heritage List Ref. 1001326), and includes Brogyntyn Hall (Listed Grade II* - National Heritage List Ref. 1367373) and the associated stable block (Listed Grade II - National Heritage List Ref. 1054218) and intervene gate piers (Listed Grade II - National Heritage List Ref. 1054219).

It is also situated within the Pant Glas Conservation area and the proposed enabling development lies c.400m south-west of the Scheduled Monument of Castell Brogyntyn (National Heritage List Ref. 1013488). It is understood that the proposed development comprises an enabling development scheme to address the severe conservation problems currently affecting the Hall, and has been prepared in relation to English Heritage's guidance on Enabling Development and the Conservation of Significant Places.

The proposals include the demolition of the east wing of the Hall, which originated as an early 17th century house, thought to have been built on the site of a late medieval precursor, to which a further wing was added in the later 17th century. The late Tudor house is understood have been demolished when Francis Smith rebuilt the Hall in 1735. Parts of the later 17th wing are, however, understood to survive within the core of the east wing, which was very heavily altered when it was converted to office space and telecommunications facility under the GPO in the later 20th century. As a consequence, the standing fabric of this part of the building is deemed to hold significant archaeological interest.

The Shropshire Historic Environment Record contains a record of earthwork remains features (HER PRN 04592), together with a putative World War I military camp (HER PRN 30682), on the site of the proposed housing for the enabling development immediately south of Brogyntyn Farm. From the Heritage Impact Assessment it is understood that the earthworks within this area most likely represent pre-parkland, possibly agricultural, features of postmedieval date. The Assessment indicates that the proposed development could have a neutral to

major adverse impact of the of these features but that a phased programme of archaeological work secured as a condition of any planning permission would mitigate these impacts.

English Heritage and the Senior Conservation and Design Officer for the north area will provide comments on matters relating to impacts on the significance of the designated heritage assets, design issues, and whether the justification for enabling development scheme is adequately made. This consultation response is therefore confined to archaeological matters.

It is advised that together the Heritage Impact Assessment by Archaeology Wales and the Heritage Statement by Arrol and Snell Ltd provide a satisfactory level of information about the archaeological interest of the proposed development site, and likely impact of the proposed development on that interest, in relation to Paragraph 128 of the NPPF. The Heritage Impact Assessment concludes that the impact of the proposed enabling development on the setting of the Scheduled Monument of Castell Brogyntyn (National Heritage List ref. 1013488), in terms its effect on the view to the south-south-west of the monument, will be moderate. However, it recommends that the proposed planting for the enabling development would reduce this impact.

In terms of direct impacts on the archaeological interest of the proposed development site, and in line with Paragraph 141 of the NPPF, it is advised that a phased programme of archaeological work be made a condition of any planning permission for the proposed development. In line with the recommendations contained within the Heritage Impact Assessment, this should comprise an initial field evaluation of the land to the south of Brogyntyn Farm, consisting of a geophysical survey and targeted trial trenching. In addition, a pre-demolition Level 3/4 building survey should be undertake for the east wing of Hall which conforms to English Heritage's guidance on Understanding Historic Buildings: A guide to good recording practice (2006).

Thereafter, and subject to the results of the field evaluation, further mitigation may be required on the land to the south of Brogyntyn Farm, together with a watching brief during the demolition of the east wing of the Hall and the works to convert traditional farm buildings at the farm.

- 4.1.10 **Recreation** – Under Shropshire Council's current planning policy regulations, the Open Space Interim Planning Guidance adopted 11th January 2012, all development should provide 30sqm of public open space per bed space. The proposed development should therefore provide 5340 m² of useable public open space as part of the site design. The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

The current plan for the village green does not identify the amount of m² provided and should be checked against the requirement above. However, the design concept of a central area of public open space or 'village green' is in keeping with the development.

4.1.10 **Highways – No objection.** It is understood that the proposed development is to support the renovation of Brogyntyn Hall having regard to its condition and listed status. The proposed residential development therefore sits within the land holding and located at the south-western corner of the site. However whilst the current main access to Hall is located off the B4579 known as Oakhurst Road, the development involves the construction of a new vehicle access onto the B4580 which is subject to the national speed limit of 60 mph. This forms the principal access serving the site with a further access onto the unclassified road which leads from its junction with the B4580 northwards towards Pant-glas.

Whilst the principal access to the site is via the new junction onto the B4580 the development would be likely to lead to some traffic routing along the narrow unclassified road to the B4580 junction. It is unlikely that traffic would gravitate to or from the Pant-glas direction other than with a legitimate reason to do so. Nevertheless the highway authority consider that 2 passing places should be provided between the access onto the unclassified road and the B4580 junction. The highway authority are satisfied that these can be accommodated within the existing highway limits and do not affect the stone walling along the boundary of the property.

With regard to the proposed direct access onto the B4580, the application is supported with a Road Safety Audit, as requested by the highway authority, during pre-application discussions. There are no fundamental issues raised in the audit and the information demonstrates that the access position has been carefully considered to maximise visibility in both directions along the highway carriageway.

In addition to the above the junction is of a design that approaching drivers are able to view the access although advance junction signing would further highlight the presence of the junction.

The highway authority therefore raise no objection to the granting of consent subject to conditions being imposed to require passing places, construction management details, the new access being provided prior to commencement of the construction of the dwellings and new signage and lining.

4.1.11 **Rights of Way** – Restricted Byway 27A runs through the development site. The section which runs close to Brogyntyn Hall is subject to a public path diversion order which has yet to be confirmed. This is waiting on works that are required to be completed by the applicant. The western section of the restricted byway currently forms the access to Brogyntyn Farm from Whitwell Lane. Although it is noted that an alternative access to the development is proposed it is likely that the restricted byway will be used more frequently by motorised traffic which could conflict with the use by the public. The safety of the public is paramount and traffic calming measures should be considered or an alternative access route should be provided. see attached plan

4.1.12 **Ecology** – Further information on great crested newts, bats and trees must be provided.

In the absence of this additional information (detailed below) I recommend refusal

since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

A Phase 1 habitat map and assessment of the impact of the proposals on priority habitats and the Environmental Network is required.

Bats

Greenscape Environmental carried out their surveys between May and August 2013. The roof void of Brogyntyn Hall contains a lesser horseshoe bat maternity roost. The roof voids of the stables contained a lesser horseshoe bat roost.

Soprano pipistrelle bats were recorded emerging from Building A, the Saw Mill at Home Farm. Building B, the workshop and stables at Home Farm, also contained lesser horseshoe bats. Bat droppings were found in the basement area connecting the saw mill with building B. Greenscape (2014) consider building B to contain a summer roost for lesser horseshoe bats and small maternity roosts for pipistrelle bats. Long-eared bats were recorded in small numbers in building B. Bat droppings suggestive of pipistrelle bats were found on the first floor of building C workshops. No evidence of bat use was recorded for buildings D – I, storage and agricultural buildings and a detached house.

The proposed works to the hall are to demolish the existing service east wing and remodel the north east corner of the hall. It is proposed to convert Home Farm and convert barns. A European protected species licence will be needed for the works to the hall and conversion of buildings A and B, the Saw Mill and workshop and stables at Home Farm.

Has not yet fully assessed the impact of the proposals on the bat roosts and the adequacy of the proposed mitigation. The Council will need to provide an EPS 3 tests matrix to confirm the proposals would not affect the favourable conservation status of lesser horseshoe and the other bat species present.

Trees which would be affected by the development have not been identified and assessed for potential bat roost habitat as described in The Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2nd Edition 2012).

It appears that the Council's tree service have not been consulted on the application. If there are trees and/or hedgerows in or adjacent to the proposed site a tree survey and an arboricultural impact assessment in accordance with British Standard 5837: 2012 – *Trees in relation to design, demolition and construction* will be required to assess the significance of the trees and/or hedgerows and the potential effects of them upon the development and of the development upon them.

Great crested newts

Greenscape refer to previous great crested newt surveys in 2007 which have not been seen. These surveys are now very out of date and will need to be updated. The review provided in section 5.3.4 of the Greenscape report is inadequate as an update.

Any ponds within 500m of a major planning application (over 10 houses, or more

than 0.5 hectare) should be assessed in terms of broad suitability for Great Crested Newts by carrying out a Habitat Suitability Index (HSI). A map showing all relevant water bodies should be provided in the report.

If any pond is suitable then it may be necessary to carry out a presence/absence survey for Great Crested Newts which is made up of 4 survey visits between mid-March and mid-June with at least 2 visits between mid-April and mid-May. Three survey methods (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If Great Crested Newts are discovered on the site then it may be necessary to carry out a population size class estimate which involves an additional 2 visits in the specified time period.

The ecologist should make recommendations as to whether a European Protected Species Licence with respect to Great Crested Newts would be necessary and the need for a mitigation scheme and/or precautionary method statement.

The Great Crested Newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001) and should be submitted with any necessary mitigation scheme and method statement to the Local Planning Authority in support of the planning application.

Environmental network

The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework.

This proposed development site is within the Environmental Network and as such the proposed scheme must clearly demonstrate how the development will 'promote the preservation, restoration and re-creation of priority habitats and ecological networks' as required by paragraph 117 of the National Planning Policy Framework.

No Phase 1 map has been provided in the Greenscape report to show the location of existing priority habitats, such as Wood Pasture and Parkland, which is likely to be present. Without this cannot advise whether the residential development proposals protect this.

- 4.1.13 **Drainage – No objection.** The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

Additional soakaway tests should be carried out to confirm ground suitability as the test results appear inconclusive. TP1 shows a non-typical draining profile and the other two tests showed soakaways were not suitable.

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.

Although it has been demonstrated that the piped system has sufficient capacity to attenuate a 1 in 100 year storm plus 30%, highway gullies and household drainage systems are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. Confirmation is required how the collection systems will be able to convey the 100 year plus 30% storm to the piped network.

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

Information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility are required to ensure that the drainage system remains in good working order throughout its lifetime.

The site's 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.

The applicant should consider employing measures to reduce surface water and consent is required from the service provider to connect into the foul main sewer.

4.1.14 Public Protection – No objection. Having considered the contaminated land report submitted with this application I am satisfied that no remediation is required on the site to prepare it for residential end use.

In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. The following condition is therefore proposed should this application be granted approval:

An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in

and other ultra-low emission vehicles."

Due to the large scale of the development I propose the following condition in respect of dust:

Prior to construction activities commencing a dust management plan shall be submitted to the local planning authority for approval in writing. Reason: to protect the amenity of the area and the health and wellbeing of nearby residents.

I recommend that the case officer considers the use of conditions to restrict construction times, prevent burning on the site during clearance and construction.

4.2 **Public Comments**

4.2.1 20 letters of representation have been received raising the following concerns:

- Brogyntyn Hall and Home Farm have been allowed to fall into disrepair
- Results in the demolition of 1 third of the listed building
- Will set a precedent for more development
- Results in the creation of a new village
- Proposal is in open countryside and registered historic parkland
- Development within conservation area
- Will affect rural area and be intrusive
- Will result in fragmentation of historic parkland and hall
- New housing should be on east side of Oswestry
- Designs and materials of new housing does not fit with local vernacular
- Loss of agricultural land
- Insufficient capacity in school
- Increase in traffic and congestion
- Access onto Racecourse Road is not safe due to traffic speeds, road dips and poor visibility
- Whitwell Lane is certainly not able to cope with construction traffic and this is the route to the nearest primary school
- Not served by public transport
- Impact on right of way
- Increase in noise especially during construction
- Impact on bats and birds
- Affect on private water supply and drainage systems
- Part of the site is at risk of flooding and soakaways could not be used

4.2.3 Support has also been received from representation letters noting:

- Development is the only way to stop further decay

4.2.3 Oswestry and District Civic Society provided the following comments:

1. The Oswestry and District Civic Society welcomes these proposals; notes that the application is fully supported by the documentation, and that there has been an evaluation of the conservation balance between the need to remove the hall from the at risk register and the development necessary to fund the works involved.

2. The Society appreciates the scale of the tasks facing the applicant.

3. Without wishing to detract at all from the support given to the proposals, the Society would wish a number of matters to be taken into account, as set out below.

A) Sustainability of the enabling development

4. The proposed enabling development of 50 dwellings; the conversion to 11 units, and the retention of the farm house and dairy cottage will together constitute a community of 63 dwellings in a location which would not normally be considered sustainable. The community will have no services of its own, nor easy access to any regular bus service. As a result it will be entirely dependent on motorized travel, principally the private car.

5. The policies of the core strategy and the NPPF have their roots in the Rio Declaration, and the UK Sustainable Development Strategy. The failure of society as a whole to respond adequately to the challenges set in these policies becomes clearer and more serious as time passes. Development being of an incremental nature, each development, however small, needs to respond. In many ways this is taken care of by Government Policy, particularly in terms of Building Regulations.

6. In this instance the enabling development is likely to be seen as a demonstration project. As well as being visually pleasing, there needs to be some overt recognition that where development is in a location which scores poorly in sustainability terms, features are included to redress the balance. The Society would suggest that a proportion of the dwellings should be built to, or approach, Passivhaus standards; and that dwellings should include electric vehicle charging facilities, which will attune to the major government support for the electric highway. There may be other ways in which the 'sustainability deficit' can be addressed. For example, see <http://www.nextgreencar.com/news/6170/Wales-launches-first-EV-car-club>. It is the principle which the Society wishes to emphasise.

B) Style of Development

7. The manner in which the development proposes to evoke an Estate Village is accepted as a reasonable means of addressing the visual quality of the enabling development. The Society would emphasise that this need not mean (as it appears to have been taken in the design) that all building must hark back to past styles. A village of this scale supporting an Estate would in most cases be an evolutionary development, with each building being to a high architectural style of its day. Therefore, the Society would consider that the inclusion of dwellings which came to the forefront of modern design would not be out of place, and could enhance the overall effect.

8. As regards the conversion of the farm buildings, the Society considers that since these were working buildings, it would enhance the character of the development if some of the units were designed specifically as live/work units. This would reflect into a greater diversity in character of the settlement.

C) Traffic and Access

9. The access proposed to the B4580 will be onto a fast rural road. It is to be expected that the development would generate of the order of 500 vehicle trips a day, or 1000 movements; 100 during each peak hour, or up to 4 cars a minute, given the concentration of peak traffic. The junction will be busy at times when the main road is busy. Whilst the Society notes the road safety audit, it is advised by a chartered civil, highways and transportation engineer that more than the simple T junction and warning signs proposed is necessary - some road works to ensure that the presence of the junction is plain to main road traffic are necessary. It is suggested that the main carriageway should be widened to provide a right turn area within the centre, such that the presence of the junction would be visually emphasised by road markings.

D) Heritage materials

10. The Society considers that the demolition and replacement of the East wing is an appropriate action, in the circumstances. However, the existing building contains large amounts of 16C brickwork. Care should be taken that these materials are not lost from the site.

5.0 THE MAIN ISSUES

- Policy & principle of enabling development
- Assessment of enabling development
- Proposed works to Brogyntyn Hall
- Proposed new housing layout, scale and design
- Proposed conversion of agricultural building
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of enabling 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. Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 is also relevant to this application and requires local authorities to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which it possesses when considering whether to grant planning permission for development which affects a listed building or its setting. The adopted development plan in relation to this application is the Shropshire Core Strategy and specifically policies CS5 “Countryside and Green Belt”, CS6 “Sustainable Design and Development Principles”, CS9 “Infrastructure Contributions”, CS11 “Type and Affordability of Housing”, CS17 “Environmental Networks” and CS18 “Sustainable Water Management”. The National Planning Policy Framework (NPPF) is also relevant and is a material consideration that needs to be given weight in the determination of planning applications.

