



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

Date: Monday, 29 June 2015

Committee:
North Planning Committee

Date: Tuesday, 7 July 2015

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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

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

Members of the Committee

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

Substitute Members of the Committee

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

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 - 10)

To confirm the Minutes of the meeting of the North Planning Committee held 9th June 2015, attached, marked 2.

Contact Shelley Davies on 01743 252719.

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 Solar Farm At Rhosygadfa, Gobowen, Shropshire (14/03946/FUL) (Pages 11 - 34)

Construction of a solar farm comprising the installation of (circa) 40,000 ground mounted solar panels; 8 inverters; electricity substation; 2.4m high security fencing (revised description)

6 Proposed Residential Development West Of Cottage Lane, St Martins, Shropshire 15/00566/REM (Pages 35 - 44)

Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to permission 14/01390/OUT for the erection of eight dwellings and two bungalows.

7 Land Adjoining Bombay Palace, Dudleston Heath, Shropshire, SY12 9JY (15/00325/REM) (Pages 45 - 54)

Reserved Matters application pursuant of outline application reference 13/04672/OUT dated 31st October 2014 for the erection of seven dwellings to include means of access, appearance, landscaping, layout and scale.

8 Land Adjacent To The Builders Yard Known As No. 8 Barkers Green, Wem, Shropshire 15/01036/FUL (Pages 55 - 80)

Change of use of land for the stationing of caravans for residential purposes for 1no. gypsy pitch together with the formation of hardstanding and an utility/dayroom ancillary to that use.

9 Development Land East Of Shrewsbury Road, Cockshutt, Shropshire 13/04868/OUT
(Pages 81 - 92)

Outline application for the erection of five dwellings and formation of vehicular access (all matters reserved).

10 Land Off Greenfields Lane, Market Drayton, Shropshire 14/03782/OUT (Pages 93 - 134)

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

11 Appeals and Appeal Decisions (Pages 135 - 166)

12 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, 4th August 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

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Committee and Date

North Planning Committee

7th July 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 9 June 2015

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

2.00 - 4.43 pm

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 252719

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, John Cadwallader, Gerald Dakin, Steve Davenport, David Lloyd and Peggy Mullock

5 Apologies for Absence

Apologies for absence were received from Councillors Mrs. P. Dee, V Hunt and D. Minnery.

6 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 12th May 2015 and 14th May 2015 be approved as a correct record and signed by the Chairman subject to the following amendment to Minute 153 (12th May 2015):

Councillor Shiela Martinson, on behalf of Whitchurch Rural Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

7 Public Question Time

There were no public questions, statements or petitions received.

8 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.

9 **Land Off Drayton Road, Hodnet, Market Drayton, TF9 3NF (14/03403/OUT)**

The Planning Officer (Technical Specialist) introduced the outline application for the erection of 14 dwellings (to include access and footpath link to Wollerton) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Mr Alan Cope, on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Chris Mackie, on behalf of Hodnet Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Nigel Thorns, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Karen Calder addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- Questioned the update in relation to SAMDev;
- Stated that there had been objection from the Parish Council and local residents; and
- Urged Members take the additional information in relation to SAMDev into account.

The Planning Officer (Technical Specialist) explained that although SAMDev could now be given more weight as the proposed development site was outside the development boundary for Hodnet, this had not changed the recommendation to approve the application.

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

RESOLVED:

That planning permission be refused against the Officer's recommendation for the following reasons:

It was acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply including open market and affordable housing and help towards improved pedestrian link between Wollerton and Hodnet to which weight was given. However it was considered that this was

outweighed by the harm identified. The Committee were concerned that the development would result in an unacceptable harm to the open countryside and have an adverse impact on the adjacent conservation area specifically on the approach to the village. Furthermore weight was given to the fact that the proposed development was not plan led being contrary to both current saved policies of the North Shropshire Local Plan, the emerging policies in the Site Allocations and Management of Development DPD, which classified the site as being within open countryside contrary to Shropshire Core Strategy CS5, and the environmental impact on the countryside as indicated in paragraph 7 of the National Planning Policy Framework.

**10 Long Lane Farm, Long Lane, Marchamley, Shropshire, SY4 5LB
(14/05739/FUL)**

The Planning Officer (Technical Specialist) introduced the application for the erection of a detached dwelling and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Councillor Chris Mackie, on behalf of Hodnet Parish Council spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Karen Calder addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- Approval of the application would allow the applicant's family to move into the larger farmhouse;
- The application had the full support of the Parish Council and the Community;
- There had been no objections to the application; and
- It met the tests for the 3 strands of sustainability.

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

RESOLVED:

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

The proposed development was located within an area of defined as open countryside for planning policy purposes and accordingly would lead to sporadic and unsustainable development that would undermine the "rural rebalance" approach to development. Accordingly the proposal failed to comply with adopted policies CS4, CS5, CS6, and CS17 of the Core Strategy; and Government advice contained in the National Planning Policy Framework (in particular paragraph 55) as the development

would be detached from Marchamely settlement, would result in a residential encroachment into the open countryside and would put a reliance on the motor car to access day to day local services.

11 **Spar Convenience Store, Forge Lane, Newtown, Baschurch (14/05767/VAR)**

The Planning Officer (Technical Specialist) introduced the application for the variation of condition No.23 (opening hours) attached to planning permission 11/04795/FUL dated 14.03.12 to amend Sunday opening hours to between 8:00 hours - 22.00 hours and drew Members' attention to the information contained within the Schedule of Additional letters.

Mr Julian Sutton, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Nick Bardsley addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- As local ward Councillor he had received a number of complaints from immediate neighbours in relation to the use of the store generally;
- Baschurch was very different on a Sunday compared to a week day and he considered this had been underestimated in the Officer's report; and
- If Members were minded to approve the application he suggested amending the closing time to 8pm.

In response to a query from a Member the Principal Planning Officer advised that the information from the technical consultees was that there were no issues with a closing time of 10pm and therefore it was not reasonable to reduce the requested closing time from 10pm to 8pm.

Having considered the submitted plans for the proposal, the Committee unanimously expressed their support for the application but agreed that temporary permission be granted for a period 12 months to monitor the impact of the amended opening hours on neighbouring properties.

RESOLVED:

That planning permission be granted for a period 12 months to monitor the impact of the amended opening hours on neighbouring properties and subject to the conditions set out in Appendix 1, of the Officer's report.

12 Development Land Adj 5 Bridgewater Street, Whitchurch, Shropshire (14/05685/FUL)

The Principal Planning Officer introduced the application for the erection of ten dwellings; formation of access and associated drainage works and drew Members' attention to the information contained within the Schedule of Additional letters. The Principal Planning Officer added that the outstanding bat survey had been received this morning but Ecology had not yet had the opportunity to comment on this survey.

Having considered the submitted plans for the proposal, the Committee unanimously expressed their support for the Officers' recommendation.

RESOLVED:

That delegated powers be given to the Area Planning Manager to grant approval, subject to the resolution of the outstanding ecology issues and subject to the conditions set out in Appendix 1.

13 Proposed Residential Development West Of Darlee Cottage, Brownhill, Ruyton XI Towns, Shropshire (14/04168/OUT)

The Principal Planning Officer introduced the outline application for the erection of 2 no. dwellings to include means of access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

The Solicitor advised Members in relation to the weight that can be given to affordable housing provision following a recent appeal decision, noting that the appeal in question did not look at all the arguments regarding affordable housing provision and therefore an up-coming appeal would be treated as a test case in relation to this issue. It was added that in the meantime the Council continued to give full weight to the Affordable Housing Policy but Members should bear in mind that the Planning Officer's recommendation had not taken into account the recent appeal decision which was a material consideration and take this into account in their decision.

Councillor Ros Slowley, on behalf of Ruyton XI Towns Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Amy Henson, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Nick Bardsley addressed the

Committee as the local ward Councillor, during which a number of points were raised including the following:

- The Council's position was not secure in relation to affordable housing;
- A full application was required for this proposal due to the challenging nature of the site; and
- The access was unsatisfactory and on a dangerous stretch of road.

In response to queries from Members the Principal Planning Officer reported that proposed highways conditions were outlined in the Schedule of Additional letters and confirmed that Policy H13 of the Oswestry Borough Local Plan was not a saved policy and had been taken over by Policy CS6.

Having considered the submitted plans for the proposal, the majority of Members expressed support for the Officer's recommendation but had concerns regarding issues relating to access and highway safety and requested that matters reserved for later approval be determined by this Committee.

RESOLVED:

That planning permission be granted subject to:

- The conditions set out in Appendix 1;
- The applicant entering into a S106 to secure an affordable housing contribution; and
- The application for reserved matters being considered by the North Planning Committee.

14 Proposed Residential Development West Of Cottage Lane, St Martins, Shropshire (15/00566/REM)

RESOLVED:

That this item be deferred until a future meeting of this Committee, to allow the Committee to undertake a site visit to assess the impact of the proposal on the surrounding area and neighbouring properties.

15 Hunky Dory, Tern View, Market Drayton, Shropshire, TF9 1DU (15/01386/COU)

The Principal Planning Officer introduced the change of use application for the provision of swimming lessons (retrospective) and drew Members' attention to the additional information that had been circulated to the Committee.