- 6.1.2 The Oswestry Borough Local Plan, the Shropshire Type and Affordability of Housing SPD and policies MD7a, 7b and MD13 within the recently submitted Site Allocations and Management of Development (SAMDev) DPD are also relevant to the determination of the application. However, unlike most housing applications at the current time the part of this application which proposes new housing is not affected by the 5 year land supply and it has been accepted by the applicant and officers that the development of housing on the proposed application site would be contrary to the saved policies in the Oswestry Borough Local Plan and the adopted policies in the Shropshire Core Strategy as the proposal is for housing development detached from the settlement boundary of Oswestry and clearly in an area of countryside.
- 6.1.3 The housing is one part of the wider application, which as noted above includes works to repair and bring the Grade II* listed Brogyntyn Hall back into use as a single dwelling and also to convert the buildings at Home Farm to residential. Each element of the application is considered in detail in the report below. This section needs to establish whether the principle of the proposals are acceptable. Firstly the principle of returning the Hall to a single dwelling is promoted, the detail of the works and their impact are considered later, however all national and local policies support the principle of providing listed buildings with active uses.
- 6.1.4 Policy CS5 seeks to strictly control development in the countryside but does support some development where it supports the vitality and character of the countryside and improves sustainability of the rural community. One exception to the strict control over development is the conversion of rural buildings which take account of and make a positive contribution to the character of the buildings and the countryside. Open market residential conversion is not prevented but does need to relate to heritage assets and result in high standards of sustainability. The buildings at Home Farm are considered to be heritage assets as a good example of a model farm and also by their association with Brogyntyn Hall and the registered parkland.
- 6.1.5 As such the first two parts of the proposal are acceptable in principle and, subject to appropriate details can be supported against the current adopted policy. However, as noted above the proposal to erect 50 new dwellings within a parcel of land adjacent to Home Farm would be contrary to the Shropshire Core Strategy policies as it does not meet any of the exceptions for new housing in the countryside set within local policy. Policy MD13 of the SAMDev is the most relevant local policy to the proposal as this seeks to ensure that the impact on heritage assets is understood, that the social and economic benefits of a development are sufficient to clearly outweigh any adverse effects on the heritage asset and to encourage development which delivers positive benefits to heritage assets.
- 6.1.6 The impact on the heritage assets at the site, which include the Grade II* Hall, the registered parkland, conservation area and other Grade II listed buildings within and around the estate, has been considered by the applicant and is commented on further later in the report. As too is the balance between the harm to the heritage assets and their setting and the benefits of the scheme. Paragraph 132 of the NPPF advises that substantial harm or loss of a grade II listed building, park or garden should be exceptional and substantial harm or loss of grade II* should

be wholly exceptional. Paragraph 133 goes on to advise that where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 140 advises that local planning authorities should assess whether the benefits of a proposal for enabling development, which would conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

- 6.1.7 This is the assessment which the authority needs to undertake to consider the proposed housing development as the housing has been put forward in the application as enabling development. The application is proposing new housing in the countryside as enabling development in that the money raised from the housing development will be used to undertake the works to the hall to bring it back into use. As such the application for new housing in this location is an exception to local policy which is permitted in national policy. Further guidance on enabling development is provided in the English Heritage policy statement which advises that the key for enabling development is that it “would secure the future of significant places and should not materially harm the heritage values of a place or its setting and must be necessary to resolve problems arising from the needs of the place not the circumstances of the owner”. The guidance advises that other subsidy should also be sought first; that the public benefit must outweigh the disbenefits; and that the development is the minimum necessary to secure the future of the place. It also suggests that any consent will need to be secured through a S106 agreement to secure the works to the hall at the earliest possible stage in the enabling development.
- 6.1.8 As such enabling development is development which would otherwise be unacceptable in planning terms and as such the proposed scheme needs to be fully justified and the Council need to be able to confidently confirm that the scale of the proposal is acceptable, that the benefits to the heritage asset outweigh the harm of the development and that there is no other reasonable alternative. The EH guidance advises that the need for major funds for securing the future of a listed building often arise because its condition has been allowed to deteriorate over a long period. This is accepted to a certain extent but deliberate neglect or damage should not be taken into account (para 130 of the NPPF). Objectors have commented that the property has been allowed to deteriorate, however the information submitted with the application notes the condition of the property when it was purchased by the current owner and the work which they have undertaken to limit any further deterioration. Although the current owner has not undertaken works to reverse the condition of the hall it could not be claimed that the current owner has deliberately allowed it to fall into a worst state of repair or damage the property. The Council Conservation Officer’s comments note the length of time which the applicants have been discussing the options for the Hall with the Council and that there has been deterioration of the building but that this is not entirely the making of the applicant.
- 6.1.9 The EH guidance also advises that sustaining heritage assets is a high priority and that statutory designation imposes a presumption in favour of their preservation. However, this does not automatically justify doing so through

enabling development if the disbenefits are out of proportion to the heritage and other public values of the asset. But members should also be mindful of the consequences of refusal, particularly where the place is rapidly deteriorating and there is no other likely source of the subsidy necessary to secure its future, and this issue is also a material consideration. The EH policy advises that it is not a decision to be taken lightly, enabling development is a planning tool which if, after full assessment of the options, disbenefits and impact, the balance of advantage clearly lies with approval then planning permission should be granted.

6.2 **Proposed works to Brogyntyn Hall**

- 6.2.1 Several supporting documents have been submitted with the application which provide historical and architectural background to the hall. The design and access statement (D&A) advises that the estate can be traced back to the 12th century with the earliest surviving part of the hall dating from the late 17th century. The main part of the hall dates from around 1735 but has been altered internally and externally. The north-east wing is older and the later house was built up to this wing. However there are changes in floor levels and the wing has been substantially altered, extended and details have been removed over time. The hall was then altered again around 1815 and the portico, large sash windows, octagonal music room and Roman cement were added to the exterior of the building. Further work and extensions were carried out to the hall in the 19th century and the D&A notes that most of the internal decoration and features date from 19th and 20th century.
- 6.2.2 The house was occupied by the Harlech family until after the Second World War and was used in the 1950's by the Post Office telephone service, later BT, as offices. The D&A comments on the work that was undertaken to the building to enable the office use, including the installation of equipment and wiring and an anti-bomb blast system of concrete and steel. BT ended their use of the hall in the 1980's and the current owner purchased the hall from the Harlech family in 2001. The hall has not been in active use since the 1980's, though some objectors have commented that the current owners have had people living in the hall.
- 6.2.3 An assessment of the condition of the hall has also been undertaken and submitted with the application. This assessment details the condition of each element of the hall and notes the problem areas and elements in need of repair, replacement and removal. Internally the application proposes converting the octagonal music room into a family kitchen, the creation of new openings to the new rear entrance, the provision of en-suite bathrooms, the creation of a new stair from first to second floor to provide two means of escape in the case of a fire, upgrading of plumbing and electrics throughout. The advice from English Heritage is detailed in section 4 but notes that there are minimal internal modifications to the south and west ranges and that the proposed works would not result in significant loss of fabric or visual intrusion.
- 6.2.4 However, the proposal also involves the demolition of the north-east wing, which the applicant suggests is the only part of the existing building which could be demolished without destroying the qualities of the hall as it is ancillary, subservient and contains no outstanding architectural features. They also consider it detracts from the south elevation and overshadows the courtyard. The demolition has been proposed as the agent, based on the marketing information, has advised that

the dwelling in its current state is too large and that this wing does not easily fit with the other parts of the house. However, the applicant has acknowledged that parts of this wing date from the late 17th century but has also noted that the features from this date have been stripped away and 19th and 20th century alterations have affected the quality of this wing. It is proposed to retain as much of the material from this wing as can be reused.

- 6.2.5 The application form notes that the listed building is 14,600 cubic metres in size and the area to be demolished is 4,975 cubic metres. This volume calculation includes the estate office and 6 agricultural sheds being considered as part of the conversion of Home Farm. The applicant has commented that the demolition is proposed to secure the long term sustainable future for the listed asset. The demolition of the wing would leave an area of the hall that would need to be “made good”. The proposal is to replace the removed wing with a new smaller section with floor levels at the same level as in the remainder of the hall and also to insert a lift into this new section and the internal fixtures of the Victorian billiard room, which are to be saved. In addition the proposal recommends the removal of the rear porch and an erection of a new rear entrance, which it is proposed will provide better access to the existing ground floor rooms, the erection of a new double garage, linked by a roof to the hall and the provision of a new central lead flat roof over the central area of the roof and reorganising of the rainwater system to divert water away from the sensitive areas of the building, repairs of other sections of the roof and rebuilding the chimney stacks. The works proposed will also enable the re-use of some saved materials including windows and to match the external appearance of the existing hall.
- 6.2.6 A building regulation statement has also been submitted in support of the application which considers the impact of building regulations requirements on the proposed works to the hall and the conversion following a discussion with a Council Building Control Officer. All the relevant parts of the buildings regulations have been considered, there is a need to provide fire escape but this can be through using the existing internal stairs and the new section of internal stair; new ventilation will be required in new bathrooms and the kitchen and the architect acknowledges that this would need to be sensitively routes so as to be concealed from view; as too will new or replaced plumbing, drainage or electrics; the new wing and porch will need to meet modern building regulations standards but can utilise existing materials and add secondary glazing if required; new liners can be provided within the re-building of the chimneys and any not required by the future occupants can be capped without impact. Overall the assessment suggests that Buildings Regulations requirements would not present any insurmountable problems to the works proposed and that the Council Building Control Officer will be involved in the process of the works alongside Conservation Officers.
- 6.2.7 English Heritage’s comment in relation to the demolition of the east wing note the loss of the Tudor and post Tudor elements but also the removal of the modern modifications and advise that the value of this range is limited both internally and externally but accept that this wing is the primary view from the current access to the Hall. Overall EH have advised that, on balance, the evidential, historic and aesthetic value of the listed building rests to a greater degree in the south range than in the east range. Though the impact of the proposals is therefore clearly harmful, it does not amount to substantial harm.

- 6.2.8 The Council Conservation Officer has commented that, whilst this is the earliest part of the house it is also the most compromised, that the demolition will alter the appearance of the hall from Oakhurst Road, but that the work has been justified and that the proposals will also help to mitigate the impact. Conditions are recommended by the Conservation Officer to ensure that the detail of this work is appropriate, record the parts of the building which is to be demolished or altered and that a S106 agreement is entered into to ensure the work is undertaken. Additionally the Council Archaeologist has recommended a pre-demolition building survey as the standing fabric of this part of the building is deemed to hold significant archaeological interest.
- 6.2.9 The Shropshire Parks and Gardens Trust (on behalf of the Garden History Society) have expressed their view that the Hall is in dire and urgent need of major intervention and support the proposal to return it to a single dwelling. The trust understand the rationale for the demotion proposal however also note that the removal of this wing leaves the view from the north-eastern approach off-centre with the setting and may increase the view of the ancillary buildings and proposed garages but that the proposed works would produce a balanced structure. However, they have also advised that the relationship between the building and the adjacent garden terraces will however be substantially altered and great care must be taken in the treatment of these areas, to rebalance this relationship and provide an appropriate setting for this aspect of the building.
- 6.2.10 The Oswestry and District Civic Society, as a local interest group, have also commented that the demolition and replacement of the East wing is an appropriate action, in the circumstances. However, the existing building contains large amounts of 16C brickwork and care should be taken that these materials are not lost from the site. However, on the other side of the balance the Georgian Group, who are a national charity dedicated to preserving Georgian buildings and gardens, have objected to the proposal to demolish the east wing and suggest that the arguments for demolition are weak, that the wing could be retained and re-used and that its demolition would make the property less attractive to buyers.
- 6.2.11 This view is in conflict with the views expressed by prospective purchasers during the marketing of the property, as detailed later in the report. The agent has also recently advised that they had corresponded with the Georgian Group, invited them to view the property and discussed the works with them. The application is not seeking to suggest that this wing has limited or no historic value and the applicant accepts that its loss will result in loss of historic fabric but they also advise that if a decision has to be made as to which section to lose then this is the most appropriate section to demolish given its history and the greater importance of the other parts. Furthermore retention of this wing would increase the cost of the restoration of the hall and the level of enabling development required to finance the restoration of the hall as commented on later in the report.
- 6.2.12 Overall, on balance, although the concerns of local objectors and the Georgian Group are noted, taking into account the advice from English Heritage and other consultees noted above, and the marketing exercise undertaken by the applicant, the proposed works to the hall, including the demolition of the east wing, are considered by officers to be acceptable and will bring the hall back into a condition

and size which can be used as a single dwelling. The details of the work will need to be controlled through condition and will also be considered in the listed building application which is being considered by the Council. However, officers advise that this element of the application should be supported and consent granted.

6.2.13 Landscaping works are also proposed to repair existing landscaping features, restore and manage the parkland. A detailed scheme has been submitted with recommendations which will restore historic features such as the ha-ha, walkways, terrace, balustrades, woodland and remove scrub, self seeded trees and overgrowth. The principles of this work are considered to be appropriate and will enhance the overall setting of the listed building and the registered parkland. The architect has also put forward a proposal for an optional swimming pool to be created to increase the marketability of the property. The swimming pool would be provided in the basement level of the wing to be demolished, linked internally to the Hall and covered externally with a low level flat roof with a glazed section. However, this is only being put forward as an optional element which would need to be paid for by any future owners. In principle officers support this as an idea but would need further detail to fully understand the impact of this part of the development and as such recommend that this is controlled by condition.

6.3 **Assessment of enabling development**

6.3.1 In order to justify the principle of the proposed enabling development the applicant has submitted a justification statement and financial details of the costs entailed in the work proposed to the listed building and the value achievable from the housing development and the restored listed building. They have also submitted statements showing the marketing of the estate prior to submission and during consideration of the application. The financial information has not been made public as it is commercially sensitive, however it has been assessed by independent consultants on behalf of the Council.

6.3.2 The justification statement advises that the proposals intend to secure Brogyntyn Hall and remove it from the building at risk register. The statement summarises the process which has led to the conclusion that, in the opinion of the applicant's team, enabling development and demolition of part of the Hall is the only practical way of reversing the decline. It advises that the applicant has considered alternatives for the hall including subdivision into flats, conversion into a nursing home or hotel but that none of the alternatives would provide sufficient capital to secure the future of the Hall and would also require further work to the hall. The applicant considers that a single dwelling would be most sympathetic and provide the hall with the best possible future. The justification statement advises that the proposal for enabling development has been brought forward as a last resort after extensive discussions with English Heritage and Council Officers.

6.3.3 Although it is noted that the applicant has owned the property for a number of years now and that the applicant is a property developer the Council Conservation Officer has confirmed that the deterioration of the hall has not been through neglect. Works to repair major issues have been undertaken and the Council Conservation Officer has been involved with the property for a number of years. Furthermore the applicant has secured a higher level stewardship which has enabled new tree planting, removal of conifer trees and repairs to the estate wall but this fund can not be used on the hall itself and alternative funding is needed.

- 6.3.4 Brogyntyn Hall and the estate has been marketed for sale nationwide over the last 10 years with a more recent concentrated effort on marketing undertaken for the 6 months prior to submission of the application. Initially it was marketed from 2005 to 2007 in a range of national and local papers and on the internet, two offers were made at asking price but were subsequently withdrawn when the buyer took into account the work required to the Hall. The estate agent subsequently continued to discuss the property with potential buyers known to them and with buyers interested in similar properties. The more recent marketing has also been in local and national papers and magazines both in the form of standard adverts and editorials and also on the internet. The estate agent has advised that a number of expressions of interest had been received both nationally and internationally (Europe, Australia and Middle East) but no firm offers have been made and considers that this may be due to the location; poor links with London; that not all of the parkland is available; the proximity of a public footpath; the poor condition of the hall and the size of the hall.
- 6.3.5 As noted previously the financial costings, marketing and proposed development has been independently assessed by consultants on behalf of the Council and English Heritage to establish whether there is a conservation deficit and whether the proposed enabling development is the minimum necessary. Conservation deficit is defined in the EH guidance on enabling development as the difference between the cost of maintenance, major repair or conversion to the optimum viable use of a building and its resulting value to its owner or in the property market.
- 6.3.5 The conclusion of the independent assessment is that the property as a whole is in a dilapidated condition with the Hall being in a significantly poor state of repair with damage, dry rot and water ingress. However, the independent assessor has noted that similar properties have been sold even where substantial repair and restoration works were required but also accepts that of all grade I and II* listed buildings only 4.1% are on the at risk register. The assessor has advised that the developers valuation of the income to be gained from the new housing and the conversion of home farm is reasonable; that the value of the estate has been set too high given the condition of the hall but also that the conservation deficit is greater than suggested by the applicant.
- 6.3.6 As such the independent assessment has concluded that, based on the assessors calculations, the proposed scale of the enabling development is more than the minimum necessary. However the assessor also acknowledges that small changes to some inputs may have disproportionate effect on value; that the developers profit is the minimum that a developer would require and that a small increase of 0.25% profit would remove the difference in the deficit. As such officers consider that it would be unreasonable to refuse consent on the basis that the development proposed is more than minimum necessary as this is a small difference between parties and subject to minor fluctuations in finances could result in different conclusions.
- 6.3.7 With regard to the marketing exercise undertaken the more recent marketing of the property was undertaken following pre-application advice from the Council and English Heritage. The previous exercise provided evidence of no interested

parties but was considered to be too old to rely on and an update was requested. This latest marketing exercise has also resulted in no firm offers and therefore no solution for the property. However, as noted in English Heritage's initial response a potential purchaser made themselves known to EH during the consideration of the application. The Council and EH sought to establish whether this purchaser could provide a reasonable alternative to the applicant's current proposal and also requested a further marketing update from the agent.

- 6.3.8 Following discussions with the potential purchaser officers can advise that this individual has a solution for the property which would not involve enabling development or demolition of the east wing. However the information from the individual on whether they are in a position to purchase the property and restore it to a satisfactory condition has not been forthcoming. Although officers have been seeking to gain this information we are not in a position to advise that this individual presents a reasonable alternative to the current proposal. It may be that this individual, or another potential purchaser, may come forward with sufficient evidence and an appropriate scheme in the future, however the Council also need to consider the potential impact of refusing consent on the basis of a possible alternative. Firstly the Council do not currently have any evidence that there is a reasonable alternative and as such would place itself at risk on appeal and furthermore a refusal would delay the restoration and repair of the listed building.
- 6.3.9 The advice of English Heritage is given in full under section 4 and although they initially raised an objection this was based on the above individual potentially presenting an alternative. However the updated comments advise that English Heritage no longer object to the proposal as submitted. The Council Conservation Officer's comments also confirm that there is no information to show that this potential purchaser could provide a viable alternative. Accordingly it is officers' advice that the principle of enabling development, and the scale of the development proposed, is acceptable and complies with paragraph 140 of the NPPF and the policies set within the English Heritage Enabling Development document. The granting of consent for these 50 dwellings, and the conversion of the buildings at Home Farm, will not set a precedent for more development due to the special circumstances under which the application is being considered, any further development would have to go through the same justification and assessment of need and, given the current proposal intends to meet the needs of the Hall any future development would not be supported.
- 6.3.10 Should consent be granted for enabling development it is essential that the benefits which are the justification for the development are gained and this is controlled through a S106 agreement. Ideally the Hall should be repaired before the housing is developed, however the EH guidance accepts that this is not always financially possible and as such recommends a phasing agreement setting out the phasing of the work to be done to the hall with the phasing of the enabling development to ensure that the work to the hall is always one step ahead of the housing and so that the first phase secures the structure of the hall. The application has been submitted with phasing information in the form of a plan of the housing and costings of the works to the Hall. However, officers advise that this will need more detailed work as part of the S106 as the works to the hall can be divided into smaller portions to ensure that the works are on-going alongside the erection of the new dwellings.