Mr Ian Nurser, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mrs Mandy Williams, applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

RESOLVED:

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

It was considered that the proposed change of use was inappropriate due to the frequency of the lessons to be carried out, which would result in the proposal having a detrimental impact upon the residential and neighbouring amenity of the area. Furthermore the change of use would impact upon the shared private access to the site also, therefore was contrary to Policies CS6 of the Shropshire Core Strategy and the aims and provisions of the NPPF.

16 Grove Barn, Ash Parva, Whitchurch, SY13 4DT (14/04555/FUL)

The Principal Planning Officer introduced the application for the proposed orangery link extension and internal alterations to include the increase in height of the side boundary wall.

Mr Hinchcliffe, applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Gerald Dakin, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- The property was previously derelict and was now a beautiful home;
- The applicant would like to alter their home to suit their current lifestyle; and
- The extension and alterations had been accepted in principle.

Having considered the submitted plans for the development Members unanimously expressed their support for the application contrary to the Officers recommendation.

RESOLVED:

That delegated powers be given to the Area Planning Manager to grant approval, against the Officer's recommendation subject to the inclusion of relevant conditions, to be agreed in conjunction with the Local Member.

17 Grove Barn, Ash Parva, Whitchurch, SY13 4DT (14/05253/LBC)

The Principal Planning Officer introduced the Listed Building Consent application for the erection of orangery link extension to an existing barn conversion, to include the increase in height of the side boundary wall and incorporating the removal of 1 no. window and brickwork below to create access affecting a Grade II Listed Building.

Mr Hinchcliffe, applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Gerald Dakin, as local ward councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- The property was previously derelict and was now a beautiful home;
- The applicant would like to alter their home to suit their current lifestyle; and
- The extension and alterations had been accepted in principle.

Having considered the submitted plans for the development Members unanimously expressed their support for the application contrary to the Officers recommendation.

RESOLVED:

That delegated powers be given to the Area Planning Manager to grant approval, against the Officer's recommendation subject to the inclusion of relevant conditions, to be agreed in conjunction with the Local Member.

18 Bryn-y-Groes, Llanyblodwel, Oswestry Shropshire, SY10 8NB (15/00452/EIA)

(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 application for construction of two poultry sheds, feed bins and plant room; formation of new vehicular access with visibility splays (following closure of existing access); ancillary works and associated landscaping and reported the following amendments to conditions 11 and 12:

11. Manure will be moved off site in sealed and covered trailers.

Reason: In consideration of the amenity of the surrounding area.

12. No feeding stuffs will be delivered to the site outside the hours of 8am – 6pm Monday – Saturday or at any time on bank holidays.

Reason: In the interests of surrounding residential amenity.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Arthur Walpole, as local ward

councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He stated that the application was an important development for the applicant;
- There had been no objections raised to the application; and
- Any concerns would be governed by the Environmental Permit.

Having considered the submitted plans for the development 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 conditions 11 and 12 amended as follows:

- 11. Manure will be moved off site in sealed and covered trailers.

Reason: In consideration of the amenity of the surrounding area.

- 12. No feeding stuffs will be delivered to the site outside the hours of 8am – 6pm Monday Saturday or at any time on bank holidays.

Reason: In the interests of surrounding residential amenity.

19 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area be noted.

20 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 7th July 2015, in the Shrewsbury Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date
 North Planning Committee
 7th July 2015

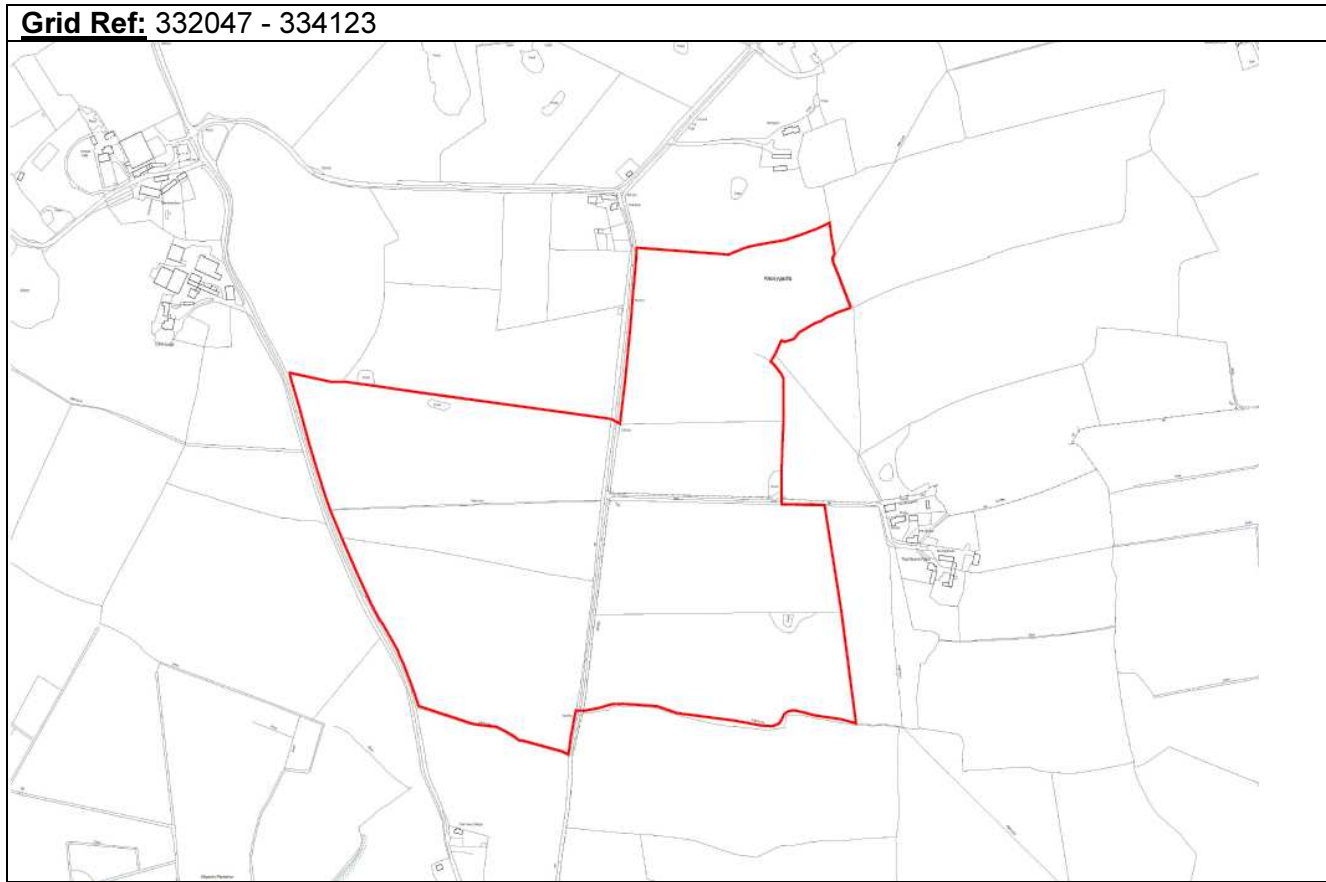
Item
5
 Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 14/03946/FUL	<u>Parish:</u>	Selattyn And Gobowen
<u>Proposal:</u> Construction of a solar farm comprising the installation of (circa) 40,000 ground mounted solar panels; 8 inverters; electricity substation; 2.4m high security fencing (revised description)		
<u>Site Address:</u> Proposed Solar Farm At Rhosygadfa Gobowen Shropshire		
<u>Applicant:</u> Elgin Energy Esco Limited		
<u>Case Officer:</u> Kelvin Hall	<u>email:</u> planningdmc@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks permission for the installation of a solar farm comprising arrays of solar panels with associated buildings and infrastructure. The proposal would comprise the installation of 40,000 solar panels generating 10MW of electricity. The panels would be installed within west-east orientated rows. They would be mounted on fixed aluminium frames, of galvanized steel, in a double portrait configuration. These frames would be bolted onto vertical galvanized steel posts which are pushed into the ground. The panels would face south, angled at 25 degrees to the horizontal, with the highest edge at a height of between 2.4 metres and 2.8 metres and the lowest at 0.8 metre.
- 1.2 Buildings and other infrastructure proposed comprises the following:
- 8no. inverter substation buildings (to convert DC to AC): 6.93 metres x 2.43 metres x 3.07 metres high. These would be coloured green and there would be two located within each field.
 - 1no. primary electricity substation: 6 metres x 3.2 metres x 3.4 metres high. This would be a green-coloured portacabin style building, located at the north-western side of the site
 - Perimeter fencing: 2.45 metres high wooden post and wire deer fencing
 - Stone access tracks to provide vehicular access to the inverters.
- 1.3 No CCTV security cameras are proposed. Once the panels have been erected the land is proposed to be grazed by sheep. It is proposed that the panels would be removed at the end of their operational life.
- 1.4 The original proposal was for a 15MW capacity system, with 60,000 panels covering 31.6 hectares and included CCTV. The planning application was modified to the smaller scheme in order to seek to address concerns raised during the consultation process.
- 1.5 The application is supported by a number of detailed documents, including: Landscape and Visual Impact Assessment; Heritage Impact Assessment; Ecological Assessment; Traffic Statement; Flood Risk Assessment; Agricultural Land Classification Report.
- ### **2.0 SITE LOCATION/DESCRIPTION**
- 2.1 The application site is located on agricultural land approximately 1km to the east of Gobowen. The site (as revised) covers an area of approximately 21 hectares (52 acres), and comprises five agricultural fields either side of a public highway. The site is located between 99m and 108m AOD, within a gently rolling landscape which slopes down towards the south-west. Surrounding land is generally in

agricultural use. The western boundary of the site is bordered by a public highway. A public right of way runs in a generally west – east orientation between the two north-western fields. A further public footpath runs along the southern boundary of the south-easternmost field. An unclassified public highway runs in a west – east orientation adjacent to the north-easternmost field, providing access to a number of residential properties to the east. The fields within the application site are bounded by hedgerow. Two ponds are located within the application site: one within the north-western field and the other within the south-eastern field.

- 2.2 The nearest residential properties to the proposed site boundary include: a group of properties at Top House Farm, approximately 135 metres to the east; Yew Tree Cottage, approximately 145 metres to the south; Ebnal Lodge, approximately 185 metres to the north-west; The Bryn, approximately 290 metres to the north; properties at Ebnal Hall, approximately 315 metres to the north-west. The nearest Listed Buildings are Ebnal Hall (the property itself being 385 metres away) and Ebnal Lodge; both Grade II Listed buildings.
- 2.3 Access to the inverter substations would be required, and access to these would be gained via existing field access points.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The views of the Parish Councils are contrary to the Officer recommendation. In addition the Local Members have requested that the application is considered by Planning Committee

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

- 4.1.1 **Selattyn and Gobowen Parish Council** Objects. Pleased that the applicant has addressed some of the concerns raised in the council's original objections and that some steps have been taken to remedy deficiencies in the earlier application, however previous objections are still relevant in particular:-

Decommissioning – Whilst the applicant has addressed the decommissioning of the solar panels in this application there is still no mention of what will happen to the concrete pads that the panels will stand on and how they will be decommissioned.

Brown Field sites – the applicant has still not provided evidence of any survey that they have carried out into the use of brown field sites and industrial building roof space as an alternative for this sort of development. The Council would like to refer Shropshire Council to comments made by the planning inspector as part of his findings on planning appeal APP/J3530/A/13/2193911. In this case the planning inspector commented that ministerial statements have to be given considerable weight in any planning decision. As Liz Truss has stated that full use of the unutilised roof space should be used for solar panels in the first instance as this account for some 23000ha before any agricultural land is taken out of production.

Noise – The agent states that it is “unlikely that the proposed solar farm will cause an adverse impact on the nearest noise sensitive receptors given that the specific noise level is predicted to be below the existing background noise level” This use of

ambiguous phraseology demonstrates that the applicant has not provided evidence that noise will not be a problem to near neighbours.

Visual screening – The council notes that the applicant proposes to plant hedges to screen the development however as these hedges will take up to 10 years to mature this will mean that the project will not be adequately screened for nearly half its life. The size of the panels vary enormously reduced size will still have a big impact on the neighbouring area.

Use of Land -The Council consider that the land is of a far better quality than the agent implies. The land is currently being prepared for an arable crop which would not be cost effective given the claims made about the condition of the soil. In addition to this the loss of arable land for the solar farm is unacceptable as is the resulting loss of habitat for flora and fauna particularly as the proposed land was previously in the higher level stewardship scheme.

4.1.2 **Whittington Parish Council** Application should be deferred as there is not enough information to make a reasonable judgement on the impact to the quality and character of the countryside. There should have been public consultation meetings held in the parishes that are affected by this application. The meeting for Selattyn and Gobowen, the parish mainly affected by this application, is due on 24th November, this should have been held before in this parish not St Martins. As Whittington is also affected this application should be deferred until a public meeting in the parish is arranged.

4.1.3 **SC Highways** No objections, subject to a condition requiring the submission of traffic mitigation measures for approval (see Appendix 1).

4.1.4 **SC Public Protection** No objections.

The noise assessment concludes that noise will be below background level at nearest noise sensitive receptors. Having carried out distance calculations alone and not taking any other noise reducing factors into account I can conclude that noise from the proposed development was found to be 22dB(A) at The Bryn when taking into consideration noise from the two inverters closest to this location both with 10dB attenuation through screening as suggested by the noise assessor in their report. This, although above the levels predicted, would be a very conservative methodology and noise levels on the ground are likely to be much less. Even so this noise level is considered to be suitable. As a result it is considered that the noise assessment conclusions are satisfactory. However, as it was assumed that 10dB attenuation would be provided by housing around the inverters it is recommended that this aspect is conditioned (see Appendix 1).

4.1.5 **SC Drainage** The surface water run-off from the solar panels is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable.

4.1.6 **SC Trees** No response received.

4.1.7 **SC Ecologist** Recommends conditions and informatives.

Great crested newts: The ecology report has identified 10 groups of ponds within

500m of the application site. Three of the ponds were on the application site and were considered to have 'poor' suitability for great crested newt breeding. These ponds are shown for retention in the scheme layout. Ponds with 'average' or 'good' suitability were subject to presence/absence surveys. Small populations of GCN were identified in Ponds 4c and 4d, sited over 220m from the application site with no GCN found in other ponds surveyed. Because of the distance of the GCN populations from the application site, Greenscape Environmental considers that the risk of harm will be sufficiently reduced by carrying out installation of the solar farm under a strict method statement. A condition should be imposed requiring that work is carried out strictly in accordance with the Phase 1 Environmental Survey (see Appendix 1 below).

Badgers: Two badger setts were found on site but not precisely located in the ecological report. The revised proposals confirm that a minimum 20m stand off from the badger setts will be retained, and that a suitable gap under the deer fencing will be allowed for badger movement. The Method Statement included in the ecology report should be followed.

Biodiversity Management Plan Most solar farm sites propose low intensity grazing beneath the panels or creation of wildflower meadows, as well as the hedgerow protection proposed. A management plan should be required by condition (see Appendix 1).

Habitats Regulations Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

- 4.1.8 **SC Rights of Way** This application directly affects the public rights of way Selattyn & Gobowen Footpath 24Y and Whittington Footpath 34 (see plan previously supplied). It is welcomed that both public footpaths have been accommodated through the planned 5m development free zone around each footpath.

However, it has been identified in the Landscape and Visual Assessment that there is currently no outlet for Footpath 34 where it exits onto the county road that runs through the proposed site. It would appear that users may be exiting via a gap in the hedge which forms the southern boundary of the site and through the field gate in the next field. This option would no longer be available to users as it is proposed that hedgerow planting would infill any gaps in the existing hedgerow. Therefore, an outlet onto the road will be required on the definitive line of the footpath. The Council can assist by providing furniture such as pedestrian gates, if required.

Furthermore, it is noted that there is no outlet for Footpath 24Y on its definitive line, where it terminates on the county road that runs along the western boundary of the site. Although we note on the plans that access would be provided via an existing gate to the south of the hedgerow, it is not clear whether the applicant intends to create a gap in the hedgerow to enable access on the definitive line to the north of the hedgerow. According to our records a stile kit has previously been provided by the Council and delivered to the landowner, although it would appear that this has not yet been installed. The most appropriate course of action would be for this stile kit, or preferably a gate, to be installed on the definitive line.

Further guidance is provided regarding the need to keep the right of way open during construction works (see informatives).

4.1.9 **SC Archaeology** Recommends a condition.

The Shropshire Historic Environment currently contains no records of any known heritage assets with archaeological interest within the proposed development site itself. There are records for a possible cropmark enclosure and ring ditch and two further possible ring ditches c.400m south and c.650m south-east of the site respectively. In addition, an area of probable WWI practice trenches is also recorded c.300m south-west of site. The Tithe Award Map for Ebnal Township in Whittington Parish of 1839 records a Brickkiln Field (plot 1405) in the north-western part of the site. The Shropshire Historic Landscape Character (HLC) assessment assigns the site to the planned enclosure HLC Type, suggesting the field pattern was originally created through the enclosure of a former common. This is confirmed by the Desk Based Assessment that has been submitted with the application, which reproduces an Enclosure Map of 1781. This Assessment also identifies the sites of two former post-medieval common edge cottages in the north-eastern part of the site. Based on the analysis of HER data and historic maps, the Desk Based Assessment concludes that the proposed development site has moderate archaeological potential overall, with moderate potential for prehistoric remains and high potential for post-medieval remains.

It is advised that the archaeological Desk Based Assessment by Foundations Archaeology provides a satisfactory level of information about the archaeological interest of the proposed site in relation to Paragraph 128 of the NPPF.

To provide an appropriate level of archaeological mitigation, and in line with Paragraph 141 of the NPPF, it is advised that a phased programme of archaeological work should be a condition of any planning permission for the proposed development. This should comprise a pre-commencement geophysical survey, followed by further mitigation as necessary and appropriate (see condition in Appendix 1).

4.1.10 **SC Conservation** No impact on the setting of Old Hall (Grade II* listed building) at Old Marton is perceived. Having reviewed the updated information supplied by the agent it would appear that the proposed solar farm will have a minimal impact on the significance of Ebnal Hall, therefore no objection is made to the revised submission.

4.1.11 **English Heritage** No comments. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4.1.12 **Natural England** No objections and no conditions requested.

Wildlife and Countryside Act 1981 (as amended): This application is in close proximity to Fernhill Pastures Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or

destroy the interest features for which the site has been notified. Therefore this SSSI does not represent a constraint in determining this application.