6.4 **Proposed conversion of agricultural building**

- 6.4.1 Home Farm lies to the west of Brogyntyn Hall, within the estate wall, accessed off Whitewell Lane which is accessed off the B4580. It is made up of a range of farm buildings that are varying in size and shape but overall form an E shape with the long range against the track leading from Whitewell Lane to the Hall. The buildings date from mid 19th century and are considered to be a good example of a model farm. The farmhouse is sat to the side of the farm buildings. There are also other buildings around the farm unit including the Sawmill, Estate Office and Dairy Cottage.
- 6.4.2 The application proposes to convert the farm buildings and Sawmill. The proposed conversion of the farm buildings will provide 1 two bed unit, 3 three bed units and 6 four bed units. The proposal will involve some alterations to the existing building, however it seeks to retain the majority of the existing structures and utilise existing openings. The building benefits from a good amount of existing openings and as such the new openings are limited in number and mainly roof lights. Internally to create 10 units new internal walls and partitions are to be provided. The comments of the Conservation Officer raise some concerns about the conversion, the evidence to support some of the alterations and the loss of machinery and equipment from within the buildings. These concerns, as detailed under section 4 of the report, have been brought to the attention of the applicant.
- 6.4.3 The existing farm house will remain as one 4 bed dwelling with some alterations to 2 rooms. The Conservation Officer has requested additional information to support this work. Dairy Cottage will be retained as one 4 bed dwelling with its existing stable building being converted to garaging and the Conservation Officer has also raised concerns about some of the work proposed to this dwelling. The former Sawmill is to be converted to a single three bed dwelling and the Conservation Officer has requested retention of the existing machinery.
- 6.4.4 It is noted, as detailed above, that the proposal includes the demolition of the modern agricultural buildings which is promoted and will enhance the setting of the farm buildings. The existing estate office is also proposed to be demolished and replaced with a new dwelling. The Conservation Officer has raised concerns about this proposal and has advised that there is currently insufficient justification for the demolition of this building and that it could be retained and reused.
- 6.4.5 As part of the conversion the land immediately surrounding the buildings will also need to be subdivided into gardens for the conversion properties. This is being proposed in a variety of ways with some units having covered space under existing structures and some having space on the opposite side of the existing track. However, as the proposal is to serve the conversion and farmhouse from the new estate road to be created as part of the enabling development the use of this track will be limited to the properties which it will serve. Parking is proposed both in the courtyard and also within garaging at a rate which is considered to be proportionate to the scale of the units being created. Furthermore, the access to these units from the new estate road will change the approach to the buildings whereby the farmhouse is the first building to be seen with the conversion sitting behind this and the new housing and a new avenue of trees leading up to the conversion. The details of the landscaping and means of enclosure will need to

be controlled by condition.

- 6.4.6 Overall it is officers opinion that the conversion, which is being proposed as part of the enabling development, is acceptable in principle when considered against adopted policies on its own merits. However, at the time of writing the report there are outstanding matters raised by the Council Conservation Officer which require further information, assessment or amendments to the details. Officers advise that none of the work requested by the Conservation Officer would alter the recommendation for approval of the conversion of these buildings and would not alter the number of units being created. As such it is officers recommendation that the work requested is dealt with prior to a decision being issued but after a committee resolution and as such request that delegated powers be given to officers to approve the scheme on satisfactory negotiation of these matters.
- 6.4.7 The comments of the civic society are noted, however there is not requirement in policy for conversion to include live-work units and it is officers experience that this form of property is often more difficult to sell and would limit the income from the development. Officers also consider that as part of the overall enabling development scheme it is appropriate to support the conversion of the buildings so as to ensure they do not detract from the setting of the new development and that the conversion also provides a small element of the financial support for the hall.
- 6.5 **Proposed new housing layout, scale and design**
- 6.5.1 If it is accepted that, in principle, that enabling development is required for Brogyntyn Hall and that it is accepted that the proposed level of enabling development is the minimum necessary then it is also appropriate to consider the layout, scale and design of what is being proposed. Full details have been provided and as such it is possible to fully understand the impact on the setting of the heritage assets, including the parkland, and overall whether the layout, scale and design would be acceptable when considered against adopted policies relating to housing design, acknowledging that this proposal is contrary to the general housing location policies.
- 6.5.2 Alternative sites were considered by the applicant, prior to submission of the current application, and in discussion with the Council and English Heritage. Other sites within the applicant's ownership both within the estate and elsewhere in Oswestry and the wider area were considered and as too were sites not within the applicant's ownership. All other sites within the parkland were discounted as having greater impact on the Hall. The land closer to the town, within the parkland, which is in separate ownership has considered to be better in sustainability terms but would also have had an impact on the parkland and the current owner was seeking a higher value than could have been paid without needing more enabling development. This is the same for other land not within the applicant's ownership both close to the site and closer to town. The applicant, although a commercial business, does not have large land holdings, most of the land they have an interest in is not within their ownership but that they have a option agreement for. As with land outside their ownership this land would be sold to them at market value and as such would increase the level of enabling development required to make the development viable.
- 6.5.3 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire

Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

- 6.5.4 The application proposes 50 dwellings on a parcel of land, currently in agricultural use, west of Home Farm, north of an existing watercourse and east of the B4580 with a new access off the B4580. The proposal is to provide a new estate road off the access, crossing the watercourse into the site. The estate road will then pass through the housing site to the side of the existing buildings at Home Farm with a second estate road leading off this main road looping around an area proposed as a new village green and other private drives serving small groups of dwellings. The layout of the proposed housing provides the dwellings facing towards the estate road with two houses creating an entrance gateway to the site. The layout shows 42 detached houses and 8 semi detached houses all within private garden areas, driveways and parking areas.
- 6.5.5 Officers consider that, in principle, the layout proposed is appropriate and will create an attractive development, the proposal for a village green provides an area of open space and the layout also shows new landscaping and planting, including an avenue of trees along the new estate road, an avenue of trees from the back of Home Farm towards the semi detached houses and a line of trees on the edge of the village green. The existing tree belt along the B4580 and the stone wall will be retained, except where the new access is to be provided. Within the design and access statement the architect accepts that, by virtue of the number of units, the development will be perceived as a new village and as such has laid out the site as such. The civic society have commented that the manner in which the development proposes to evoke an Estate Village is accepted as a reasonable means of addressing the visual quality of the enabling development. The layout also respects the ground levels of the site which slopes down from the lane on the western side of the site to the stream on the east and as such proposes to develop the lower part of the site.
- 6.5.6 The houses have all been designed for the site, there are seven, 3 bed, bungalows of three different designs, 21 two storey, three bed, houses of 7 different designs, 16 two storey, 4 bed, houses of 5 different designs, 5 two storey, 5 bed, houses of 4 different designs and one, 5 bed, three storey house. The design and access statement notes that poor quality design and building would not make the development attractive to buyers but that overly elaborate designs would reduce funds available for the main hall. The designs of the house types are all within the themes of “estate gothic” and “classical” with pitched roofs, casement and sash windows, mullions, prominent chimneys and traditional materials.
- 6.5.7 However, it is accepted that design is a subjective matter and the objectors opinion that the designs are not appropriate is reasonable. However this is not a view which is shared by officers or statutory consultees. The Oswestry and District Civic Society have suggested some modern housing and that some of the dwellings should be built to Passivhaus standard and fitted with electric charging vehicle facilities. It is acknowledged that this would improve the environmental

sustainability of the proposed development and the electric charging facilities is being recommended as an informative, however the lack of Passivhaus standard or charging facilities is not a reason to refuse the application as it is not an overriding policy requirement.

- 6.5.8 Within the information submitted and the plans the boundary proposals are also detailed. Predominately the boundaries will be hedges and rubble stone walls and the applicant has acknowledged that conditions will be required to ensure that any new or replacement boundary treatments are appropriate. It is also considered necessary to remove permitted development rights from the dwellings to ensure that any extensions or alterations to the houses are sympathetic to the location of the development. The Conservation Officer has recommended conditions.
- 6.5.9 In addition to considering the principle of the layout and the principle of enabling development It is also necessary to assess the potential impact on the heritage. The application has been supported by a Heritage Impact Assessment which notes the presence of Castell Brogyntyn, two other large enclosures near the site and ridge and furrow earthworks within the development site. These need to be considered as well as the impact on Brogyntyn Hall, Home Farm and the other heritage assets around the estate and wider area. The assessment has acknowledged that there is the potential for the development to adversely affect the view from Castell Brogyntyn but that it does not directly affect the setting, views of the feature or the principal views from the castle and that the view can be further restricted by additional landscaping.
- 6.5.10 The assessment has concluded that the development will have a neutral impact on the setting of the II* Hall and no impact on the other listed buildings but will impact on the parkland and Home Farm, which is not listed. However, the report does note the impact of the conversion of the farm buildings to residential. The most significant impact will be that of the new development on the parkland which the assessment considers is a nationally important historic, archaeological and aesthetic resource and advises that the impact will be major and irreversible but also less than 10 hectares within a 230 hectare parkland which has seen previous developments within its grounds. The report advises of the reasons for discounting other sites within the parkland as having greater impact on the setting of either the Hall of Castell Brogyntyn and as such that the proposed location for the housing development is the least damaging location with the greatest opportunities for mitigating the harm through landscaping and layout.
- 6.5.11 The applicant has also acknowledged the landscape impact of the proposed development as new housing in the countryside and in the registered park. A Landscape and Visual Impact Assessment (LVIA) has been undertaken and submitted with the application. This assessment notes that the site for the housing sits in a shallow valley and as such is secluded and that there are very few visual receptors who will be directly affected by the development. The assessment advises that the site lies within the National character area of "Oswestry Uplands" and the Shropshire area of "Principal Settled Farmlands" and is made up of mixed farming, hamlets and small villages. However, the report also advises that the registered parkland is clearly identifiable from the settled farmland.

- 6.5.12 Five viewpoints were assessed with the clearest views of the site being from higher ground to the west of the site. The houses on Wellfield Lane were noted to be the most sensitive receptors and that clear views were possible from the footpath that runs through the site. However other views were restricted due to distance, topography, landscaping and that views from the road were experienced at speed. The assessment advises that there will be substantial change with major adverse impact but that mitigation planting will help to blend the development into the landscape and reduce the adverse impact over time. Overall the report concludes that the proposal is for a sensitive, low density, scheme but acknowledges the sensitivity of the parkland setting and that the major impact of the development would be on a limited number of receptors.
- 6.5.13 English Heritage's advice is given in full under section 4 and notes that this site is the "least worst option", that the impact on the grade II* Hall is neutral but that the impact on the registered park and garden and the conservation area is substantial and that the development would result in substantial harm to the significance of the registered park and garden. This is acknowledged by officers, and also by the applicant, however it is a case of balancing this harm against the benefit, as proposed enabling development and as the "least worst option" officers advise that this harm is acknowledged but that greater harm would result from development on other sites.
- 6.5.14 The Council Conservation Officer notes the lengthy discussions prior to submission of the application regarding the siting of the enabling development and agrees with English Heritage's conclusion that the proposed site is the least harmful. However, members should acknowledge, as advised by the Conservation Officer that this does not mean that there is no harm, officers accept that the development of this site for housing will result in harm. The Council Archaeologist has also advised that given the historic connection of the site that there may be archaeological interest in the land proposed for the enabling development and as such recommends a condition be imposed on any consent granted.
- 6.5.15 The Shropshire Parks and Gardens Trust advise that, in their opinion, the proposed hamlet is well designed and situated and does not appear out of scale. The consultant that assessed the enabling development on behalf of the Council advised that, in their view, the new build development would result in loss of open countryside but that the visual impact would be limited due to the existing topography and woodland and does not impinge on the setting of the hall.
- 6.5.16 This is a matter of planning balance. The harm is clear and significant and will result in dwellings in the countryside, the registered parkland and conservation area which will be visible from sensitive receptors. However the proposed site is the least harmful, the layout, scale and design of the dwellings is considered to be of a high quality and will result in a sensitive, low density, development creating the appearance of a new small hamlet and the need for the restoration and repair of the grade II* listed building of Brogyntyn Hall also needs to be factored into the balance. In conclusion it is officers opinion that, on balance, the proposed housing scheme complies with paragraphs 55 and 140 of the NPPF and the EH policy and should therefore be supported and consent granted, subject to a section 106 agreement to ensure that the enabling development is tied to the

works to the Hall.

6.6 **Impact on residential amenity**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The closest properties to any of the proposed works are the existing occupied properties within the estate itself, which include the farmhouse at Home Farm, however this property is within the ownership of the applicant and also forms part of the development proposals. The impact on the amenities of the proposed dwellings is a material consideration and will be considered below. The four properties either side of the access track to Home Farm on Whitewell Lane are the closest houses that are not within the applicant's ownership. There is a terrace of three houses before the track and one property just beyond. All four of these properties are beyond the distance to which would be affected by any overlooking or loss of light from the new housing or the conversion given the proposed layout of the new development. The main concern of these properties and the other dwellings along Whitewell Lane and Pantglas is the potential for increased traffic and this matter is considered later in the report. None of the existing dwellings would be adversely affected by lights from traffic entering or leaving the site and as such the only impact is the potential for increases in traffic.

6.6.2 With regard to the impact on the existing farmhouse and the amenities of the future residents of the development officers can confirm that the layout of the site and the conversion scheme have both been designed so that there is a minimum of 21 metres between facing windows. Although there may be a reduced distance between a window and a blank elevation this distance gap would ensure that there is not an unacceptable loss of privacy or light. It would not benefit the applicants to develop a site which is not pleasant and in which the future residents would be comfortable as the properties would not sell and the applicants would therefore be out of pocket in paying for the work to the Hall. The main impact will be the change in the amenities of the existing farmhouse. Currently this property is relatively isolated and enjoys a great deal of privacy and an outlook over farm buildings and farm land which are both in low agricultural use. The proposed development would change this character and outlook significantly. However, the right to a view is not a material planning reason and although this is acknowledged to be a harm resulting from the development officers consider that this harm could not be considered to outweigh the overall need for the enabling development to support the work required to the Hall.

6.6.3 The works proposed to the Hall itself would not have any impact on any other residential property other than the Hall and the lodge on the access to the Hall. The lodge is a substantial distance from the Hall and is therefore not affected in terms of light or privacy, again this is matter of traffic movements which in this case would be reduced from the level of movements associated with the previous office use of the Hall. As such it is officers opinion that none of the three elements of the proposed development would result in any unacceptable adverse impact on amenities of existing or future residents and therefore complies with this element of the adopted local policies noted above.

6.7 **Highways, access, parking and rights of way**

6.7.1 Paragraph 32 of the NPPF advises that developments that generate significant

amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Objectors have noted the potential for increased traffic; the potential for use of Whitewell Lane and Pantglas; that the site is not served by public transport and that, in their opinion, the access onto Racecourse Road would not be safe due to traffic speeds, the road levels and lack of visibility.

- 6.7.2 As noted above a new access is proposed off the B4580. The access is proposed to serve the new houses and the conversion and alterations proposed at Home Farm. It has been designed with a stone wall and metal gates to reflect the character of the existing estate wall. The gates are to be set back to provide visibility from the new access with the radius of the access provided by the stone wall. In support of the proposed access the applicant has submitted a Road Safety Audit which notes that the B4580 is not lit, has a footway on one side and verge on the opposite side and is subject to the national speed limit at the location of the proposed access. The consultant advises that, at the time of their inspection, the speed limit was observed and that there is no accident data within 100m of the proposed access.
- 6.7.3 The audit identifies potential issues of the proposed access and makes recommendations. The issues identified including the width of the access which needs to ensure that two vehicles can pass within the access so as to reduce the impact on the highway; the potential for the boundary trees along the B4580 reducing visibility and therefore requiring cutting back; the existing wall reducing visibility and as such needing to be set back behind the visibility splays; the impact on existing pedestrian footway which will be broken by the access and the need for warning signs of the new access. These latter two issues will need careful consideration. The pedestrian footway break will need to be mitigated by dropped kerbs and tactile paving and sufficient forward visibility for pedestrians and any warning signs need to be appropriate for the historically sensitive, countryside, location of the site. All of the recommendations of the audit have been taken on board by the applicant and provided within the scheme, except for the warning signs which will need to be controlled by condition to ensure that the signage is appropriate.
- 6.7.4 In considering the impact on the heritage assets of the listed buildings within and around the site and also the parkland the submitted Heritage Impact Assessment considers that the proposed access would have a negligible impact and also that the potential traffic, post construction, would be at worst minor adverse.
- 6.7.5 With regard to highway safety and traffic movements the Council Highway Officer has raised no objection noting that the access position has been carefully considered to maximise visibility in both directions along the highway carriageway and that the junction is of a design that approaching drivers are able to view the access. However, the Highway Officer has recommended advance junction signing would further highlight the presence of the junction and that two passing places should be provided on Whitewell Lane to mitigate the impact of potential

additional traffic on this road.