Green Infrastructure potential: The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. As such, Natural England would encourage the incorporation of GI into this development. There may be opportunities for various types of grassland and ponds. Consideration should be given as to whether the areas between panels themselves could be better managed to benefit biodiversity. Natural England would be happy to discuss possible ways of managing the grassland to benefit biodiversity as the proposal progresses towards implementation.

Other advice: The LPA should consider impacts on local sites (biodiversity and geodiversity), local landscape character, and local or national biodiversity priority habitats and species.

Protected Species: We have not assessed this application and associated documents for impacts on protected species. Standing Advice should be applied to the application.

Soils and Land Quality: From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' agricultural land (paragraph 112 of the NPPF). For this reason no detailed comments on this are offered.

Biodiversity enhancements: This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application, in accordance with para 118 of the NPPF. Attention is drawn to S40 of the Natural Environment and Rural Communities Act (2006) regarding conserving biodiversity.

4.1.13 **Ramblers Association** Objects. There are two footpaths within the area covered by this application: 1) Path 0310/24Y/1 which runs through the site; 2) Path 0313/34/1 which runs inside the site along the SE edge. If the project goes ahead 0310/24Y/1 would become a high fenced corridor and 0313/34/1 would presumably be fenced on the N side and have the existing hedge on the S. Both paths would probably require clearing on a regular basis to keep them open. There would be an appearance of industrialised rather than rural countryside from the local area and from viewpoints further away.

At an information meeting in Gobowen path 0310/24Y/1 was shown on the plans provided but path 0313/34/1 was not. The map in the planning application does not show footpaths in detail. The map in the report on trees does show path 0310/24/1 and also refers to a right of way along the SW boundary which does not appear on the Council rights of way map.

Part of the site has been regularly used to grow cereal crops so the whole site is

not low grade land only suitable for rough grazing. Field 5 appears to have a crop, field 6 has recently been planted with grass/clover and has been regularly used for cereal crops in the past. Field 7 has stubble from a harvested crop.

4.1.14 CPRE Oswestry

- CPRE recognises that solar energy has an important role to play in meeting future energy needs. But the highest priority should be a reduction of energy demand to further reduce emissions and reduce the need for new infrastructure
- the most suitable and, as yet, largely untapped location for solar technologies is on industrial and other buildings with major roof surfaces. The Government's UK Solar PV Strategy estimates that there are currently 250,000 hectares of south-facing commercial roofs in the UK
- Ground-mounted solar farms can bring benefits, but CPRE wishes to ensure that they are located: where they do not harm the natural beauty or productivity of the countryside and in ways that provide local benefits
- Current application satisfies none of these criteria.

Landscape and visual effects

- single contiguous block of 60,000 raked photovoltaic modules in the open countryside
- the site is presently intensively farmed and gives open views to the west including views from the hills to the west
- The Landscape and Visual Assessment is deficient and should be given limited weight as:
 - underestimates the adverse impacts as it states that the modules are only 90mm wide, not 900-1000mm wide
 - no photomontages from any of the 10 nearby viewpoints or elsewhere
 - photographs from the ten viewpoints all show summer vegetation; visual impact will be greater in the winter when leaves are absent
 - the ZTV it offers extends only 2km from the site; no assessment of visibility on higher ground further away
 - the ZTV assessment considered only the visibility of the centre of the site; the actual visibility of the whole 78 acre site is likely to be considerably greater
 - The report uses the term 'notable' for visual effects; it states that the magnitude of visual change at five of the ten viewpoints would be high
- visual impact of such a large solar farm is likely to be severe – will be visible as a prominent industrial structure; visible from the popular local elevated viewpoints such as Old Oswestry Hillfort, The Racecourse, Llanymynech Hill and Rodney's Pillar
- will be an adverse visual impact on users of the Public Rights of Way through the site
- fencing, CCTV poles, substation and 10 inverters will add to adverse visual impact

Agricultural productivity

- The applicant's Agricultural Land Classification Report states that field 7 is Grade 5, however the field has been used for a corn crop in the last season
- The land is productive
- Proposed sheep grazing is likely to be at a stocking rate of less than 3/acre

rather than the more usual rate of over 5/acre

- Considerable loss of agricultural productivity

Local employment

- No guarantee that local labour would be used during construction

Planning balance and conclusion

- Would be aesthetically out of place, contrary to the Overarching National Policy Statement for Energy (EN-1)
- Statement that solar farm would generate equivalent electricity as 4,500 typical households is an incorrect calculation as domestic consumption is only one third of total UK consumption; a corrected figure is 3,466 households
- The solar farm would contribute only 0.0045% of UK electricity; would require 22,000 such solar farms occupying 1.7 million acres, to meet the UK's electricity needs

4.1.15 **Councillor David Lloyd** has advised that the application demands the most critical scrutiny as it seeks to create an industrial scale development in the heart of open countryside.

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition 14 properties in the local area were directly notified. In total 36 objections and two letters of support have been received from the public. These can be viewed in full in the planning file, but have been summarised as follows:

4.2.2 **Objections:**

Visual impact and agricultural land:

- destruction of a large area of beautiful countryside
- site is in designated 'greenbelt'
- development site is not brownfield, it is agricultural land
- development site is currently used for various recreational uses
- site can be seen from surrounding Areas of Outstanding Natural Beauty (Shropshire Hills, Chirk Castle and Welsh Hills)
- loss of large amount of productive farmland; land in field 7 must be greater than Grade 5 as claimed as field is in continual arable rotation
- proposed screening from newly planted hedges will take a minimum of six to eight years to mature sufficiently screen panels – what legalities are concerned with the height of hedges
- what will happen at the end of the 25 years? Who will be responsible for the removal or renovation of the solar panels? Will the site be used for housing?
- hideous high fencing encircling neighbouring properties, creating eye-sore on the landscape
- solar panel 'farms' should use arable land as a "last resort" and should not be visible in the wider landscape, whilst avoiding harm to the landscape character and quality
- 60,000 panels is excessive

Ecology and drainage

- part of development site has been managed for wildlife

- ponds in adjacent fields which attract geese in winter will be at danger from the solar panels
- Ecological Impact Assessment report was carried out in a 'relatively dry spell', the results may differ having been taken when the water table was higher
- existing ditches will be unable to cope with the increased 'run off' causing concerns over possible flooding
- low lying parts of Field seven and eight are liable to seasonal flooding – with added stresses from increased rainfall run off

Highways and Access

- neighbours will have to access properties down enclosed fenced roadways
- public walkways through proposed site will suffer
- Llangollen canal in close proximity drawing many tourists and visitors
- lanes are narrow with few passing places and 'blind bends'
- the estimated 400 lorry movements during development would exasperate the current highways problems (cracking)
- five houses in Top Rhosygdafa will have to travel through man made tunnel
- development will have a severe impact on Public Rights of Way through and near the site – what safeguards are in place to preserve ramblers usage of footpaths

Local amenity

- ten inverters would create a large amount of noise pollution
- proposed CCTV will be an intrusion into neighbours privacy and lives
- loss of privacy issues for Bronte, Rhosygdafa as two inverters have been sited close to the property
- properties in close proximity to substation installations, CCTV, floodlighting and fencing will have a diminished quality of life

Policy and principle

- Environment Minister wishes to retain such land for food production and not solar energy
- panels should be located on brownfield sites, industrial parks or on buildings

Other Issues:-

- will set a precedent for similar proposals
- will cause house prices to fall, especially for those in Top Rhosygdafa, having to gain access through man made tunnel
- field 7 is actually two fields with hedgerow down its length
- health issues concerning the solar panels, what are their long term effects?
- all council holdings have been sold, so how will young farmers begin their career if all agricultural land be converted into renewable energy sources
- no economic contribution to the local community
- there is no mention of the cost of mining or refining the raw materials and then producing the panels and metal supports

4.2.3 The reasons for support are as follows:

- must all take all take responsibility to convert to renewable energy and solar farms are by far the best solution as they produce more energy than wind farms and are less visible on the landscape
- sheep farming can continue alongside the solar panels, unlike with anaerobic

- digesters which take up thousands of acres of crops just to feed them
- nuclear power can be dangerous and have catastrophic consequences laying waste hundreds of square miles of land for hundreds of years, as Chernobyl and Japan testify
- to continue with carbon based fuels is unsustainable
- if solar farm can supply half of the electricity needed for homes in Oswestry then it is a fantastic opportunity

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design and impact on landscape character

Site selection and agricultural land classification considerations

Local amenity and other considerations

Highways and access consideration

Historic environment considerations

Ecological considerations

Flood risk considerations

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 One of the core planning principles set out in the National Planning Policy Framework (NPPF) is to support the transition to a low carbon future. This includes encouraging the use of renewable resources. Para. 98 states that applicants for energy developments should not be required to demonstrate the overall need for renewable energy. Planning Practice Guidance on Renewable and low carbon energy sets out the particular planning considerations that apply to solar farm proposals (see Section 10.2 below) and states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses.

6.1.2 The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 1), and that renewable energy generation is improved where possible (Policy CS6). Core Strategy Policy CS8 positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.

6.1.3 The proposed 10MW solar farm would be capable of generating enough electricity to power 3000 typical households. The application states that this would reduce emissions of carbon dioxide into the atmosphere by around 5000 tonnes each year. The proposal would provide significant environmental benefits through the generation of renewable energy, and it is considered therefore that there is no in principle planning policy objection to the renewable energy proposal.