6.8 Ecology and trees

6.8.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.8.2 The report advises that no evidence was found of Great Crested Newts or badgers. However there is evidence of a range of bat species, including a maternity roost in the roof of the Hall and bats using the stables and home farm buildings. The report advises that the proposed demolition of the east wing is unlikely to affect bat species but that the repair of the main roof and the conversion of the home farm buildings will disturb the maternity roost and bat population and as such a method statement and European Protected Species Licence will be required and access for the bats will need to be retained. Consideration of nesting birds is also required but would not be a significant impact.

6.8.3 Within the ecology report the consultant makes recommendations for timing of work, enhancements, mitigation and lighting. The Council Ecologist has requested additional information and the agent has confirmed that this information is being provided and will be available for consideration by the Ecologist before the committee meeting. Members will be updated on this issue at the meeting.

6.9 Drainage

6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The application has been submitted with a Flood Risk Assessment and percolation test results as the site is over 1 hectare and therefore should be submitted with a FRA.

6.9.2 The FRA notes that the site lies within flood zone 1 and as such is the zone at the lowest probability of flooding, it also notes that there is no historic evidence of flooding on the site including from the existing watercourse which flows in a northerly direction along the eastern boundary of the site. The FRA acknowledges that this watercourse has the potential to flood in the 1 in 30 and 1 in 200 year rainfall event, however this is due to a restriction in the watercourse in the north-eastern corner of the proposed site for the housing and the report recommends further assessment and potential mitigation and a buffer around the watercourse for flood protection and maintenance purposes.

6.9.3 Surface water drainage is also dealt with in the FRA and recommends that soakaways would be appropriate in the western part of the site but due to the watercourse would not be appropriate in the eastern part. As such the report recommends discharge to the watercourse with control measures to ensure that the run-off rate is restricted. The report also advises of other surface water reduction methods that could be used including permeable surfaces, discharge to

open spaces, swales or basins.

- 6.9.4 Concern has been raised by local residents that the development will affect private water supply and drainage systems and that part of the site is at risk of flooding and soakaways could not be used. This second concern has been acknowledged by the applicant in the FRA. The first concern has not been quantified by the objectors, it is not clear where the private water supplies and drainage systems referred to are located, if they are within the application site then they are within the land owned by the applicant and therefore there will already be a private agreement between the land owner and the property using the water supply/drainage system. However, this is a private matter and not one which is a material consideration. If a private water supply or drainage system is affected by a development then is it incumbent on the developer to provide an alternative.
- 6.9.5 The Council Drainage Engineer has considered the submitted information and advised that additional soakaway tests should be carried out and further information submitted to show that the proposed surface water drainage scheme complies with the Council guidance but that this can be done after consent is issued through the use of a condition. Foul drainage connection is proposed to e to the existing mains drainage system and consent will be required from the service provider, however no objections or concerns have been raised regarding connection or capacity. As such officers consider that an appropriate drainage system can be designed for the site which would not result in increased flooding either on the site or off-site and therefore can be designed to comply with policy CS18.
- 6.10 **Other matters**
- 6.10.1 Affordable Housing – The application is not liable for affordable housing. This is a decision which is within the control of the local authority to make and
- 6.10.2 CIL – The applicant has provided evidence of information given to them before the application was submitted that advised that CL would not be relevant. However, this was informal advice given before an in-depth assessment of the CIL Regulations had been undertaken. Whether something is CIL liable is not a matter for the authority, however the Council do have the powers to offer relief from CIL in certain situations. The development of new housing and conversion of existing buildings to housing are all CIL liable and can only be granted relief if it is appropriate in light of community priorities, the circumstances of the case and if requiring payment would have an unacceptable impact on the economic viability of the development.
- 6.10.3 The agent has applied for exceptional circumstances relief and this matter is being negotiated with the relevant officers of the Council. The agent has put forward the case that the CIL charge would make the development unviable and would not provide the financial income required to repair and restore the listed building. The CIL charge for the proposed development would require further development to pay for it and this would potentially increase the scale of the development required to a significant level. However, the key issue, if viability could be proven, would remain whether the development proposed delivers a community priority. This is a matter which is a material consideration in the application however, it does not need to hold up a decision on the current proposal. Should it be determined that

the development can not be granted relief then it may be necessary for the applicant to reconsider the proposals for the site, however it does not affect whether the current application is appropriate in planning terms or not. If relief is granted then the proposed scheme can be developed.

- 6.10.4 Open space – As a new housing development proposal it is also necessary for the application to provide open space in accordance with the Open Space Interim Planning Guidance. The Council Recreation Team has advised on the size of open space required to meet the policy. Following this consultation the agent has submitted an additional plan which confirms the site area of the proposed village green in the centre of the housing proposed. The area of open space provided by the village green is 6100m² and as such provides more than the calculated 5340m² required under the above planning guidance. As such the proposed village green is considered to be sufficient open space for the proposed housing and the Council Recreation Team have also commented that the design concept of a central area of public open space or 'village green' is in keeping with the development.
- 6.10.5 Rights of way – as confirmed by the Council Rights of Way Officer restricted Byway 27A runs through the development site. However, since the time of the Officer comments detailed above the agent has confirmed that the diversion order has been completed and this right of way has been diverted. It is accepted that it is still close to the Hall but is no longer running between the Hall and stables. The potential for conflict between traffic and users of the right of way on the track from Whitewell Lane to Home Farm is noted as too is the concern of the Rights of Way Officer that traffic is likely to increase. This is accepted by officers, at present the farm is not intensively used and as such neither is the track and any development will increase traffic on the track. However the proposed new vehicular access off the B4580 will be the main access to the conversion and the new houses and is likely to be the access used by visitors and delivery vehicles. As such the traffic using the right of way is likely to be limited to residents only and appropriate signage or additional traffic calming can be provided to mitigate this impact. Overall it is not considered that increase in traffic on the right of way is a substantial harm which would outweigh the benefits of the development.
- 6.10.6 Contamination – A contaminated land report has been submitted with the application which advises that ground investigation works undertaken have shown no evidence of contamination, no risk to human health and that standard foundations can be used. The report has been considered by the Council Public Protection Officer who has confirmed that no remediation is required on the site to prepare it for residential end use. The Public Protection Officer has required charging points for electric vehicles and this can be added as an informative and the recommendations regarding the control of dust, construction times and burning can be controlled by condition.
- 6.10.7 Loss of agricultural land – objectors have raised concerns about the loss of agricultural land and the agent has noted within their submission that the land is grade 3 agricultural. The development of the housing will result in the loss of a small parcel of agricultural land, however it is not considered to be a significant loss and its location within the registered parkland also limits the potential for intensive use and removal of field boundaries. As such the loss of the agricultural

land is acknowledged as a harm but not one which officers advise should be given significant weight in the overall planning balance.

- 6.10.8 Impact on services – objectors have also raised concern about the lack of capacity in the local schools, limited services and facilities on this edge of Oswestry and that housing should be built on the opposite side of the town. All of these concerns are noted, however, this application is not being proposed as a general housing scheme for Oswestry, other housing is being proposed which will meet the general needs of the town, provide additional infrastructure and be located within or on the edge of the town. The proposed siting of the housing is for a specific reason as detailed earlier in this report.

7.0 CONCLUSION

- 7.1 It is acknowledged that the proposal to erect 50 new dwellings on the proposed site would be contrary to the adopted local plan and as such is a departure from adopted policy. However, the proposed housing is to provide the finances for the restoration and repair of the grade II* listed building, Brogyntyn Hall, which is identified as a building at risk on the English Heritage register. As such it is being proposed as enabling development and as such there is a balance to be struck between the harm and the benefits.
- 7.2 The harm is clear and significant and will result in dwellings in the countryside, the registered parkland and conservation area which will be visible from sensitive receptors. However the proposed site is the least harmful, the layout, scale and design of the dwellings is considered to be of a high quality and will result in a sensitive, low density, development creating the appearance of a new small hamlet and the need for the restoration and repair of the grade II* listed building of Brogyntyn Hall also needs to be factored into the balance.
- 7.3 Furthermore it is accepted that the demolition of the west wing will result in the loss of historic fabric and context to a grade II* listed building but that the works proposed to the hall are considered to be reasonable and appropriate to bring the building back into use and to reduce the size of the property and are considered to be necessary as part of the restoration of the hall and its removal off the building at risk register.
- 7.4 The works proposed to convert the buildings at Home Farm are acceptable in principle but further information and amendments are required. Overall no element of the scheme would result in an unacceptable impact on the amenities of existing residents, the proposed new access, subject to additional signage will be safe and appropriate and the development will not result in a severe impact on highway safety or capacity. In principle the site is capable of being drained, is being provided with an appropriate level of open space and the development will not affected the diverted right of way.
- 7.5 In conclusion, subject to the applicants entering into a section 106 agreement to secure the restoration and repair of the listed building, it is acknowledged that there is substantial harm from the proposed development but that the development would secure the future conservation of a heritage asset, that there is no reasonable alternative, and that the benefit of securing this asset outweighs the disbenefits of the proposed development and is therefore considered sufficient

grounds to set aside the local adopted policies. The proposed scheme is considered to comply with paragraphs 55 and 140 of the National Planning Policy Framework and the English Heritage policy statement on Enabling Development and the Conservation of Significant Places.

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 - written representations, a hearing or inquiry.

The decision is 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 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 give 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 of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the

scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

English Heritage policy on Enabling Development and the Conservation of Significant Places

Core Strategy and Saved Policies:

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Vince Hunt
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. No works shall be carried out other than in accordance with the approved plans as detailed below. This consent does not indicate approval for associated or enabling works not included in the approved plans, which may be necessary to carry out the scheme. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

Reason: To ensure the satisfactory preservation of the Listed Building.

3. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays. No burning shall take place on site including during clearance of the site.

Reason: to protect the health and wellbeing of residents in the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development approved by this permission shall commence until there has been submitted to and approved 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
 - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
 - Detailed drawings of the proposed new bridge structure and 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.

5. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased

programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

6. 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.

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

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

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

8. Prior to the works hereby permitted, a photographic survey of the interior/exterior of the building shall be carried out, using 35mm monochrome and colour films. The photographs will be individually labelled, cross-referenced on a sketch plan of the structure and presented in an A4 format together with the negatives or a CD of the images. Two sets of the photographic record should be provided to the Local Planning Authority for their own records and distribution to the National Monuments Record.

Reason: To record the historic fabric of the listed building prior to development.

9. Before the relevant parts of the work are commenced, a sample panel of the proposed rendering, at least one metre square, and including any ornamentation, quoins, mouldings, string courses, etc as shall be required to match existing features. The sample panel should also demonstrate the method of application, mix and colour, and the panel should be approved in writing by the Local Planning Authority prior to the rendering works being carried out on the Listed Building. Development shall be carried out in accordance with the agreed details unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the Listed Building.

10. Repairs to stonework shall be carried out by cutting out and piecing-in or rebuilding with replacement natural stone which shall be geologically compatible with the original work and shall match it in size, shape, colour and surface finish. Stone for repairs and new work shall be of proven durability and weather resistance and free from any defects, which would adversely affect its performance and appearance. Samples of stone for use in repairs and new work shall be made available to and approved in writing by the Local Planning Authority before any works commence.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

11. Pointing or repointing of stonework shall be kept to the minimum structurally necessary and areas to be pointed shall be agreed on site with the Local Planning Authority prior to the commencement of the work. The maximum of sound original pointing is to be retained. Mortar for pointing shall be a lime mortar which matches the existing in colour, texture and surface finish unless otherwise agreed by the Local Planning Authority. An unobtrusive sample of pointing shall be carried out and approved in writing by the Local Planning Authority before commencement of the works. Cutting out old mortar with a mechanical disc/angle grinder is not acceptable.

Reason: To ensure the satisfactory preservation of the Listed Building.

12. No pointing or re-pointing of existing or proposed masonry shall commence until the Local Planning Authority has approved the following items in writing:
- a drawing showing the proposed area(s) of repointing
 - the mortar mix
 - the method of removing existing mortar, please note that old mortar shall not be removed using any mechanical tool or angle grinder.
 - an inconspicuous pointing sample provided on site following approval of the above items

Reason: To safeguard the historic interest and character of the Listed Building and ensure an appropriate external appearance.

13. External brickwork must not be treated with a waterproofing solution or mechanically cleaned including pressure washing and sandblasting.

Reason: To safeguard the architectural and historic interests and character of the Listed Building.

14. Prior to the commencement of the works a timber-by-timber inspection of the structural frame, its components and joints shall be undertaken. This inspection shall inform a fully detailed scheme of repairs which shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The scheme shall include:
- A method statement, having regard to the structural integrity of the frame
 - Plans, sections and elevations at a scale of not less than 1:50 showing full details of the components to be repaired or replaced,
 - A complete specification for replacement timbers,

- The proposed methods of repair , and
- The type of surface treatments or decorative finishes to be applied.

Reason: To ensure the satisfactory preservation of the Listed Building.

15. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

16. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

17. Before the relevant parts of the work are commenced, details of roofing materials, including ridge materials and detailing, together with the method of ventilating the roof voids and the method of fixing these items, shall be submitted and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed.

Reason: To ensure satisfactory preservation of the listed building.

18. Details of the roof construction details including details of eaves, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

19. Unless otherwise agreed in writing by the Local Planning Authority, the historic roof structure will be retained and repaired. A method detailing the extent of the repairs and any replacement timbers shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

20. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

21. Details of the proposed external decorative finishes and colour scheme shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

22. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed, moved or replaced in the building shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing. Such features shall be recorded by photographs and/or scale drawings and the sections and profiles accurately taken and recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the Listed Building.

23. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected during the approved works.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

24. All replacement and repaired sections of features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall match exactly the originals in detail and profile. Sample sections of both the original and replacement profiles shall be made available to the Local Planning Authority and approved in writing before this aspect of the work commences.

Reason: To ensure the satisfactory preservation of the Listed Building.

25. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed and stored pending reinstatement shall be agreed in writing by the Local Planning Authority prior to works commencing. These features shall be recorded in photographs and/or scale drawings, and their sections and profiles accurately recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the Listed Building.

26. All new partitions and other elements of construction shall be scribed around historic and architectural features including cornices, picture rails, chair rails, skirtings, panelling, door and window linings and shall not cut through such features.

Reason: To ensure the satisfactory preservation of the Listed Building.

27. All routes for mechanical and electrical services and drainage shall be arranged to be visually unobtrusive and cause the minimum disturbance to historic fabric. Details shall be submitted to and approved in writing by the Local Planning Authority. These shall include types, sizes and positions of soil and vent pipes, waste pipes, rainwater pipes, boiler flues and ventilation terminals, meter boxes, exterior cabling etc and interior fittings such as radiators, electrical socket outlets and switchplates. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

28. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

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

29. A schedule of work to each Heritage Asset, on Home Farm site shall be submitted to and approved in writing by the Local Planning Authority prior to any works to them commencing. No work shall be carried out other than in accordance with the approved schedule, including details, plan, method and materials, as necessary, eg thermal upgrading of building, ceiling repair/renewal etc. All existing original features shall be retained in situ unless it is specifically shown removed.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

30. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of 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.

31. Details of exterior soil and vent pipes, waste pipes, rainwater goods, boiler flues and ventilation terminals, meter boxes, exterior cabling and electrical fittings shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

32. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

33. Unless otherwise agreed in writing by the Local Planning Authority, the historic roof structure will be retained and repaired. A method detailing the extent of the repairs and any replacement timbers shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

34. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

35. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

36. No pointing or re-pointing of existing or proposed masonry shall commence until the Local Planning Authority has approved the following items in writing:
- a drawing showing the proposed area(s) of repointing
 - the mortar mix
 - the method of removing existing mortar, please note that old mortar shall not be removed using any mechanical tool or angle grinder.
 - an inconspicuous pointing sample provided on site following approval of the above items

Reason: To safeguard the historic interest and character of the heritage asset and ensure an appropriate external appearance.

37. Details of the brick bond and type shall be first agreed in writing by the Local Planning Authority. Following this approval, a freestanding sample panel of brickwork of approximately 1m square shall be provided on site and the mortar mix, colour, texture and joint finish shall be approved in writing by the Local Planning Authority before the commencement of works.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

38. The external brickwork shall be repaired by cutting in or using replacement bricks to match the existing. Bedding and repointing (which shall be kept to the very minimum

structurally necessary) should be in a lime mortar to include the mix and joint finish to a specification to be approved in writing by the Local Planning Authority.

Reason: To safeguard the architectural and historic interests and character of the heritage asset.

39. External brickwork must not be treated with a waterproofing solution or mechanically cleaned including pressure washing and sandblasting.

Reason: To safeguard the architectural and historic interests and character of the heritage asset.

40. Before the relevant parts of the work are commenced, a sample panel of the proposed rendering, at least one metre square, and including any ornamentation, quoins, mouldings, string courses, etc as shall be required to match existing features. The sample panel should also demonstrate the method of application, mix and colour, and the panel should be approved in writing by the Local Planning Authority prior to the rendering works being carried out on the Listed Building. Development shall be carried out in accordance with the agreed details unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the heritage asset.

41. Repairs to stonework shall be carried out by cutting out and piecing-in or rebuilding with replacement natural stone which shall be geologically compatible with the original work and shall match it in size, shape, colour and surface finish. Stone for repairs and new work shall be of proven durability and weather resistance and free from any defects, which would adversely affect its performance and appearance. Samples of stone for use in repairs and new work shall be made available to and approved in writing by the Local Planning Authority before any works commence.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

42. Pointing or repointing of stonework shall be kept to the minimum structurally necessary and areas to be pointed shall be agreed on site with the Local Planning Authority prior to the commencement of the work. The maximum of sound original pointing is to be retained. Mortar for pointing shall be a lime mortar which matches the existing in colour, texture and surface finish unless otherwise agreed by the Local Planning Authority. An unobtrusive sample of pointing shall be carried out and approved in writing by the Local Planning Authority before commencement of the works. Cutting out old mortar with a mechanical disc/angle grinder is not acceptable.

Reason: To ensure the satisfactory preservation of the heritage asset.

43. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

44. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected during the approved works.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

45. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed, moved or replaced in the building shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing. Such features shall be recorded by photographs and/or scale drawings and the sections and profiles accurately taken and recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the heritage asset.

46. All replacement and repaired sections of features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall match exactly the originals in detail and profile. Sample sections of both the original and replacement profiles shall be made available to the Local Planning Authority and approved in writing before this aspect of the work commences.

Reason: To ensure the satisfactory preservation of the heritage asset.

47. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed and stored pending reinstatement shall be agreed in writing by the Local Planning Authority prior to works commencing. These features shall be recorded in photographs and/or scale drawings, and their sections and profiles accurately recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the heritage asset.

48. All new partitions and other elements of construction shall be scribed around historic and architectural features including cornices, picture rails, chair rails, skirtings, panelling, door and window linings and shall not cut through such features.

Reason: To ensure the satisfactory preservation of the heritage asset.

49. Details of the proposed external decorative finishes and colour scheme shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

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

50. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of 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.

51. Details of the brick bond and type shall be first agreed in writing by the Local Planning Authority. Following this approval, a freestanding sample panel of brickwork of approximately 1m square shall be provided on site and the mortar mix, colour, texture and joint finish shall be approved in writing by the Local Planning Authority before the commencement of works.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

52. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

53. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

54. Details of the roof construction details including details of eaves, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

55. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

56. None of the decorative ironwork authorised by this consent shall commence until the following information is submitted to and approved in writing by the Local Planning Authority:
- Fully detailed and dimensioned drawings, together with samples of scrolls, spearheads finials, and any other details
 - Details of the method of attachment of the decorative ironwork
 - Details of the proposed high-performance corrosion-inhibiting priming system
 - The colour scheme for the ironwork

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

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

57. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard 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, in the opinion of the Local Planning Authority, 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.

58. Prior to commencement of work on the indicative swimming pool full engineering details, plans, cross sections and proposed materials and finishes shall be submitted for approval by the Local Planning Authority and the work shall thereafter be carried out strictly in accordance with the approved details.

Reason: To ensure that the proposed swimming pool is appropriate in association with the listed building.

59. The garages hereby approved shall not be used for any purpose other than those incidental to the enjoyment of the plot to which they have been built but not including use as living accommodation and not for the accommodation of commercial vehicles, and shall not be used for any repair work otherwise than routine maintenance on the cars normally accommodation therein.

Reason: To safeguard the residential character of the neighbourhood and to ensure the provision of adequate off-street parking accommodation to avoid congestion of adjoining streets by parked vehicles.

60. 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 at any of the new dwellings erected or created through the conversion of existing buildings 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
- any micro generation system requiring external works

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.

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Committee and Date

North Planning Committee

18 November 2014

Item

9

Public

Development Management Report

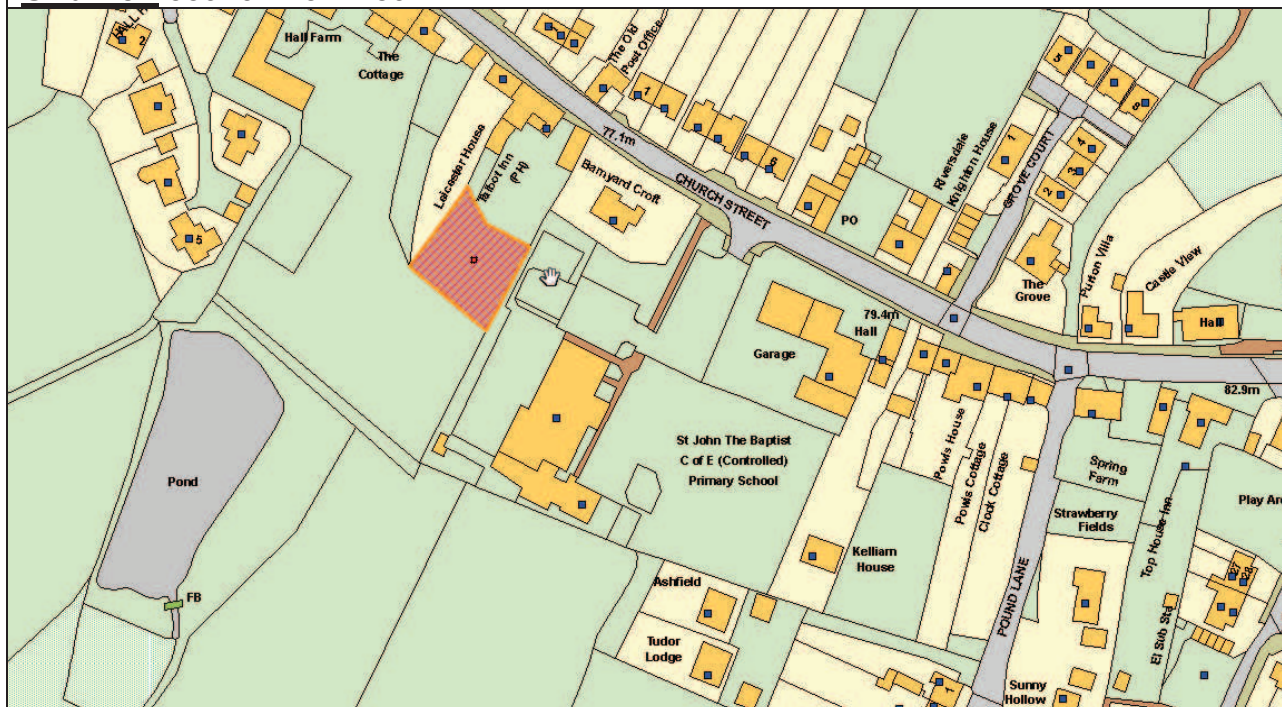
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03025/OUT	Parish:	Ruyton XI Towns
Proposal: Outline planning application for the erection of 1no. dwelling with garage to include access		
Site Address: Proposed Dwelling Rear Of The Talbot Inn Church Street Ruyton Xi Towns Shropshire		
Applicant: Mr Steve Jennings		
Case Officer: Joe Crook	email: planningdmc@shropshire.gov.uk	

Grid Ref: 339201 - 322159



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to the applicants entering into a S106 agreement.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposed development is for outline planning permission for the erection of 1 dwelling with garage to include access.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located off Church Street and is a flat rectangular plot of land to the rear of the Talbot Inn in the centre of Ruyton XI Towns. It is within the curtilage of the Talbot Inn which is a Grade II listed building but is in separate ownership. The site is accessed through the Talbot Inn Car Park and is bounded by a two storey primary school to the east, high level established trees to the south and gardens, tennis court and Hall Farm Grange houses to the west.

- 2.2 A number of previous applications have been made relating to the site, with permission granted for the erection of detached guest accommodation associated with the Public House (12/04145/OUT) with planning permission recommended for refusal the same year for three dwellings on the remainder of the site (12/04144/FUL) and withdrawn just prior to Planning Committee. It is also noted that applications relating to the conversion of the former barn and stable on the site were also approved for a dwelling, and a holiday let (12/00161/FUL and 12/04126/FUL).

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 To be considered by the Committee Chair and Principal Planner.

4.0 Community Representations

- Consultee Comments

Ruyton XI Towns Parish Council agreed that the proposed 4 bedroom dwelling did not meet the needs identified by the Parish in its Parish Plan and subsequent SAMDev submission to SC. Primarily because the community had identified a need for smaller affordable homes in the parish. The proposed dwelling was also noted as not having any links to the Talbot Inn; a local viable business.

When considering National Planning Policy Framework the substandard access to the proposed property was considered to be unsustainable and the Parish Council placed reliance upon previous comments made by SC Highways (re planning application Ref 12/04144/FUL) which relates to a recent past application:

The proposal is served by means of an exiting access which is considered to be substandard in terms of its restricted visibility and junction layout with the adjoining Class II county road. It is considered therefore that the additional vehicular movements into and out of the site access generated by the residential development, would be likely to result in conditions detrimental to highway safety.

The application is therefore opposed by the Parish Council.

SC Archaeology – The proposed development site lies within the historic core of Ruyton XI Towns as defined by the Central Marches Historic Towns Survey, and within an area of probable medieval burgage plots that were established when the town was founded in the early 14th century (HER PRN 05204). The information contained in the Heritage Statement submitted in support of the application, together with the historic map extracts contained within the Planning Statement which accompanies this application, indicated that the proposed development site remained open and undeveloped throughout most of the 19th century. However, the earlier history of the site remains unknown and there is therefore some potential for archaeological remains relating to the medieval and later development of the town to be present. A programme of archaeological work to comprise an archaeological watching brief during all ground works is recommended to be made a condition of any planning permission for the proposed development.

SC Conservation – No objection in principle given the previous permission for guest accommodation in conjunction with the public house use. The indicative design is not considered wholly acceptable and although some work on appraising the character of the village in that area has been done, the design put forward does not give any indication that the appraisal has been used to provide a design philosophy for the proposed building. The proposed building should reflect the local vernacular detail in terms of scale, details, materials and layout, however, it is also important that it responds to the character and layout of its context and setting in relation to the listed and curtilage listed buildings on the site.

SC Drainage – Surface water drainage details to be submitted, recommend conditions and informatives.

SC Trees - No objection in principle on the grounds of trees - there are no trees within the site. There are however mature trees adjacent to the south boundary of the site shown as retained. In order to protect the root protection areas encroaching into the site a Tree Protection Plan (TPP) should be submitted in line with BS 5837:2012 for a full application to demonstrate that these trees will not be damaged by the proposals.

SC Public Protection - Having considered the proposed development it is noted that there are already residential properties in as close proximity to the Talbot Inn, a potential source of noise, as the proposed dwelling. Having discussed the public house with a licensing officer we are not aware of any noise complaints and therefore have no comment on this application as it is not likely that noise from

existing sources will have an effect on the proposed dwelling. However, as a precaution it is recommended that the applicant considers the noise reducing properties of glazing and layout of the rooms in the proposed property to ensure that noise from existing sources is as far from sensitive rooms as possible (bedrooms) and that future complaints are unlikely.

SC Affordable Housing - Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

SC Ecology – No objections subject to conditions and informatives following submission of an updated ecology report.

SC Highways - The application site benefits from a planning permission 12/04145/OUT to construct 4 guest accommodation rooms. Notwithstanding the deficiencies of the access as has been set out in previous advice on this site, the highway authority raised no objection to this application on the basis that the proposed guest accommodation would be linked to the Talbot Inn.

In respect of the current application which now seeks permission for a single dwelling and would therefore supersede the 12/04145/OUT permission, which sought 4 guest accommodation rooms to the rear of the PH car park. You will recall however that the highway authority raised a highway objection to application 12/04144/FUL on the basis that 3 dwellings and resulting traffic would increase highway safety issues having regard to the substandard Talbot Inn access onto the Class II road.

With regard to the current application seeking a single dwelling, notwithstanding the previous highway advice relating to the substandard Talbot Inn access, the highway authority consider that an objection on highway safety grounds is less compelling than in the case when 3 dwellings were being promoted and in relation to the consent issued for the 4 guest accommodation rooms.

As set out in the NPPF the highway authority must be able to demonstrate that the highway impacts of the development proposal are severe. In this particular case the nub of the issue surrounds the cumulative impact of the proposed development in terms of the additional traffic movements at the substandard Talbot Inn junction.

Having regard to the above the highway authority consider that it would be difficult to sustain a highway objection based upon a single dwelling replacing planning consent 12/04145/OUT which sought guest accommodation.

- Public Comments

6 objections have been received which raised the following material planning

considerations:

- There are significant highways issues with regard to the access for the site.
- The previous application for guest accommodation was granted solely because of its linkage to the Talbot.
- The application for 3 dwellings on the same site as the current application was refused because of the design, detail and negative impact on the Grade II listed building as well as on highways grounds. The same traffic patterns are relevant for this single dwelling.
- The indicative design of the new house is unsympathetic with regard to the grade II listed public house.
- The access has been considered substandard previously and this has not changed.
- The previous permission for guest accommodation tied to the public house should not be used as a trade off for a new standalone residential dwelling.
- SC Highways would be failing in its duty to maintain an acceptable level of safety by this application and the potential for accidents to occur at an access with substandard visibility.
- The development will restrict any future outdoor activities held in the pub grounds.
- Car parking for large events will become severely restricted.
- The Talbot could be the only public house left in this growing village soon.
- There has already been a significant amount of development in the village with permission for a further 100 houses.
- The previous approval was only allowed on the basis of it being an integral part and incidental to the existing pub, and only for holiday accommodation.
- The Parish Council did not object to the previous application purely due to its tie to the public house.
- The principle for residential development has not been set through previous approvals.

5.0 THE MAIN ISSUES

Principle of development

Design, scale and impact on grade II listed building

Highways

Ecology

Trees

Archaeology

Neighbouring amenities

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Saved Policy H5 of the adopted Oswestry Borough Local Plan is a relevant saved policy from the Oswestry Borough Plan and allocates Ruyton XI Towns as a larger settlement where housing is acceptable on suitable windfall sites within the development boundary. The site is located within the development boundary for Ruyton XI Towns shown within both the Oswestry Borough Plan as well as the Site Allocation and Management of Development document where it is being promoted as a 'Hub' under Core Strategy policy CS4. The proposal is therefore considered acceptable in principle. CS11 and the adopted Housing SPD requires a contribution to affordable housing and a S106 will be required to secure this.
- 6.1.2 It is noted that the Parish Council have commented that the proposed dwelling does not have any links to the Talbot Inn, a local viable business. However, this in itself is not a reason for refusal of the scheme and the principle of the development being acceptable is not altered by its lack of tie to the public house, subject to consideration of the wider issues associated with the development.
- 6.2 Design, scale and impact on grade II listed building
- 6.2.1 Objections to the scheme refer to the potential detrimental impact on the character and setting of the grade II listed public house, and refer to the fact that part of the reason for the previous refusal for three dwellings at the site related to the detrimental impact of the development on the listed building. Furthermore it is commented that the design, scale and visual appearance of the dwelling is insensitive to the listed building and inappropriate.
- 6.2.2 Whilst the above comments are acknowledged, there has been no objection in principle from the Conservation Officer who has taken into account the approval for the holiday accommodation on the plot within their response. Whilst objectors have commented that this would be tied to the public house and therefore does not render a standalone dwelling acceptable, clearly from a visual perspective the Conservation Officer has to take into account that a building could be constructed on the site when taking into consideration the development now proposed. The Conservation Officer has commented that the indicative design details submitted for the dwelling are not considered wholly acceptable and the design put forward does not give any indication that the submitted appraisal has been used to provide a design philosophy for the proposed building. However, detailed design for the scheme will be considered at reserved matters stage and there are no objections to a dwelling in this location subject to the building reflecting the local vernacular detail in terms of scale, design, materials and layout, and with due consideration to the context and setting in relation to the listed and curtilage listed building on the site. As such it is considered that a scheme that accords with policies CS6 and CS17 of the Shropshire Core Strategy can be achieved which is sensitive to the character and setting of the listed building and curtilage buildings, and will be given due consideration at reserved matters stage.
- 6.2.3 With regard to the previous recommendation for refusal (withdrawn prior to being determined) for three dwellings on the site, the Officer report commented that there were no objections to the general siting and overall form of the development with the recommended refusal based on concerns regarding aspects of the design detail and materials, as well as highways matters. Any adverse impact on the Grade II listed building was based on a lack of traditional design features and inappropriate

materials. Evidently the design details will be determined at reserved matters as discussed above, and in terms of the siting and form of the development, this will be for a single dwelling rather than three dwellings with additional guest accommodation on the same site as previously proposed. As such it is considered that the previous recommendation for refusal for residential development at the site does not set a precedent for restricting any residential development at the site in terms of design or impact on the setting of the Grade II listed building. Furthermore the scheme is not considered to represent an overdevelopment of the site now the proposal is reduced to a single dwelling compared with the previous applications for a much higher density of development.

6.2.4 Whilst the Parish Council have commented that the proposed 4 bedroom dwelling does not meet the needs identified by the Parish in its Parish Plan and subsequent SAMDev submission to the Council as they had identified a need for smaller affordable homes in the parish, this is not considered to represent a reason for refusal of the scheme in itself. The need for smaller properties is acknowledged but the application is for a single dwelling, and it is noted smaller properties were proposed in relation to the refused scheme, which was also objected to and subsequently withdrawn.

6.3 Highways

6.3.1 A significant number of concerns have been raised in relation to highways issues regarding inadequate access and visibility, and detriment to highway safety. However, with regard to this the Highways Manager has commented that, whilst acknowledging the substandard access currently in use as well as previous permission for the guest accommodation, the highway authority consider that an objection on highway safety grounds is less compelling than in the case when 3 dwellings were being promoted and in relation to the consent issued for the 4 guest accommodation rooms. As set out in the NPPF the highway authority must be able to demonstrate that the highway impacts of the development proposal are severe. In this particular case the issue surrounds the cumulative impact of the proposed development in terms of the additional traffic movements at the substandard Talbot Inn junction. The highway authority therefore consider that it would be difficult to sustain a highway objection based upon a single dwelling replacing planning consent 12/04145/OUT, which sought guest accommodation. Given the previous approval granted and its associated vehicle movements, and the above consideration of the Highways Officer, it is considered that the scheme could not be refused on highways grounds for the reasons set out above.