6.2 Siting, scale and design and impact on landscape character

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to

landscape character assessments and ecological strategies where appropriate. Policy CS17 also sees to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It should be noted that the site does not fall within an area designated for landscape importance. It is also acknowledged that the development would be temporary, and a condition can be imposed requiring that the panels would be removed at the end of their operational life or after 25 years, whichever sooner.

- 6.2.2 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which has been revised following modifications to the site layout. The LVIA states that the area is a relatively enclosed landscape of irregular field patterns. The LVIA notes that long distance views of rising hills to the west are available from the site. It states that, while the massing of the solar panels across the site would be considerable, the visual envelope for the site is well contained and limited to 0.1km – 1km from the site. The LVIA states that the localised topography and vegetation cover surrounding the site limits views into and out of the site. It states that this, combined with the overall low-lying form and scale of the development, which will be no greater than 3 metres, will result in the development not appearing as a prominent feature within the wider landscape.
- 6.2.3 In terms of impacts on visual receptors, the LVIA states that visual effects are limited by the lack of sensitive receptors close to the site and levels of screening. It considers that many roads are bordered by mature hedgerows and hedgerow trees, and views are likely to be glimpsed. In relation to views from residential properties, it states that these are generally screened by boundary vegetation and topography.
- 6.2.4 The revised LVIA identifies that notable visual effects are expected for receptors along the public highways and public rights of way adjacent to the site. In particular the road to Top House Farm, the road through the centre of the site, the road to the west of the site, and the public footpaths along the southern boundary of the site and through the western part of the site. It concludes that, for all notable landscape and visual effects, the impact is considered to be moderate-substantial.
- 6.2.5 The original proposals were for a 15MW capacity solar farm over 31 hectares. The scale and layout of the proposal have been modified following consultation on the application and discussions with Officers. The proposal is now for a 10MW capacity scheme over 21 hectares. The main changes are:
- the removal of panels from the north-easternmost field;
 - the removal of panels from the field on the eastern side of the site;
 - the removal of panels from the north-eastern corner of the north-western field;
 - the removal of proposed CCTV cameras from the scheme.
- 6.2.6 It is considered that these modifications have significantly improved the layout of the site, by reducing the visibility of the panels from residential properties to the north, north-west and east.
- 6.2.7 Nevertheless, the proposal would be visible from some surrounding properties, and also to users of local roads and footpaths. However the proposed development benefits from existing established trees and hedgerows along field boundaries

which would provide immediate screening of the panels and other structures. The panels are set relatively low to the ground and this would reduce the extent to which they would be visible, particularly in conjunction with the proposed hedgerow maintenance regime of allowing hedgerow to grow to 3 metres in height. Additional mitigation would include the planting of two sections of hedgerow – one on part of the northern boundary and one on part of the southern boundary, and infilling of gaps within existing hedgerows. The proposed layout provides for a buffer of 5 metres between the public rights of way through the site and the deer fencing, with a further 3 metres gap between the fencing and the panels. This would reduce the extent to which the enjoyment of these paths would be diminished by the solar farm development. Longer distance views to the west may be possible however it is officers opinion that these would not be considered to be significant given that these would be at a distance of many kilometres away.

6.2.8 It is accepted that the proposal would have some impact upon the local landscape character of the area, particularly in view of the scale of the proposal. However officers consider that the design of the site is acceptable and incorporates a satisfactory level of mitigation in relation to these impacts. It is considered that, given the level of environmental benefit that the proposal would provide, these impacts on the visual character of the area would not be unacceptable. As a result the application is in line with Core Strategy Policy CS6.

6.3 **Site selection and agricultural land quality considerations**

6.3.1 Planning Practice Guidance advises that local planning authorities should encourage the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value (para. 013). The comments of Selattyn and Gobowen Parish Council regarding brownfield sites are noted, however it is accepted that planning policy and guidance does not restrict the use of greenfield land for solar farms. The site does not contain any specific land-use designations in respect of landscape or ecological value.

6.3.2 Planning Practice Guidance advises that, in considering solar farm proposals located on greenfield sites, local planning authorities should consider whether the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

6.3.3 The Guidance also makes reference to a Ministerial Speech made in April 2013 and a Written Ministerial Statement (WMS) made in March 2015. In relation to the former, this stated that where solar farms are not on brownfield land, the industry should be looking at sites on low grade agricultural land where grazing can take place in parallel with generation. In relation to the WMS this states that meeting our energy goals should not be used to justify the unnecessary use of high quality agricultural land. It states that any proposal for a solar farm involving the best and most versatile agricultural land needs to be justified by the most compelling evidence.

6.3.4 An Agricultural Land Classification (ALC) report has been submitted with the planning application, to establish the classification of the fields contained within the

application site. This is based upon a desktop study and fieldwork undertaken by agricultural consultants. The fieldwork included the digging of a number of trial holes to inspect soil characteristics such as soil depth and stoniness. Following the modification of the application to remove two fields (both Grade 3b), an updated statement was submitted by the consultants. Based upon this assessment 7 hectares (34%) of the 21 hectare site are classed as Grade 3b (moderate quality), 8 hectares (38%) are Grade 4 (poor quality) and 6 hectares (28%) are Grade 5 (very poor quality).

- 6.3.4 A number of comments have been received that the land is of a higher agricultural land quality than claimed, and that the land has previously successfully grown wheat and potatoes. Further information provided by the applicant's agricultural consultant states that the Defra guidance for undertaking land quality assessment advises that the particular grade attributed to land is determined by the most limiting factor present. On the basis of the evidence provided by the Agricultural Land Classification report the proposed development would not affect the 'best and most versatile' agricultural land (classed as land of Grade 1, Grade 2 or Grade 3a). The proposal would therefore be sited on poorer quality agricultural land.
- 6.3.5 It is noted that the land would remain in agricultural use, as it is proposed that sheep would graze between the panels. In addition there would be long-term biodiversity enhancements proposed by way of additional hedgerow planting and some tree planting, and the land would be reinstated at the end of the lifespan of the development. On this basis, it is considered that the proposed development is in line with planning guidance as set out in paras. 6.3.2 and 6.3.3 above.

6.4 **Local amenity and other considerations**

- 6.4.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity.
- 6.4.2 Noise: A noise assessment report has been submitted as part of the planning application, based upon an assessment of background noise levels and the noise emitted by the inverters and transformers. This identifies that the nearest noise sensitive receptors are at least 110 metres from the proposed development. However it should be noted that the distance between the noise generating equipment (i.e. the transformers and inverters) and the nearest properties is considerably greater than this. The noise report concludes that the noise level from the proposed solar farm would be at least 5dB below the existing background noise level, and that as such the development would not have a detrimental impact upon the nearest noise sensitive receptors.
- 6.4.3 The Public Protection Officer has undertaken calculations of the likely noise levels and has confirmed that the noise assessment conclusions are satisfactory. The Officer has recommended that a planning condition is added to any permission requiring that the assumptions on noise levels at the façade of the inverters are met. This is included in Appendix 1 below.
- 6.4.4 Glint and glare: Planning practice guidance states that the effect on the landscape of glint and glare and on neighbouring uses and aircraft safety is a consideration when determining planning application for solar farms. It is considered that as the panels would be generally well screened by existing and proposed trees and hedgerows it is not anticipated that the proposal would result in adverse levels of

impact upon local amenity due to glint or glare.

6.4.5 **Decommissioning:** Planning Practice Guidance on renewable energy recognises that solar farms are normally temporary structures and that planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use (para. 013). The applicant has prepared a Decommissioning Statement setting out arrangements for decommissioning the development at the end of its life (anticipated to be 25 years). This states that at the end of this period the system would be completely dismantled and removed from the site, and the site restored to its preconstruction state. It is considered that, should permission be granted, this is subject to a condition requiring the removal of the panels and other structures within 25 years, or when no longer required for the generation of electricity, whichever sooner.

6.5 **Highways and access considerations**

6.5.1 Once construction has been completed the application states that traffic generation would comprise vehicles associated with scheduled maintenance work, emergency repairs, and security. There would also be some movements associated with the management of sheep grazing or maintenance of the grassland, however it is recognised that there is existing traffic associated with the agricultural use of the land. It is not considered that the level of traffic that would be generated during the operation of the solar farm raises highways issues, and the Highways Officer has raised no objections to the proposal.

6.5.2 In terms of the construction phase, it is anticipated that this would last for 15 weeks and would result in 126 large vehicle trips (i.e. 252 movements) during this period. Details of proposed routing and other traffic management measures such as signage, construction hours and dust control, have been provided in a Traffic Management Statement. It is considered that detailed matters can be agreed as part of an appropriate plan, as recommended by the Highways Officer. A suitable condition is set out in Appendix 1 below.

6.6 **Historic environment issues**

6.6.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission which affects the setting of a Listed Building, the local planning authority shall have special regard to the desirability of preserving the setting.

6.6.2 A revised Historic Asset report has been submitted as part of the planning application, which has considered the significance of historic assets in the area and the likely impacts of the proposal on these. This concludes that the impact of the development on the historic landscape would be minor, given that the site is screened by mature hedgerows, and the impact on the character of the historic landscape would be slight adverse.