6.4 Ecology

6.4.1 Following the submission of an updated ecology report the planning ecologist has not objected to the scheme subject to conditions and informatives.

6.5 Trees

6.5.1 The Trees Officer has requested that a tree protection plan be submitted as part of the reserved matters in relation to the mature trees adjacent to the southern boundary of the site shown as retained. This should be in line with BS 5837:2012 and demonstrate that these trees will not be damaged by the proposals. This will be included as a condition.

6.6 Archaeology

6.6.1 The Council Archaeologist has requested a condition relating to a Written Scheme of Investigation and watching brief in light of the site being located within the historic core of Ruyton XI Towns dating from the 14th Century. This condition will be included.

6.7 Neighbouring amenities

6.7.1 Given that the site will be located adjacent to a school and open land, and is over 21 metres from any neighbouring properties, it is considered that the impact in amenity terms will be minimal.

6.7.2 With regard to the issues raised relating to the public house losing associated parking and green space, this is acknowledged but there will still be sufficient space outside the rear of the public house to be used for seating, parking etc and in this regard it is not considered to be a reason for refusal of the scheme given the level of associated amenity space that will remain.

7.0 CONCLUSION

The proposed dwelling is considered to be acceptable in principle and it is not considered that the construction of a dwelling in this location will be detrimental to the character and setting of the Grade II listed Talbot Inn, subject to appropriate design details and materials being submitted at reserved matters stage. There is not considered to be a detrimental impact in terms of neighbouring amenities or protected species and there is no objection from the Highways Authority with regard to the use of the access for an additional dwelling, in light of previous approvals granted. As such the scheme is considered to be acceptable in accordance with policies H5 of the Oswestry Borough Plan, CS4, CS6, CS11 and CS17 of the Shropshire Core Strategy as well as the National Planning Policy Framework. 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.

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:

NPPF

Core Strategy and Saved Policies:

- CS4 - Community Hubs and Community Clusters
- CS6 - Sustainable Design and Development Principles
- CS11 - Type and Affordability of housing
- CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

OS/97/09755/LBC Part demolition of barn and car port, associated reinstatement/repair/replacement works to walls, roof and rainwater goods; window and door openings boarded over GRANT 16th April 1997

OS/99/10846/LBC Alterations and single storey extension to outbuilding to form function room with toilet facilities GRANT 29th March 2000

OS/85/4283/FUL Erection of an extension to provide lobby and improved toilet accommodation GRANT 4th October 1985

OS/85/4349/FUL Change of use of domestic living room to public lounge bar GRANT 6th February 1986

OS/87/5108/ADV Display of a double-sided hanging, projecting pictorial sign, and a letter sign, both externally illuminated and a lantern, on the front elevation and one letter sign on the side and rear elevation both externally illuminated GRADV 9th December 1987

OS/89/6503/FUL Replacement outbuilding and erection of new single storey kitchen extension GRANT 17th November 1989

OS/89/6504/LBC Replacement of outbuilding forming freezer and bottle store and erection of single storey kitchen extension GRLBC 17th November 1989

OS/93/8365/LBC Remove specified existing signs and illumination and replace with new GRLBC 1st October 1993

OS/93/8366/ADV Remove specified existing signs and illumination and replacement with new GRADV 1st October 1993

11/00818/LBC Internal and external alterations in connection with provision of en-suites to existing letting bedrooms and installation of extraction equipment affecting a Grade II Listed Building GRLBC 13th April 2011

11/03232/LBC Alterations in association with conversion of barn to letting rooms affecting a Grade II Listed Building WDN 17th August 2011

12/00161/FUL Conversion of former barn and stable into self-contained dwelling GRANT 11th April 2012

12/00162/LBC Alterations in association with conversion of former barn and stable into self-contained dwelling GRANT 11th April 2012

12/04126/FUL Conversion of former barn and stable into self contained holiday home (Amendment to consented scheme 12/00161/FUL & 12/0162/LBC) GRANT 3rd December 2012

12/04127/LBC Conversion of former barn and stable into self contained holiday home (Amendment to consented scheme 12/00161/FUL & 12/0162/LBC) GRANT 3rd December 2012

12/04144/FUL Erection of three residential dwellings, associated landscaping and carparking. (One dwelling to be an affordable rented unit) WDN 7th March 2013

12/04145/OUT Outline application for the erection of detached guest accommodation associated with the Talbot public house to include access, landscaping and scale
GRANT 9th January 2013

11. Additional Information

[View details online:](#)

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

Cllr M. Price

Local Member

Cllr Nick Bardsley

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 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. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The means of enclosure of the site
 The levels of the site
 The means of access for disabled people
 The drainage of the site
 The finished floor levels
 Tree Protection Plan (TPP) submitted in line with BS 5837:2012

Reason: To ensure the development is of an appropriate standard.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The development site is known to have archaeological interest.

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

6. A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

7. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of 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.

8. 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.

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Committee and Date

North Planning Committee

18 November 2014

Item

10

Public

Development Management Report

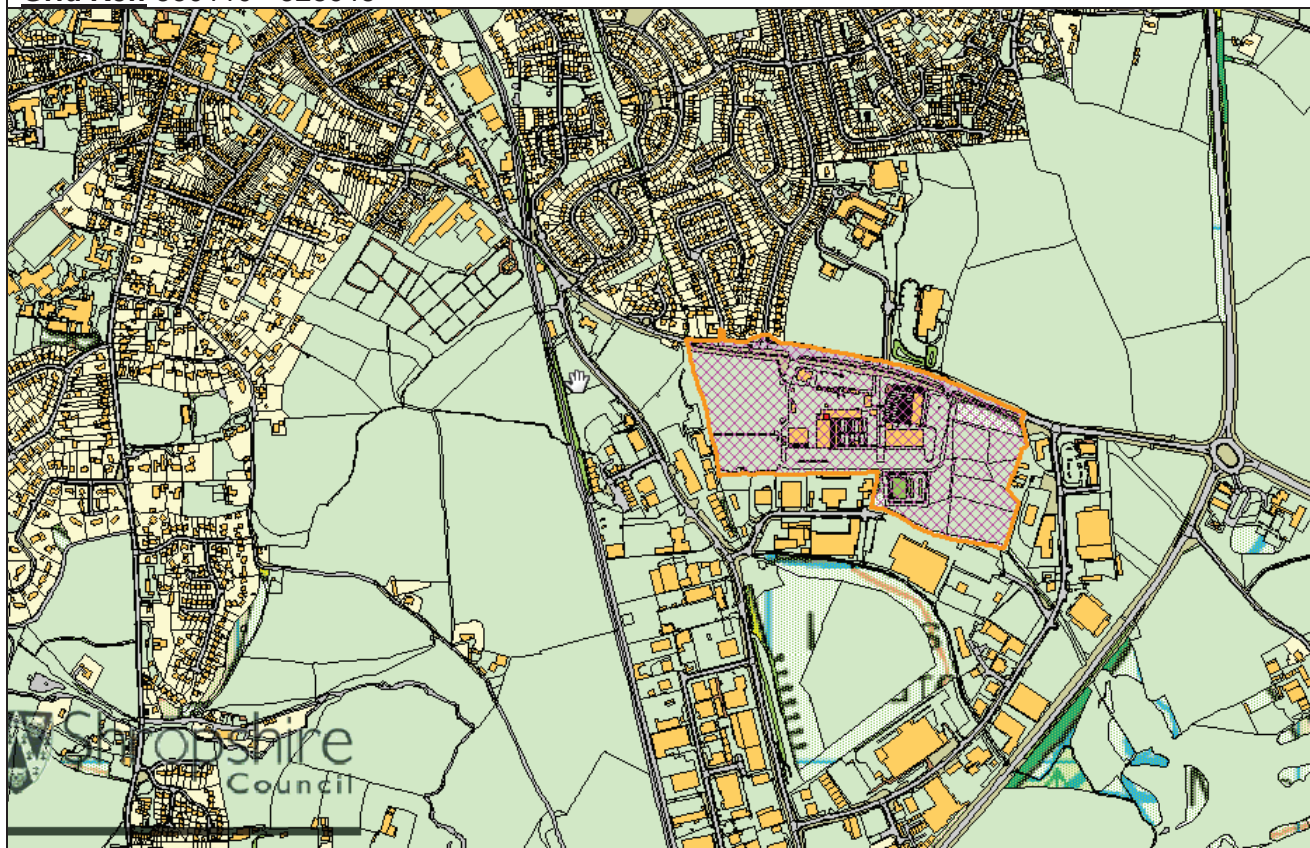
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/00164/VAR	Parish:	Oswestry Town
Proposal: Variation of Conditions 40 (approved plans) of planning permission 13/01189/VAR		
Site Address: Oswestry Smithfield Livestock Market Shrewsbury Road Oswestry Shropshire SY11 4QA		
Applicant: Optimisation Developments Limited		
Case Officer: Karen Townend		email: planningdmne@shropshire.gov.uk

Grid Ref: 330110 - 328645



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to the applicant entering into a S106 agreement.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks consent to vary condition 40 attached to the outline planning permission 08/15788/OUT for mixed use redevelopment of the Oswestry Smithfield Livestock Market, including re-organising the livestock market. The outline consent has since been varied under planning reference 13/01189/VAR. Condition 40 states:

“The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan numbers 12/222/TR/002 Rev B received on 18th July 2013.

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

1.2 The variation of conditions is sought to enable the provision of an electricity sub station which was not previously proposed. The effect of the provision of the sub station is the loss of the park and ride parking area on the north western edge of the site. This is proposed to be off set by providing additional parking adjacent to the food store, two bus stops on the main road and a bus turning and stop facility within the site. Full details of the proposed changes and the implications of these changes are detailed within the report.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is situated approximately 1.3 kilometres to the east of the centre of Oswestry, adjacent to the southern side of the B4579 Shrewsbury Road approximately 500 metres west of the Mile End roundabout. In total the site is 1.3 hectares currently occupied by the livestock market and a public house and is surrounded by well established trees and hedges.

2.2 Currently the livestock market is a range of old buildings of a mix of concrete, brick and sheet metal set within large areas of hard standing. The land falls gently from the roadside towards the industrial estate at the rear. The part of the site proposed for the new lorry park and park and ride is currently rough grassland, the surrounding area is a mix of industrial and commercial buildings of various sizes and colours.

2.3 To the north of the application site is an area of housing, the Oswestry campus of Walford and North Shropshire college and its recreational fields, the recently completed leisure centre and an agricultural field. The park and ride will be opposite the field, the livestock market opposite the leisure centre and the commercial developments opposite the college and housing.

2.4 The outline consent was granted in July 2011, amended in August 2013 and reserved matters consent for the phasing and some minor changes to the layout was approved in August 2013. Work has commenced on site for phase 1 - the works to provide the livestock market.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application has been put to committee for determination as the Area Planning Manager considers that the proposal is a matter which should be determined by the committee due to the history of the planning permission and conditions and their consideration by previous committees.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Oswestry Town Council** – The Council decline to comment on this application acknowledging our landholding.

4.1.2 **Highways Agency** – Having reviewed the Planning Statement available on the planning website, note that variation of the approved plan reference in condition 40 is to move the sub-station and subsequently enlarge the park and ride area, whilst making minor changes to internal site dimensions (moving parking spaces, etc.).

This will have no effect on the traffic generated by the development and consequently the Highways Agency has no objection to the variation of condition 40.

4.1.3 **Highways Officer – No objection.**

From a highway/transportation aspect this application raises 2 specific elements:-

- (i) Changes to the internal layout including the provision of a new electricity sub-station and provision of bus stops on Shrewsbury Road, as shown on Masterplan Drawing PL 04 Rev M.
- (ii) Amendment to the current Section 106 Agreement.

With regard to (i) above, the highway authority have no adverse comments. Whilst the revised scheme results in the loss of the 90 Park & Ride (P&R) spaces on the north-western edge of the site, this is off-set by the allocation and demarcation of 50 P&R spaces located to the immediate west of the Petrol Filling Station. The highway authority have no objection to the proposed site layout changes and would support the P&R spaces being located within the main body of the foodstore and retail park area as this potentially encourages linked trips. The location of the bus stops either side of Shrewsbury Road future proof the potential for bus passengers to board and alighted on Shrewsbury Road dependent upon the services routing along Shrewsbury Road but with the intention to route buses into and out of the site facilitated by the internal bus stop layby and bus turning layout arrangements.

The more fundamental changes requested by the applicant relate to the amendment to the current Section 106 Agreement and more specifically regarding the current commitment within the 106 to provide a free to use Shuttle bus facility for 20 years to both access and provide customer linkage between the site and the town centre. As set out above there is no intention to remove the P&R element although reduced parking provision is specifically allocated to that originally agreed i.e. 90 to 50 P&R spaces.

It is clear from the on-going discussions with the applicant/agents that the main driver behind the request to amend the 106 relates to the increased development costs which were unforeseen at the time the original application was submitted and approved. The agent has specifically highlighted the requirement of a new primary 7.5Mv electricity sub-station which the energy provider has required the developer of the site to undertake at their cost in full. This is acknowledged to be a significant cost in the order of £1.7 million based upon the agents information. Although there is potential claw back of this financial outlay within a 5 year window for development utilising the new sub-station there is risk to the developer of the foodstore and retail park as this is dependent upon development coming forward. The risk however would clearly reduce with the SAMDev housing site coming forward within that timescale and clearly the provision of the new sub-station infrastructure provides greater confidence in the SAMDev housing allocation coming forward.

From the highway authority's position, the infrastructure costs of the development are not a material consideration and it is a matter for the Planning Authority and Members to balance the cost implications against the delivery of the development, although the highway authority recognise that the provision of the new sub-station provides the necessary energy infrastructure to support development growth in Oswestry and in particular the delivery of a major housing allocation site off Shrewsbury Road as set out above.

Notwithstanding the above, the highway authority were heavily involved with the drawing up of the current Section 106 and the delivery of its aims following the resolution by Members to support the development of the new livestock market (nearer completion), new foodstore and retail park. Moreover the current commitment of the 20 years shuttle bus facility and P&R provision were pivotal in Members supporting the development of the Smithfield site against competing sites at J.T.Hughes/ Guttercrest and Richard Burbidge.

However it is important to note that the current Section 106 already provides a default clause in the event that the shuttle bus provision failed to provide the benefits of supporting linkage between the site and the town centre. In short if the shuttle bus ceased to be of benefit after say 3 years the developer would be required to provide funding based upon the capital cost of those 3 years of operation and pro rata that cost for the remaining 17 years. The intention therefore that that funding would be used to provide and promote sustainable transport which linked the site to the town centre. Officers at that time envisaged that in such an event, monies secured following the default of the shuttle bus provision would be invested in current, new or revised bus services in Oswestry.

In essence therefore what the applicant/developer is now proposing is to remove the shuttle bus provision and pay to the Council a single financial contribution of £1.37 million to enable the Council to invest that money in securing and supporting bus services which would link the site to the town centre but also provide a wider benefit to Oswestry. The highway authority would support the principle behind what the applicant/developer is now trying to achieve whilst at the same time acknowledging the need to stay within the boundaries of Section 106 tests.

Notwithstanding that the associated costs of the 20 years shuttle bus service under the current 106 are likely to be significantly reduced in favour of a single payment of £1.37 million, the issue to address is to what extent the current proposal provides in terms of its benefit to provide transport linkage between the site and town centre but also the wider benefits to the people of Oswestry. Whilst the £1.37 million payment proposed is anticipated to support bus provision for a minimum of 10 years, this is based upon a worst case scenario. On the basis of increased patronage and development of the SAMDev housing allocation and other developments along the Shrewsbury Road corridor there is the potential for this contribution to be utilised beyond the 10 year minimum funding period. It is important therefore that should Members support the changes to the 106, that the single payment of £1.37 million allows a degree of flexibility in how the Council utilise that funding towards public transport given the potential development changes in Oswestry.

In support of the applicant/developer's position to amend the 106 it highlights a number of benefits:-

- Provides a frequent service 30 mins during the daytime and evening to run between 08.00hrs to 23.00 hrs Monday to Sunday.
- Allows an existing and viable service route to be altered to serve the foodstore/ retail park and therefore limited impact on the viability of other transport services within Oswestry.
- Can be combined with an existing route and therefore maximises the suitability and viability of a service to the foodstore/ retail park.
- Focus upon linking Oswestry town centre with the site and thus the promotion of linked shopping trips.
- The service would remain 'free' to use at point of contact. A return ticket would be issued which could be used at any stop to return to the site. Potential therefore to widen the number of linked trips/destinations within Oswestry. Also a registered service and which would be advertised and promoted by the foodstore/retail park.

In support of the developers proposal to amend the current 106, it may be relevant to explain Shropshire Councils role in providing subsidised public transport services, and the rationale behind doing so in a wider policy context.

Under the Transport Act 1985 (s63) Shropshire Council has a statutory duty to secure the provision of such public passenger transport services as the Council consider it appropriate, where there are gaps in the network of services provided by commercial operations. The nature and minimum level to be retained through this subsidised network is prescribed in the Shropshire Council Bus Strategy 2011/16, part of the Local Transport Plan supporting documentation. It is to note that under statute, only a Local Authority can contract Local Bus Services. Direct commissioning of a public bus service cannot be undertaken by any other body, including a developer.