6.6.3 The report identifies that the only settings issue is that relating to the intervisibility

between the site and Ebnal Hall, a Grade II Listed Building to the north-west. Further assessment of this was undertaken by following a request from Officers, and the updated report states that the solar panels may not be visible from Ebnal Hall and if they are they will only be glimpsed through intervening hedgerows and mature trees. As such the report considers that the magnitude of the impact is negligible at most.

6.6.4 It is considered that views of the proposed development from Ebnal Lodge would be obscured by existing intervening vegetation. As such it is not considered that the proposal would adversely affect the setting of this Listed Building. The Historic Environment Officer considers that the proposed development would have minimal impact on the significance of Ebnal Hall, and has raised no objections. It is accepted that existing vegetation restricts views of the site from the Hall. Whilst it is accepted that such screening would reduce after leaf fall, it is noted that the Hall is approximately 370 metres from the site. Given this distance, and the limited viewpoints from the Hall, it is considered that there would be less than substantial harm to the asset. In relation to the requirements of para. 134 of the NPPF, it is considered that the public benefits of the proposal, particularly in relation to the generation of 10MW of renewable energy, outweigh any limited harm there may be to the setting of the Listed Building. Overall it is not considered that the application raises significant issues in respect of impact upon historic assets including the preservation of the setting of the Listed Building protected by section 66 of the 1990 Act.

6.7 **Ecological considerations**

6.7.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It is noted that the application site does not form part of any statutory or non-statutory designated site for nature conservation.

6.7.2 Protected species: An ecology report has been submitted, based upon a survey for protected species and of habitats potentially affected by the proposals. This has identified that the three ponds within the application site, to be retained as part of the proposals, have 'poor' suitability for great crested newt breeding. Small populations of GCN have been identified in other ponds in the area. The Council's Ecologist has advised that, given that these are more than 220 metres from the application site, the implementation of a method statement would provide satisfactory protection to the species. A condition requiring this is set out in Appendix 1 below.

6.7.3 In relation to badgers, the proposed layout provides for a minimum stand-off of 20 metres from the two badger setts on the site and for a gap under the deer fencing to allow for badger movement. The Council's Ecologist has advised that the method statement proposed in the ecology report should be adhered to, and this can be dealt with by planning condition (see Appendix 1 below).

6.7.4 Biodiversity management and enhancement: Existing trees, hedgerows and ponds within the site would be retained, and the gapping up of hedgerows would be undertaken. The landscape management proposals provide for the planting of 27 new trees to enhance existing field boundaries, and new mixed native species

hedgerow along part of the northern boundary of the site and part of the southern boundary. The submitted Biodiversity Management Plan recommends measures to be undertaken to improve ecological value of the site. These include: sowing the 5 metre margins of the site with a species-rich wildflower and grass seed mix, and the management of these areas; the management of hedgerows to favour birds and other wildlife; the enhancement of ponds for Great Crested Newt; the provision of artificial structures including log, rock and stone piles, and bird and bat boxes.

6.7.5 It is considered that the proposed solar farm development offers an opportunity to provide significant biodiversity enhancements, and that it would be appropriate to agree detailed matters as part of a habitat management plan. It is considered that this should include provisions for long-term management of the site, in order to maintain and enhance biodiversity. A condition proposing the submission and approval of such details is included in Appendix 1 below.

6.7.6 It is considered that the implementation of the method statements, landscape management and planting proposals, and a habitat management plan would ensure that the proposal would provide significant ecological benefits and as such the proposal is in line with Core Strategy Policy CS17.

6.8 **Flood risk considerations**

6.8.1 Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. The submitted Flood Risk Assessment (FRA) confirms that the site lies entirely within Flood Zone 1, signifying areas with the lowest probability of fluvial flooding. The FRA states that the proposed development is located in an area which may be subject to a moderate risk of flooding from groundwater sources, however due to the site topography, such flooding would be likely to be shallow and should not present a threat to the proposed development.

6.8.2 The FRA calculates that the proposed development would increase the impermeable surface area of the site by 0.07% which is negligible. The proposal would not alter the topography of the land. The Council's Flood and Water Management team have advised that the proposal is unlikely to affect the surface water runoff characteristics of the area and has raised no objections to the proposal. As such it is considered that the proposal does not raise significant issues in relation to flood risk and surface water management.

7.0 **CONCLUSION**

7.1 The proposed installation of a solar farm at land at land near Rhosygadfa would allow the generation of 10MW of renewable energy for export to the National Grid, and contribute to a reduction in carbon emissions. As such it is supported in principle by both national and local planning policy. Potential impacts on heritage assets have been assessed and would not be significant. The proposal would not affect best and most versatile land and the site would remain in agricultural use. The panels would be removed after the end of their useful life or within 25 years, whichever sooner. The proposal would not result in adverse levels of noise, or significantly affect flood risk. It is accepted that the proposal would impact upon the local landscape character of the area, particularly in view of its scale. However it is considered that the design of the site is acceptable and incorporates a satisfactory level of mitigation in relation to these impacts. On balance it is considered that,

given the level of environmental benefit that the proposal would provide, including those associated with renewable energy production and also significant biodiversity enhancements, these impacts on the visual character of the area would not be unacceptable. On this basis it is recommended that the proposal can be accepted in relation to Development Plan policies and other material considerations, and that planning permission can be granted subject to the conditions as set out in Appendix 1.

8. 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 six weeks after the grounds to make the claim first arose 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. Financial Implications

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

10.1.1 Shropshire Core Strategy

This promotes a low carbon Shropshire by promoting the generation of energy from renewable sources (Strategic Objective 1)

Policy CS5 (Countryside and Green Belt)

Policy CS6 (Sustainable Design and Development Principles)

Policy CS8 (Facilities, Services and Infrastructure Provision)

Policy CS13 (Economic Development, Enterprise and Employment)

Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets

Policy CS18 (Sustainable Water Management)

10.2 Central Government Guidance:

10.2.1 National Planning Policy Framework (NPPF): Amongst other matters, the NPPF: encourages the use of renewable resources (para. 17 - Core Planning Principles); promotes good design as a key aspect of sustainable development (Chapter 7); supports the move to a low carbon future as part of the meeting of the challenges of climate change and flooding (Chapter 10); advises that lpa’s recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve applications if its impacts are (or can be made) acceptable (para. 98); states that the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11).

10.2.2 Planning practice guidance for renewable and low carbon energy (updated March 2015) states (para. 001) that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

The PPG states that all communities have a responsibility to help increase the use and supply of green energy, but that this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities (para. 003).

In relation to proposals for large scale ground-mounted solar photovoltaic farms, the PPG states that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Particular factors the local planning authority will need to consider in relation to solar farms include:

- encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value
- where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use
- the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety
- the need for, and impact of, security measures such as lights and fencing
- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.

The PPG refers to a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013. This commented that the Government will focus deployment of solar panels on buildings and brownfield land, not greenfield, and that “where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation, incorporating well thought out visual screening, involving communities in developing projects and bringing them with you”.

It also refers to a Written Ministerial Statement made on 25th March 2015, which states that “meeting our energy goals should not be used to justify the wrong development in the wrong location and this includes the unnecessary use of high quality agricultural land”. It also states that “any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence”.

The PPG gives guidance in relation to assessing cumulative landscape and visual impact, and states that in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.

10.3 Emerging policy:

10.3.1 Site Allocations and Development Management (SAMDev) document: The SAMDev Plan Inspector has now confirmed the proposed main modifications to the plan following the examination sessions in November and December and these are being published for a 6 week consultation. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications. The site and surrounding area are not subject to any specific allocations in the SAMDev Plan.

10.3.2 Draft Development Management policies: Relevant draft Development Management policies include:

- MD2 (Sustainable Design)
- MD8 (Infrastructure Provision)
- MD12 (Natural Environment)
- MD13 (Historic Environment)

10.4 Relevant Planning History: None

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) The application ref. 14/03946/FUL and supporting information and consultation responses.
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Members Cllr David Lloyd and Cllr Robert Macey (Gobowen, Selattyn and Weston Rhyn) Cllr Steve Charmley (Whittington)
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until full details for the traffic mitigation measures indicatively presented within the Construction Traffic Management Statement have been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall be conducted/constructed in accordance with approved details.

Reason: In the interests of highway safety.

4. No development hereby permitted shall take place until a habitat management plan has been submitted to and approved by the local planning authority. The plan shall include: a) Description and evaluation of the features to be managed; b) Ecological trends and constraints on site that may influence management; c) Aims and objectives of management; d) Appropriate management options for achieving aims and objectives; e) Prescriptions for management actions; f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually); g) Personnel responsible for implementation of the plan; h) Monitoring and remedial/contingencies measures triggered by monitoring. The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

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. Notwithstanding the submitted details, the buildings hereby permitted shall not be constructed until details of their external materials, including colour, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

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

7. Inverters shall be housed in a suitable structure which will ensure that noise at 1m from the façade of the structure shall be no greater than 76dBLAeq.

Reason: to protect the amenity of the area and that of nearby residential properties.

8. Work shall be carried out strictly in accordance with the Phase 1 Environmental Survey by Greenscape Environmental dated July 2014.

Reason: To ensure the protection of great crested newts, a European Protected Species and badgers.

9. All landscaping 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 within the first available planting season following completion of the development, or in accordance with a timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

10. All existing trees, shrubs and hedgerows 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: To safeguard the visual amenities of the area.

11. (a) Within one week of the completion of the construction of the solar panels, written notice of the date of completion shall be given to the local planning authority.
- (b) Within 6 months of the cessation of energy generation from the site, or a period of 25 years and 6 months following completion of construction, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site.

Reason: To ensure that the solar farm development is removed from the site following the end of its operational life or within a reasonable period of time to protect the landscape character of the area.

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Committee and Date

North Planning Committee

7th July 2015

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

Application Number: 15/00566/REM	Parish:	St Martins
Proposal: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to permission 14/01390/OUT for the erection of eight dwellings and two bungalows		
Site Address: Proposed Residential Development West Of Cottage Lane St Martins Shropshire		
Applicant: Mr Steve Jennings		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 332764 – 336579



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

REPORT

This application was deferred from the June committee to allow members the opportunity to view the site.

1.0 THE PROPOSAL

- 1.1 The submitted application seeks reserved matters approval for the erection of 8 dwellings and 2 bungalows. The access, appearance, landscaping, layout and scale are all being considered under this reserved matters application.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the edge of St Martins, just outside, but adjoining the existing development boundary which runs along its eastern edge. To the north there is a separate triangular parcel of land which has an agricultural use and does not form part of this application nor is it within the ownership of the applicant. The development fronts onto Cottage Lane which beyond the housing estate to the east narrows to a single carriageway width. The land is currently in agricultural use and sits behind a mature roadside hedgerow. A public footpath is at the southern tip of the site which then heads in a south westerly direction away from the application site.
- 2.2 The site already benefits from outline planning permission which was granted on the 5th February 2015 under delegated powers (application no. 14/01390/OUT). The outline planning permission only established the principle of a residential development on the site; it did not specify either the number or the types of dwellings.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the scheme and the local Ward Member has asked that the application be considered by the Planning Committee. The Chair/ Vice Chair consider that the application warrant consideration by the planning committee.

4.0

4.1 Consultee Comments

Parish Council-

St Martins Parish Council strongly objects to this application on the following grounds; enormous number of inaccuracies in application, concern over how this site is increasing in numbers by each submission, dangerous junction onto Ellesmere Road from Cottage Lane which cannot be improved and concern that Shropshire Councils Highway Officers raise no objections to the application, vehicle access from a single track lane, not included in the SAMDev by the parish council and concern that the road disappears into a field at the end of the proposed

development which could lead to further development in the future. The Parish Council also object to the fact that the "road" is described as a Tarmac drive and as such would not be to highway standards - despite the application being for 12 houses. It also has no street light.

Highways- No objection subject to conditions

Rights of Way-

No objection subject to the right of way remaining open during the construction works

Affordable Housing-

The affordable housing rate suggested satisfies the provisions of the SPD Type and Affordability of Housing.

Waste Management-

It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste.

4.2 Community Representations

Objections received from 5 individual addresses commenting on the following issues:

- Site is outside the development boundary
- Access is onto a single carriageway
- Increased number of vehicle movements
- Walking route to school is unsafe
- This site could lead to further development
- Impact of vehicles on old buildings
- The village already has plans for a further 200 dwellings
- Road junction with Ellesmere road cannot be improved

5.0 THE MAIN ISSUES

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

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of residential development on this site has been accepted with the grant of outline planning permission 14/01390/OUT where the access, appearance, landscaping, layout and scale of the development were reserved for later approval. Whilst the access to the site was a reserved matter, conditions attached to the outline consent did require the provision of a footpath and improvements to be made to the existing highway which included alterations to the Cottage Lane junction with the B5068. Also covered by conditions attached to the outline consent

were matters relating to protected species and the drainage of the site. The consent was also accompanied by a S106 to secure an affordable housing payment to be made in accordance with the adopted Supplementary Planning Document.

- 6.1.2 Members are advised that they should not be considering the principle of a residential development on the site as this has already been established by the outline planning consent. Instead, the issues for consideration should relate solely to the reserved matters i.e. access, appearance, landscaping, layout and scale.
- 6.1.3 A number of representations received have commented on how the plan submitted as part of the outline application showed a scheme of 8 dwellings. At the outline stage this plan was only an indicative layout to show one option of how the site could be developed. The layout or the number of dwellings did not form any part of the outline planning permission and was not considered at that time.

6.2 Siting, scale and design of structure

- 6.2.1 The plans originally submitted with this reserved matters application showed a scheme of 12 semi-detached, two storey dwellings with two separate accesses onto Cottage Lane. Following the comments made by members of the public, the Parish Council and in negotiation with Planning Officers, the scheme has been reduced to 10 properties which consist of 8 semi-detached dwellings, two detached bungalows and a single point of access into the site from Cottage Lane.
- 6.2.2 The revised scheme shows a single point of access from Cottage Lane into the site which leads onto two small cul-de-sacs. The two bungalows would be on the entrance to the site with the remainder of the properties fronting onto the cul-de-sac. The bungalows would have 3 bedrooms and the two-storey dwellings would be equally split between 3 and 2 bed properties. The 3 bed properties would also have attached single garages. It is considered that the proposed development would provide a good mix of dwelling types which are of a size that are likely to make them more affordable to local people.
- 6.2.3 All of the properties are of a simple design but do include some design features such as bay windows and lean-to pitched porch canopies which provide some visual interest to the development.
- 6.2.4 The density of the development is comparable to existing neighbouring development and all of the dwellings would be provided with good sized rear gardens and two off road parking spaces. The scheme also includes two areas of landscaping at its entrance. It is considered by Officers that the density of the development is appropriate for its edge of village location and that it would not create a visually unsympathetic edge to the settlement.
- 6.2.5 The single point of access now requires only a limited amount of the roadside hedgerow to be removed. The hedgerow helps to soften the visual impact of the proposed development on the approach to the village and preserves some of the lane's character. The proposed development will introduce a built form onto a site that is currently open agricultural land. The existing site is almost entirely screened by the roadside hedgerow with the exception of a small gap where a gate provides access to the public right of way. From the road there are already glimpses of the

roof tops of existing dwellings in St Martins and the dwelling named Windy Ridge. Windy Ridge is located in an elevated position just outside the northern most part of the site and is clearly visible. Whilst the proposal will introduce new development it is not considered that there would be a significant detrimental impact upon the character of the immediate area. The two dwellings closest to Cottage Lane are now both proposed to be bungalows. Due to their low height these will be significantly obscured by the mature roadside hedgerow, it would also provide a more gradual transition in the height of the development away from the road and towards the existing housing estates to the north and west. The proposed bungalows would have casement and bay windows on their gable ends to avoid any blank and therefore bland elevations fronting onto the road.

- 6.2.6 To the south of the site there is a public right of way which heads away from the site in a westerly direction across the adjacent field. The right of way would not be affected by the proposed dwellings.

6.3 Visual impact and landscaping

- 6.3.1 The environmental role of sustainability, as set out in the NPPF, was considered at the outline application stage. Now that definitive plans and dwelling details have been provided this can now be considered further as part of this reserved matters application. The key issue is now whether the proposed development would be harmful to the intrinsic character of the area or cause harm to the landscape setting of the village. The proposed development would result in the loss of a small field which is of some value; however this field does not make any specific or substantial contribution to the character of the area and does not have any specific designation or protection. It is considered that the feature of the site which currently makes the biggest contribution to the character of the area is the mature roadside hedge which mirrors the hedge on the opposite side of the lane. The scheme as proposed allows the majority of this road side hedgerow to be retained where it will provide the southern boundary to some of the proposed dwellings. A condition will be imposed to ensure that this hedgerow is appropriately protected during the construction phase and thereafter retained and maintained.

- 6.3.2 The development of the site for 10 dwellings will alter the character of this part of the lane but any new residential development would be seen against a back drop of other dwellings and would not appear either out of keeping or as an isolated residential development. The applicant has included two areas of planting on the entrance to the site; it is considered that this will help to soften the appearance of development helping it to integrate with its surroundings.

6.4 Highway Safety

- 6.4.1 The scheme originally submitted included two separate accesses into the site. Following comments from the local community, highways and planning officers and the Council's Waste Management team the scheme has been amended to a single access. The junction of the cul-de-sacs would also be to a high enough specification to allow refuse vehicles to turn within the site.
- 6.4.2 As part of the outline planning approval conditions 5, 6 and 7 required details of highway improvements to be approved prior to the commencement of development on the site. The works required include the provision of a footway to the site frontage, localised widening of Cottage Lane and improvements at the junction of

Cottage Lane with the B5068. These details will be subject to a formal discharge of condition application however the applicant has already worked up a scheme for these improvements which has been agreed by the Council's Highways Officer.

6.4.3 The proposed development would increase the number of vehicle travelling along Cottage Lane, this is an issue that has been voiced by the local community. It is considered by Officers that the number of likely vehicle movements from a residential development of 10 units would not result in conditions that would be detrimental to highway safety when combined with the required highway improvements. The highway improvements, especially those for the junction into Cottage Lane, would also benefit existing highway users by increasing the available visibility for vehicle users.

6.5 Impact on Neighbours

6.5.1 The site does not share any of its boundaries with the neighbouring housing estates other than at its north western corner. The exception is the shared boundary with the detached dwelling to the east called Windy Ridge. This existing property sits in an elevated position with the rear elevation facing directly across the northern section of the site; all of the proposed dwellings will sit on lower ground. It is considered that the erection of 8 dwellings and 2 bungalows on the site would not have any detrimental impact on the amenities of neighbouring occupiers. Representations received have commented how this the site will lead to the land to the north also being developed in the future. It is Officer's understanding is that the applicant does not own this land. However, should a planning application be submitted in the adjacent land it will need to be considered on its individual merits at that time.