Given the size and potential public transport market within a town the size of Oswestry, there are already a mix of fully commercial (where passenger fare income offsets all operator costs), and contracted services (where subsidy is required, in part to meet these costs) in operation. The intention behind a

subsidised service is always to look to “seed” such a service and grow patronage to a point at which there is a future commercial opportunity for an operator. At this point there is no further need for public subsidy. As such, a subsidised service is seen ideally as a time limited and transitional arrangement.

Where such services have an unknown potential market, such as in the case of the Auction Yard development, it is appropriate that the risk of launching any new service is taken by the Council as opposed to the operator, hence the need for a contracted operation. Under the proposed revised 106 agreement, the cost of doing so to the Council, and the financial risk involved, is underwritten by developer contributions.

Based on the fact that the intention in contracting a service is to look for increased patronage and therefore financial sustainability, the proposal to integrate the Auction Yard coverage within existing, contracted services has considerable merit. The existing 400/404 services proposed as amended to incorporate the development will give direct connectivity not only to and from the town centre (as per previous proposals), but will also offer additional direct connections from both the north and west of the town by default based on current service routing. Furthermore, the 2/2a service proposed as offering evening and Sunday services to the development will also offer connections with Gobowen and further afield. Given that the existing services already have established users and income, to incorporate a further sizable generator of trip demand, i.e. the development, will have a substantial potential benefit in reducing the overall costs of the existing services and the extensions of these to the development in time.

Alternative options to provide separate and stand alone connectivity through a dedicated service, particularly where considerable portions of this run at no charge, are by definition unable to secure longer term financial sustainability. Furthermore, such services would also risk abstracting existing users from the town network so affecting their affordability / commerciality in time as well.

In summary, the integration of the site within the existing town network as described above is in line with the stated ambitions within Shropshire Councils current Bus Strategy, brings additional benefits to the site in terms of the larger potential bus market captured by default along the further reaches of the current network, and presents the best opportunity for financial sustainability / commerciality in the long run by presented an integrated network, covered by integrated ticketing opportunities, at a reasonable cost to the Council and therefore the developer.

Having regard to the above the highway authority are supportive of the amendment to the Section 106 as it gives control to Shropshire Council based upon a single up front one off payment of £1.37 million. Moreover it is considered that it achieves the principle aims of the previously agreed 106 in terms of linkage between the site and town centre but also providing a wider benefit to Oswestry. In addition it provides the potential to integrate public transport services with new development along the Shrewsbury Road corridor and potentially also therefore to increased patronage with the ultimate aim of bus services in Oswestry becoming sustainable or with lower levels of subsidy.

4.2 **Public Comments**

- 4.2.1 A press notice and site have been produced and published for this site and 16 individual neighbours have been notified. No comments have been received as a result of this consultation.

5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Detail of changes
- Impact of changes

6.0 **OFFICER APPRAISAL**

6.1 **Policy & 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. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14). It also promotes economic development; redevelopment of brownfield sites, as is the case with the current application; and retail development where it is proven that there are no sequentially preferable sites and where it is proven that the development will not be detrimental to the viability and vitality of the town centre.
- 6.1.3 Locally the Shropshire Core Strategy is the key policy. Oswestry is identified as a market town where CS3 seeks to promote economic development and regeneration and where the focus for retail and leisure uses should be to support the rural hinterlands. Policies CS6 and CS7 are also relevant in ensuring sustainable development whilst protecting highway safety and amenity. Policies CS13 and CS15 are the key local policies for economic and commercial development and promote a town centre first approach for retail uses, however the principle for developing this site for the intended uses has been established by the granting of the outline where the sequential test was undertaken.
- 6.1.4 Notwithstanding that the site already has outline consent, some of the reserved matters have also been approved and work has been undertaken on the livestock market buildings, the reason for granting outline consent for this site rather than any of the other three competing sites at the time of the decision was based on the wider benefits to Oswestry. The Section 106 agreement attached to the outline required the provision of a free shuttle bus for 20 years; park and ride facility; £10,000 for bus shelter improvements; £273,000 for provision of a cycleway and traffic junction improvements between the site and the town centre; £5,000 for off-site signage; and £5,000 for advertising.

6.1.5 It is therefore necessary to consider whether the amended scheme and the associated amendments to the S106 agreement continue to make the development acceptable in planning terms. Officers would advise members that changes to the approved scheme will bring the consent back into risk of judicial review if the consent is not based on sound planning reasons and policy. The authority does have to consider the current proposal and take into account the matters raised within the application. It is a matter of balancing whether what is being proposed continues to make the development of the Livestock Market site for edge-of-town retail acceptable, not result in harm to the viability and vitality of the town centre but also not place unreasonable burdens on the development which would mean that the development did not proceed.

6.2 **Detail of changes to site**

6.2.1 The planning statement submitted with the application advises that there are no changes proposed to the amount of floorspace or the range of uses to be provided. The outline, which has been varied once, remains as detailed in the August 2013 variation, which in principle remains as per the outline originally granted. The changes now proposed are:

- The relocation of the park and ride facility from the north east of the development to the area immediately adjacent to the petrol filling station and the reduction in the number of spaces from 90 to 50
- Provision of two bus stops either side of Shrewsbury Road, north of the petrol filling station
- A new pedestrian walkway to access the bus stops
- A new bus stop within the application site and space for turning of the bus
- Reduction in the parking provision for the remainder of the development from 870 to 822 spaces to allow for the relocated park and ride spaces
- A minor adjustment to the location of the food store and a reduction in the amount of floor space given to comparison goods from 35% to 20%

6.2.2 As noted in the introduction to this report the changes have come about due to the requirement for the developer to provide an electricity sub station. This is being provided on land which was originally set out as part of the park and ride and would have resulted in the reduction of the number of parking spaces available. However rather than providing the park and ride separate from the remainder of the development the current proposal relocates this facility to adjacent to the food store parking. This parking area would continue to be available for all day parking and the remainder of the car park provided with 5 hours free parking.

6.3 **Impact of changes**

6.3.1 The provision of the sub station is a major benefit of the proposed changes to the scheme for both the application site and the wider area. The reduction in the comparison goods percentage in the food store is also a benefit in that it will reduce the potential impact on the viability and vitality of the town centre. The original consent was granted at a time when the end operator of the food store was unknown and as such the comparison goods percentage was set at what was considered to be appropriate for the town, taking into account the averages of different food store operators. As it is now known that the end operator is to be WM Morrison the percentage can be set on the business model of the operator. WM Morrison does not have a high level of comparison goods and as such the

percentage can be reduced. Furthermore, the supporting statement submitted with the application notes that the existing Morrison store close to the town centre is to be retained. Within their submission the agent has also noted that there are other benefits which will come about from the scheme in the form of job creation, inward investment, economic development, new services and facilities for the town and the retention and improvement of the livestock market.

- 6.3.2 It is the applicant's opinion, within the planning statement, that the re-located park and ride is also a benefit in that the spaces close to the petrol filling station will provide a more integrated development which is located close to the commercial uses to be built and also enables new bus stops to be located closer to the residential area opposite and the bus to serve the development site. It is acknowledged that the relocation of the park and ride spaces results in the reduction in the level of parking provided for the food store, however the agent has sought to justify this with a statement which details that the level of parking will continue to comply with the condition on the outline consent.
- 6.3.3 The outline consent details 90 parking spaces in the park and ride area and 870 parking spaces within the remainder of the development (with 380 for the food store). Due to changes to the layout of the car park the provision for the food store will reduce to 326 and the number of park and ride spaces proposed now totals 50, those adjacent to the petrol filling station. At this time the applicant does not propose to construct any park and ride spaces in the originally approved position but the statement submitted with the application does advise that the use of the relocated park and ride will be monitored and if there is a proven need the developer is willing to provide additional spaces in the originally approved location at a later date.
- 6.3.4 The Council Highway Officer has confirmed that the proposed alterations will not have any highway implications, that they support the relocation of the park and ride spaces and the provision of new bus stops and as such it is officers opinion that the proposed changes to the layout of the site are all acceptable and would not significantly alter the overall scheme whilst potentially reducing the impact of the food store on the town centre and providing better linkages between the park and ride parking and the development.

6.4 **Changes to S106**

- 6.4.1 However the changes proposed to the layout also require change to be made to the S106 which sets out the total number of parking spaces to be provided. Furthermore the requirement for the developer to provide an electricity substation has also resulted in the cost of the development increasing. This cost of over £1m, in addition to other build costs which were not fully understood at the outline application stage, has resulted in the developer seeking to negotiate the terms of the S106 beyond the car parking levels. The proposal is to remove the obligation on the developer to provide a free shuttle bus and to replace this with a financial contribution. The financial contribution would then be used to fund the diversion of existing bus services to the site. The agent has commented that, in their view, the free shuttle bus makes the development unviable and also would draw passengers from the existing bus service and as such promotes the diversion of the existing bus as providing better service for the town and the new development.

- 6.4.2 The applicant's highway consultant has provided a document which seeks to identify the positives and negatives of the shuttle bus versus the diversion of the existing bus. The positives of the shuttle bus would be the frequency of the service (20min intervals), the cost to users and the length of the day the service was to run for. However, the negatives are the impact on existing service routes which are chargeable to users, the loss of income from town centre parking and the loss of the service after 20 years. In favour of diverting the existing service is the potential for increased hours at a frequency of 30min intervals serving both the development and the existing route, linking the site to the town centre, greater potential for long term viability of the route and that this would still operate free from the development site. However, they have accepted that the frequency would be less than the shuttle bus, the majority of bus users already benefit from concessionary travel and that the diversion may adversely affect an existing route.
- 6.4.3 Following lengthy negotiations with the agent and Morrisons the latest proposal is to extend the existing route of the 400/ 404 'circular' bus service from 7:40am to 6pm, Monday to Saturday, on at least 30 min intervals and to also extend the route of the 2/2A bus service from the town centre to serve the site between 6pm and 11pm Monday to Saturday and 8am to 5pm on Sundays. Both services would enter the site and turn using the proposed mini-roundabout and stop at a new bus stop within the site. It is proposed that passengers boarding the bus from within the site would do so for free and could therefore access the town centre from the site for free.
- 6.4.4 The financial contribution proposed is £1.37m which is proposed to be paid in one single sum at the time of the commencement of the food store. The agent has suggested that this would pay for the proposed diversion of the existing two bus routes, as detailed above, for 10 years which they consider would be sufficient time to establish the viability of the service. All of the other requirements of the S106 set out in 6.1.4 above are to remain.
- 6.4.5 In assessing whether the current proposal is appropriate to make the development acceptable and also whether it achieves the primary aim of the free shuttle bus members need to take account of the fall back position set out in the original S106 as noted by the Council Highway Officer. The requirement was to provide a free shuttle bus for 20 years but that this provision was subject to periodic review which at the set times either the Council or the operator could request cessation of the shuttle bus provision and its replacement with a financial contribution. The original S106 required the contribution to be made to the Council to be used on providing alternative means of sustainably linking the site to the town centre. . The intention therefore that that funding would be used to provide and promote sustainable transport which linked the site to the town centre. Officers at that time envisaged that in such an event, monies secured following the default of the shuttle bus provision would be invested in current, new or revised bus services in Oswestry.
- 6.4.6 As noted by the Highway Officer what the applicant is now proposing is to go direct to the fall back payment. The value which has been placed on this payment has been the result of negotiations with the Council and bus operators to establish an appropriate and viable route. Some weight can be given to the applicant's argument relating to viability, but less weight should be placed on this argument

than the weight to be given to the need to provide a suitable service in replacement for the free shuttle bus. The Area Transport Planning Commissioner has confirmed that the offer from the applicant of £1.37m will provide for the diversion of the existing service for a minimum of 10 years, but, as noted in the detailed Highway Officer response above, could support the service for a longer period if passenger income increases and if the future development of the SAMDev site close to Mile End roundabout comes forward.

- 6.4.7 Overall the Highway Officer, in consultation with the Area Transport Planning Commissioner, has advised that the proposal to integrate the Auction Yard coverage within existing, contracted services has considerable merit, positive benefits and may also reduce the overall costs of the existing services and the extensions of these to the development in time. The integration of the site within the existing town network is in line with the stated ambitions within Shropshire Councils current Bus Strategy, brings additional benefits to the site in terms of the larger potential bus market captured by default along the further reaches of the current network, and presents the best opportunity for financial sustainability / commerciality in the long run by presented an integrated network, covered by integrated ticketing opportunities, at a reasonable cost to the Council and therefore the developer.
- 6.4.8 In conclusion, it is acknowledged that the current proposal does not provide a free shuttle bus linking the site to the town centre for a period of 20 years. However, it does provide financial underwriting to enable the diversion and extension of the existing services to link the site to the town centre and other parts of the town for a minimum of 10 years which officers consider is sufficient time to establish the route. Furthermore the diversion of existing services will provide greater benefits to the town than the free shuttle bus would have and as such the current proposal more than achieves the principle aims of the previously agreed section 106. As such officers support both the proposed amendments to the site layout and development proposals and also the proposed changes to the section 106 agreement.

7.0 CONCLUSION

- 7.1 The variation of condition 40 proposed in the current application is acceptable and the detailed alterations to the scheme do not result in any adverse impacts to amenity, character or highway safety and will not result in any greater impact on the vitality or viability of the town centre of Oswestry. Accordingly the scheme is recommended for approval subject to the conditions listed below and also subject to the applicants entering into a new S106 agreement, in the form of a deed of variation of the previous agreement.

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 - written representations, a hearing or inquiry.

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

10. BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 The Market Towns and Other Key Centres

CS6 Sustainable Design and Development Principles
 CS7 Communications and Transport
 CS15 Town and Rural Centres

10.2 **Relevant planning history:**

OS/08/15788/OUT Proposed replacement livestock market and mixed use regeneration scheme GRANT 27th July 2011

13/01189/VAR Variation of Conditions 40 (approved plans) & 41 (approved details) attached to Planning Reference 08/15788/OUT(mixed use regeneration) to allow for alteration to siting of buildings and highways alterations GRANT 8th August 2013

13/01600/REM Approval of Reserved Matters, Phasing (as required by condition 4) and other details required by condition 5 of planning permission ref: OS/08/15788/OUT (Dated 27 July 2011) including minor material amendments to siting and access via the variation of conditions 39,40 and 41 as detailed in planning application 13/01189/VAR (Validated on 22 March 2013) GRANT 20th August 2013

13/04871/AMP Relocation of entrance lobby, minor extension to presenter booth, internal reconfiguration, extension of wooden battens to corner shield, alterations to windows on eastern and western elevations. This relates to 13/01600/REM. GRANT 6th January 2014

11. **ADDITIONAL INFORMATION**

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Martin Bennett Cllr Peter Cherrington
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the layout, landscaping and appearance of the buildings, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority for any one phase of the development before any development begins within the respective phase and the development shall be carried out as approved for that phase.

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 five years from the date of the original outline planning permission numbered 08/12788/OUT.

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. (a) No work shall commence on site until a masterplan identifying phasing for the development has been submitted and approved in writing by the local planning authority and (b) the development shall thereafter be carried out in accordance with the approved phasing.

Reason: To ensure the orderly development of the site in the interests of ensuring that the development provides the identified economic benefits and protects the amenities of the area.

5. For each phase of the masterplan approved under Condition 4 above:
 - (a) The following information shall be submitted to the local planning authority concurrently with first submission of reserved matters for any part of the development.
 - Means of enclosure of the site
 - Levels of the site
 - Drainage of the site
 - b) The following information shall be submitted concurrently with the submission of reserved matters for a building / works within a specific phase of the development:
 - Drainage for the building / works involved

- Means of access for disabled people
- Finished floor levels

Reason: To ensure the development is of an appropriate standard

6. (a) No work shall commence on site until a detailed programme for the relocation of the livestock market within the site has been submitted to and approved in writing by the Local Planning Authority; and (b) no retail unit, cinema, restaurant or building for B1 use shall be brought into use until the livestock market is completed and available for trading.

Reason: To ensure the timely provision of the livestock market within the site and the continuity of the facility.

7. No built development shall commence until samples of all external materials for that particular building or phase of development have first been submitted to and approved by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

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

8. No development shall commence within each phase of development as identified in the masterplan approved under Condition 4 above until there has been submitted to and approved 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

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)

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 allowing for phased development.

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

9. No ground clearance, demolition or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site identified to be retained. The submitted scheme shall have regard to BS5837

Reason: To prevent trees or hedgerows on site from being damaged during building works.

10. a) No work on the construction of the highway works associated with this development shall commence until a detailed engineering scheme for these works relating to that particular phase of development, including the provision of bus lay bays, treatment of all boundary walls and fences has been approved in writing by the local planning authority in association with the highways authority; and

(b) No part of that phase of the development shall be opened to the public until the scheme approved under Condition 10(a) above has been completed in accordance with the approved details.

Reason: In the interests of highway safety and maintaining the free flow of traffic through the town.

11. No development shall take place, including any works of demolition for each phase of the development, 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 of that phase. 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.

12. (a) No work shall commence on the construction of the livestock market until details of the car park to serve the cattle market including grading, construction details and drainage have been approved in writing by the local planning authority.
 (b) The livestock market shall not be brought into use until all the car park referred to in 12(a) above has been completed in accordance with the approved details; and
 (c) The car park facility shall thereafter be retained and maintained in accordance with the approved details.

Reason: To provide parking facilities in the interests of highways safety.

13. a) No work shall commence on the Retail phase of the development until details of the construction of the permanent car park to serve the superstore, cinema and associated restaurants and facilities including grading, construction details and drainage have been approved in writing by the local planning authority. The car park area referred to above shall provide a minimum of 819 parking spaces including spaces for parent and child and disabled persons parking and pick-up points;
 (b) the superstore, cinema and associated restaurants shall not be brought into use until all the permanent car park referred to in 13(a) above has been completed in accordance with the approved details and
 (c) The permanent car park shall thereafter be retained and maintained in accordance with the approved details.

Reason: To provide parking facilities in the interests of highway safety.

14. (a) No part of the development within its relevant phase shall be commenced until cycle parking arrangements in relation to the main uses of the site have been submitted to and approved in writing by the local planning authority; and
(b) the relevant building shall not be brought into use until the cycle parking for that building has been provided in accordance with the approved details; and
(c) the cycle parking shall thereafter be maintained in accordance with the approved details.

Reason: To ensure provision for a choice of means of access to the services provided.

15. For each phase of the masterplan approved under Condition 4 above, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of the contamination;
 - (ii) an assessment of the potential risks to:
 - Human health,
 - Property (existing or proposed) including buildings, crops, livestock, pets woodland and service lines and pipes,
 - Adjoining land,
 - Ground waters and surface waters,
 - Ecological systems,
 - Archaeological sites and ancient monuments
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
16. For each phase of the materplan approved under Condition 4 above, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
17. For each phase of the masterplan approved under Condition 4 above the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of the development other than that required to carry out remediation. The local planning authority must be given two weeks written notification of commencement of the scheme works.
Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the

effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

18. No construction shall take place for that phase of the development until a detailed construction noise management plan has been submitted to and approved by the local planning authority. The plan must include details of proposed works and equipment to be used along with operational procedures (such as plant maintenance and inspection), management responsibilities on site, interventions in the case of observed operational conditions which may lead to excessive noise emissions, response to complaints including a noise monitoring plan and a complaints handling procedure. The approved noise management plan shall be implemented at all times throughout that phase of development.

Reason: In the interests of the amenities of the local area

19. (a) No development relating to the installation of cooking equipment shall commence until a scheme for the installation of equipment to control the emission of fumes and smell from the premises has been submitted to and approved in writing by the local planning authority
(b) the equipment approved under Condition 19 (a) above shall be installed before the relevant building is brought into use and thereafter be operated and maintained in accordance with the approved scheme.

Reason: In the interests of air quality and protecting the amenities of the local area.

20. (a) No work shall commence on the petrol filling station hereby approved until such time as a scheme to install the underground fuel tank(s) and provisions for petrol vapour recovery have been submitted to and approved in writing by the local planning authority. The scheme shall include the full structural details of the installation, including details of excavation, the tanks, tank surround, associated pipe work and monitoring system and
(b) the petrol filling station shall thereafter be fully implemented and maintained in accordance with the details approved under Condition 20 (a) above.

Reason: In the interests of safety of the local area; protection of ground water and air quality and the amenities of the local area.

21. (a) No work shall commence on each phase of the development hereby approved until details of all external lighting for the relevant buildings, plant and open areas including associated car parking and servicing areas, have been submitted to and approved in writing by the local planning authority; and
(b) each development phase shall thereafter be carried out and maintained in accordance with the details approved under Condition 21(a).

Reason: In the interests of visual amenity

22. No development shall take place until a plan for the management and long term maintenance of the watercourse and its 8 metre buffer zone (from the top of both banks) within the boundary of the site, has been submitted to and approved in writing by the local planning authority in consultation with the Environment Agency.

The plan shall incorporate the recommendations of the Revised Phase 1 Habitat Survey found on pages 7 and 8 and dated June 2009, ref.2006/54. The plan shall also detail timing and provision for implementing and updating the plan.

The plan shall thereafter be implemented in accordance with the approved details.

Reason: To conserve and enhance the watercourse and its corridor through the site.

23. For each phase of the masterplan approved under Condition 4 above development shall not be commenced until a scheme for the provision and implementation of a surface water regulation system including the use of Sustainable Drainage Systems, as detailed within paragraph 7.2.6 of the Flood Risk Assessment (FRA) dated 10th August 2009 has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

Reason: To prevent the increased risk of flooding and provide water quality benefits by ensuring the provision of a satisfactory means of surface water disposal.

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

24. The buildings hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles within that particular phase have been provided, laid out, hard surfaced and drained in accordance with the submitted scheme. The spaces shall thereafter be maintained free of any impediment to their designated use.

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

25. All hard and soft landscape works shall be carried out in accordance with the approved details for that phase and to a reasonable standard 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 within the particular phase 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, in the opinion of the local planning authority seriously damaged or defective, shall be replaced with others of species, size and numbers 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.

26. All existing trees, shrubs and hedgerows proposed to be retained within and bordering the site 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: In the interests of maintaining the amenity value of the area.

27. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any Order revoking and re-enacting that Order with or

without modification), no access other than that shown on the approved plans shall be formed to the site.

Reason: To prevent the formation of additional accesses which could lead to conditions detrimental to highway safety.

28. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirement of Condition 15, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 16, which is subject to the approval of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 17.

29. A monitoring and maintenance scheme to include monitoring the long term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason (common to 19-23): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

30. Piling and other foundation operations using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To prevent pollution of surface and ground waters.

31. (a) The development shall be carried out and maintained in accordance with the Air Quality Assessment and its associated mitigation measures; and (b) Monitoring shall be carried out in accordance with the agreed scheme with provision made for the mitigation measures to be amended should the monitoring results indicate a need in accordance with a scheme previously approved in writing by the local planning authority.

Reason: In the interests of ensuring protection of local air quality.

32. Demolition or construction works shall not take place outside 07:00 hours to 19:00 hours on weekdays and 08:00 hours to 13:00 hours on Saturdays with no working activities on Sundays or Public Holidays.

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

33. No infiltration of surface water drainage into the ground is permitted other than with the express consent of the local planning authority, which may be given for those parts of the site where it is demonstrated that there is no unacceptable risk to controlled waters.

Reason: To prevent pollution of controlled waters.

34. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To protect ground and surface waters ("controlled waters" as defined under the Water Resources Act 1991).

35. The net sales floor area of the food store shall not exceed 2787 sq. metres. No more than 976 sq. metres (35%) of the net floor area of the food store shall be used for the sales of comparison goods. Comparison goods are defined as per the COICOP definition

Reason: Permission is granted on the basis that the site should provide a food store and the increase of net-comparison sales floor area beyond that specified could lead to the loss of a competitive food sales and adversely affect the vitality and viability of the town centre, contrary to Policies SP1 of the adopted and saved Oswestry Borough Local Plan, Policy CS 15 of the adopted Shropshire Core Strategy and PPS 4 Planning for Sustainable Economic Growth

36. Notwithstanding the provisions of the 1987 Town & Country Planning (Use Classes) Order or succeeding orders, the foodstore hereby approved shall not include the following dedicated ancillary retail facilities:
- (a) post office
 - (b) dry cleaners
 - (c) Travel agents
 - (d) Pharmacy
 - (e) Opticians

The provision of any other ancillary facilities within the foodstore must be submitted to and agreed in writing by the local planning authority prior to opening

Reason: To maintain planning control over the type of goods and services available in store and to safeguard the vitality and viability of Oswestry town centre.

37. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or any subsequent re-enactments, other than the superstore hereby permitted all

other retail units shall be used for the sale of non-food bulky goods, such as DIY and Home Improvement goods; garden products, furniture and furnishings, carpets and floor coverings, pet foods and pet supplies, motor parts, accessories and cycles and electrical goods only.

Reason: The site lies outside the Retail Development Area and Primary Shopping Area boundaries as identified in the adopted and saved Oswestry Borough Local Plan and the Nathaniel Lichfield Retail Study and its use for the retailing of a greater range of items would be contrary to the Council's policies for protecting the vitality and viability of the town centre.

38. Notwithstanding the provisions of the Town and Country Planning (General permitted Development) Order 1995 or any succeeding document, the Restaurant and hot food facilities hereby permitted shall not be used for any purpose under Class A1 Shops.

Reason: To control the extent of retail floor space in order to protect the viability and vitality of the Oswestry town centre.

39. The retail units excluding the food store hereby permitted shall have a maximum floor area of 3809 sq. metres gross floor area (excluding the external area to the garden centre as identified on Plan No. PL-30 Rev D, received 1st August 2013).

Reason: To control the extent of retail floor space in order to protect the viability and vitality of the Oswestry town centre.

40. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan numbers 12/211/PL04 Rev K received on 13th January 2014.

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

41. The development of this site shall be carried out in substantial accordance with the details included within the Design and Access Statement and Landscape and Visual Effects Statement submitted as part of the application and shown on drawing no. PL-30 Rev D, received 1st August 2013.

Reason: The retail, commercial and livestock market development is subject to an Environmental Impact Assessment and any material alterations to the scheme may have an impact which has not been assessed by that process.



<u>Committee and Date</u>
North Planning Committee
18 November 2014

<u>Item</u>
12
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 18th November 2014

Appeals Lodged

LPA reference	14/01939/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Leslie Evans
Proposal	Erection of one detached dwelling; creation of new vehicular access
Location	18 Cambrian Drive, Oswestry, Shropshire SY11 1HF
Date of appeal	22.10.2014
Appeal method	Written
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/02516/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Outline planning application for residential development (all matters reserved) J,B,E & W Warner
Proposal	
Location	Land At Prescott Road, Prescott, Baschurch Shropshire
Date of appeal	29.10.2014
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	13/01142/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Sevenside Housing Association
Proposal	Erection of a three storey block comprising 12 no. two bedroom apartments following demolition of existing building; alterations to existing vehicular access and formation of associated car parking
Location	Overdale, Middleton Road, Oswestry
Date of appeal	19.05.2014
Appeal method	Written
Date site visit	26.08.2014
Date of appeal decision	09.10.2014
Costs awarded	
Appeal decision	Dismissed



Appeal Decision

Site visit made on 26 August 2014

by Victoria Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 October 2014

Appeal Ref: APP/L3245/A/14/2218825

Overdale, Middleton Road, Oswestry, Shropshire, SY11 2PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Severnside Housing Association against the decision of Shropshire Council.
 - The application Ref 13/01142/FUL, dated 22 March 2013, was refused by notice dated 13 December 2013.
 - The development proposed is demolition of an existing derelict dwelling and redevelopment of the site to provide 12 x two bed flats in a three-storey block with ancillary car parking.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development proposed on the character and appearance of the area;
 - Whether the proposal would make adequate provision for local needs affordable housing.

Reasons

Character and appearance

3. The appeal site is situated with the town of Oswestry within an established residential area. Overdale, the dwelling on the site, is a large, detached character property which has become derelict. The dwelling is situated within a large plot covered with trees and mature vegetation which has become overgrown. The appeal site is situated at the junction of Middleton Road with Beech Grove. The proposed building would therefore have two elevations facing towards the highway. However, the proposal has been orientated to face towards Middleton Road. I also understand that the design of the proposal is intended to incorporate features found within properties along Middleton Road. I have therefore assessed the appeal proposal in relation to its effect on the character and appearance of Middleton Road close to the appeal site.
4. The majority of properties along Middleton Road close to the appeal site are large, two storey detached and semi-detached dwellings. Although I note that

the property immediately next to Overdale is a dormer bungalow, this is an individual property. Most of the dwellings are set back from the road behind landscaped front gardens and driveways (equivalent to a distance of approximately the length of a car). Dwellings are constructed in a mix of brick and render. Whilst there is some diversity in individual appearance, the majority of properties are of a similar large scale and form. These similarities assist in establishing a pleasant harmony in the streetscene of imposing dwellings set within spacious plots. This defines the character of the area close to the appeal site.

5. The appeal proposal would see the demolition of the existing dwelling on the appeal site. The proposed replacement building would be two and a half storeys high, with rooms in the roof space. It would contain twelve, two bedroom apartments. A vehicular access off Beech Grove and a car park would also be provided as part of the proposal. A small grassed area would be provided at the front of the building proposed. The existing stone boundary wall which runs along the boundary with Middleton Road would be retained but lowered in height to approximately 1 metre. A substantial part of the mature vegetation on the appeal site would also be retained as part of the appeal proposal.
6. The proposed building would be taller than most of the two storey properties along Middleton Road and the individual bungalow next to the appeal site. However, the eaves of the roof of the proposed building would be set at the bottom of the second floor windows. It would therefore be lower in height than a typical full three storey building. The photomontages submitted with the application show the proposed building from various public viewpoints in the highway and give a visual indication of how it would integrate into the existing streetscene. Whilst I appreciate the concerns raised by local residents and Councillors regarding the proposed height of the building, the photomontages do show that the proposal would not be seen as significantly higher than the majority of existing dwellings in the area.
7. The front elevation of the proposed building facing towards Middleton Road would run along almost the entire plot length. This would result in a front elevation wider than other dwellings close to the site. However, the single entrance point under a section of glazing and timber in the central part of the proposed front elevation would introduce some visual interest in the front elevation. I consider that this feature would successfully ensure that the proposed building would be read as two separate buildings, reflecting the semi-detached design of dwellings close to the appeal site.
8. The proposed design of the building would also incorporate several features which reflect the appearance of dwellings close to the appeal site. For example, projecting gables and bay windows. The materials proposed in the construction of the building, including red brick and render, would also reflect those used in the area. The proposal does also incorporate dormer windows and timber cladding. Whilst I acknowledge these may not be existing features in the area, I consider that this in itself would not be significantly harmful.
9. Drawing matters together, whilst acknowledging that the appeal proposal would be wider and taller than existing dwellings this would not be to a significant degree. Additionally, the majority of dwellings in the area are of an imposing scale and the proposed building would be seen in this context and the

landscaping retained as part of the proposal would assist in integrating it successfully into the streetscene.

10. Accordingly, I conclude that the development proposed would not be harmful to the character and appearance of the area. It would therefore not conflict with policy CS6 of the Council's Core Strategy (CS) which states, among other things that, to create sustainable places, development will be designed to a high quality, ensuring that all development is appropriate in scale and design taking into account the local context and character. The proposal would also be consistent with paragraph 60 of the National Planning Policy Framework (the 'Framework') which states, among other things, that planning decisions should not attempt to impose architectural styles or particular tastes.

Affordable housing provision

11. Policy CS11 of the CS requires all new open market housing development to make appropriate contributions to the provision of local needs affordable housing. The proposal would comprise 12 apartments, 10 of which would be for sale on the open market. A Unilateral Undertaking was submitted with the appeal which aims to ensure that two apartments would be provided as affordable housing units. I understand that this would amount to an over provision of affordable housing on the site, taking into account policy requirements.
12. Based on the information before me, I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind. As such, they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.
13. However, I do have concerns about the document itself and whether the Council could rely on it to secure the contribution. Specifically, no evidence of proof of title has been provided and not all of the land is registered. I cannot therefore be certain that the Undertaking would deliver the affordable housing units required under the terms of policy CS11.
14. Accordingly, I must conclude that the proposal would not make adequate provision for local needs affordable housing. The proposal would therefore conflict with policy CS11 in this regard. Whilst not a decisive factor in relation to this issue, I also note that there is also a spelling error on the front sheet of the Undertaking relating to the address of the appeal site which would need to be corrected.

Other Matters

15. Given the sustainable location of the site and the fact that the proposal would see the re-use of a derelict site, the Council does not dispute that the general principle of the development proposed is acceptable. I have therefore had regard to the National Planning Policy Framework's presumption in favour of sustainable development (paragraph 49) and this weighs in favour of the development proposed.
16. The appeal site is bordered by mature hedging and trees. These would be retained as part of the proposal, and in the case of the southern boundary of the site, supplemented with additional planting. I consider that the boundary treatments proposed would therefore ensure effective screening of the proposal

such that the privacy of neighbouring occupants would not be affected. Additionally, a suitable separation distance between the closest neighbouring property (approximately 9 metres) and properties on the opposite side of the highway (approximately 24 meters) could be achieved. Therefore, based on the information before me, I am satisfied that the proposal would not be harmful to the living conditions of neighbouring occupants with regard to privacy and light.

17. Additionally, based on the information before me, suitable drainage, tree protection, vehicular access and bat mitigation could be achieved, subject to conditions. Although I note the concerns expressed by third parties as to the levels of parking provision proposed, I understand that there is no local set minimum standard for parking provision. Taking account of the appeal site's sustainable location, close to the town centre, I am satisfied that acceptable levels of on-site parking provision are proposed. However a lack of harm in these respects does not weigh in favour of the proposal and this is therefore a neutral consideration.
18. Since the Council's determination of the original application, the Council have submitted information with the appeal which indicates that they now have a five year supply of housing land in place. Although the appellant does not specifically dispute this information, it is their position that the updated housing land supply situation is not directly relevant to this appeal. Whilst I have had regard to the relevant information submitted, given that the general principle of the development is considered to be acceptable, this has not been a decisive consideration in my determination of this appeal.
19. I appreciate that the council officer recommended the original application for approval. However, Councils are not bound to accept the recommendations of their officers.

Conclusion

20. I have found that the appeal proposal would not be harmful to the character or appearance of the area. However, I have also found that I cannot be certain that the submitted Undertaking would deliver the affordable housing contribution required by policy CS11. In light of the importance placed on increasing the supply of local affordable housing in local policy, I consider that this matter outweighs my conclusion on the first main issue.
21. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Victoria Lucas-Gosnold

INSPECTOR