7.0 CONCLUSION

7.1 The principle of a housing development on the site was established by the previous granting of outline planning permission and therefore this application is only to consider the reserved matters. It is considered that whilst the scheme would result in the loss of an existing greenfield and the loss of some hedgerow it would provide a mix of dwelling types which are likely to be in demand and affordable to local people, in a sustainable location. The layout of the site has allowed the existing roadside hedgerow to be largely retained with the exception of the opening needed for the access. This in turn preserves the character of this stretch of Cottage Lane and provides a significant screen to both the proposed development and the existing development beyond.

7.2 The proposed access and the highway improvements approved at the outline stage would ensure that there would not be any detrimental impact upon the safety of highways users or pedestrians.

7.3 It is considered that the development is of an appropriate design, scale and density and would not have any detrimental impact on amenities of neighbouring occupiers of the character and appearance of the locality.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 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
CS5- Countryside and Green Belt
CS6- Sustainable Design and Development Principles
CS11- Type and Affordability of housing
CS17- Environmental Networks

RELEVANT PLANNING HISTORY:

14/01390/OUT Outline application (all matters reserved) for residential development
GRANT 5th February 2015

11. Additional Information

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 Steven Davenport

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan Numbers PL05 Rev B, PL08 Rev A, PL09 Rev A, PL10 Rev A, PL11 received 1st May 2015.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

2. Prior to the commencement of development full engineering details of the means of access, construction, internal layout, parking and visibility splays together with highway improvements at the junction of Cottage Lane and the B5068, as shown indicatively on Drawing No's CL-RL-200 Rev B & CL-JP-201, shall be submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the approved details have been fully implemented.

Reason: In the interest of highway safety.

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

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

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

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

4. All existing roadside hedgerow, with the exception of where the access is to be created, 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.

Reasons: To safeguard the visual amenities of the area.

5. All hard and soft landscape works detailed on the approved plans shall be carried 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, due 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

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Committee and Date

North Planning Committee

7th July 2015

Item

7

Public

Development Management Report

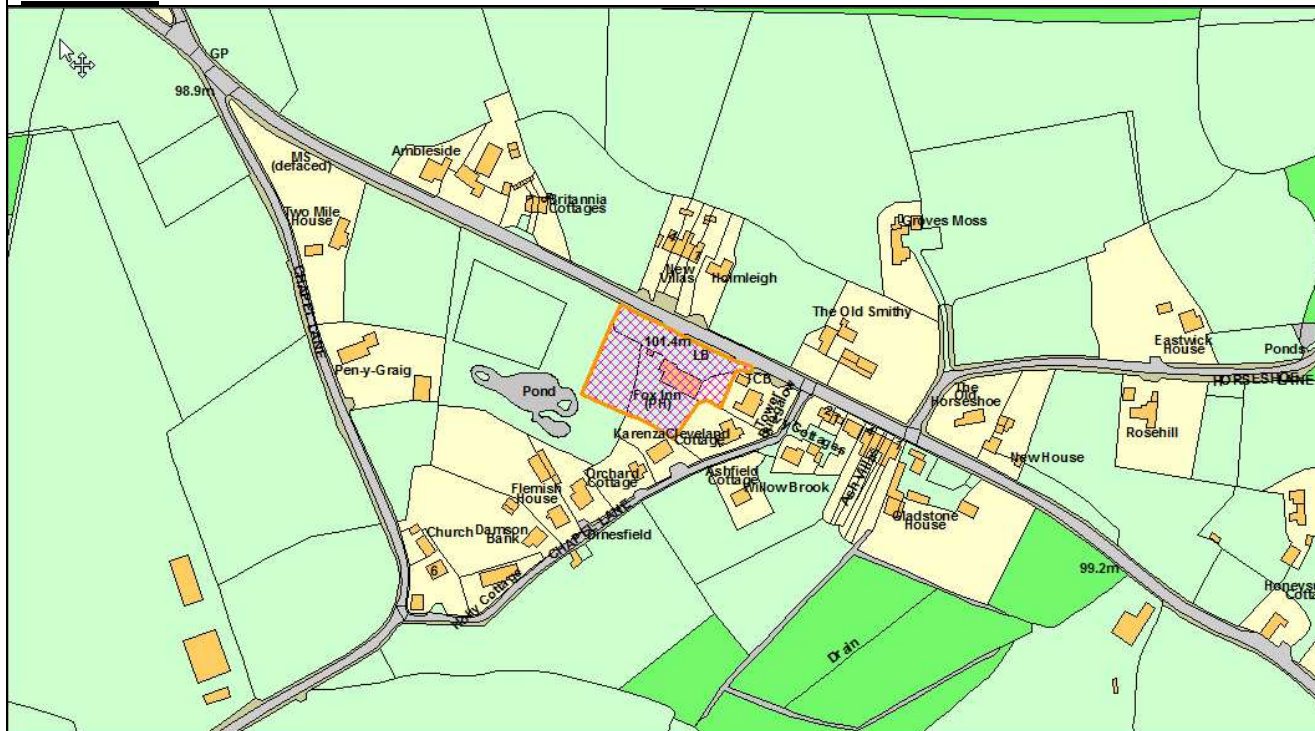
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/00325/REM	Parish:	Ellesmere Rural
Proposal: Reserved Matters application pursuant of outline application reference 13/04672/OUT dated 31st October 2014 for the erection of seven dwellings to include means of access, appearance, landscaping, layout and scale		
Site Address: Land Adjoining Bombay Palace Dudleston Heath Shropshire SY12 9JY		
Applicant: Sherwood Homes Ltd		
Case Officer: Melanie Durant	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 337542 - 336446



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

REPORT

1.0 THE PROPOSAL

- 1.1 Reserved Matters application pursuant of outline application reference 13/04672/OUT dated 31st October 2014 for the erection of seven dwellings to include means of access, appearance, landscaping, layout and scale.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in an area of open countryside and currently has a large two storey painted brick building at its centre which was last used as a restaurant and formerly the Fox Inn public house. The site has hardstanding to the front which was used for car parking and to the rear there is the former beer garden. The site also includes a parcel of unkempt and unused agricultural land to the west. To the side of the main building there is also a small detached brick built outbuilding.
- 2.2 The site has an open frontage directly onto the B5068 between Ellesmere and St Martins. Surrounding the site there are a number of dwellings. Directly on the opposite side of the B5068 there is a small terrace of two storey dwellings and a small detached bungalow. Most of the dwellings in the immediate area are off Chapel Lane to the south, a number of these properties have their rear gardens backing onto the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the scheme and the local Ward Member has asked that the application be considered by the Planning Committee. The Chair/ Vice Chair consider that the application warrant consideration by the planning committee.

4.0 Community Representations

- Consultee Comments

Shropshire Council Affordable Housing:

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

Shropshire Council Drainage:

The Drainage Layout is different from the approved Drainage Layout Drg. no. BP-DL-200 dated February 2014. Full details of the surface and foul water drainage systems for the whole site including the cover and invert levels, hydrobrakes and outfalls should be submitted for approval.

- Public Comments

Ellesmere Rural Parish Council:

Object to the application on the grounds that this is over development of the site. The front dwellings are situated too near the road and are not in keeping with properties in the vicinity. The building materials used should be in keeping with surrounding properties which all have slate roofs.

Concerns in respect of Plot 3 and Plot 4 as land drops off significantly into an existing pool which is an environmental issue and could cause flooding.

Consideration should be given to reducing the speed limit to 30mph in this area with the increase of traffic this development will bring.

Comments following amendments 21st May

Ellesmere Rural Parish Council are extremely disappointed that in revising the layout plans for the site only token changes have been made by reducing the size and proximity to the road of the building on Plot 1.

The Parish Council re-confirm its strong objection to the planning application, as submitted and revised, particularly on the basis of the following points:

It is overdevelopment of the site

The building materials should be more in keeping with the surrounding properties which have predominantly slate roofs.

The scheme layout creates a considerable amount of roadway, paths and hard standing areas.

The overall design and layout is very urban in style and not in keeping with the sites village location.

Serious concerns exist about the surface water drainage from the site and particularly from the area of plots 3 & 4 where the land levels fall significantly towards the neighbouring property to the south of the development site, which is already subject to surface flooding and contains a significant pond area supporting wildlife.

The Bio Disk sewage system proposed for the development appears to also discharge into the neighbouring property adding (i) to the drainage system and (ii) a potential pollution risk (unless strict long term monitoring and management arrangements are put in place as a condition of any planning approval)

Why were the properties at this development not on main sewage?

The overall volume of surface and treated water arising from the increased level of occupants and development poses a potential flooding risk to properties on Chapel Lane backing onto the field behind the development site.

The proposed raised level of the rear of plots 3 & 4 raises a privacy issue overlooking (from both ground floor and first floor level) the field/extended amenity area behind the development site enjoyed by the residents of Orchard Cottage as owners of the land to the west of the development site.

The property Karenza will be overlooked by Plot 5 and will become a privacy issue.

The Bombay Palace building still standing at this time but will be demolished the Parish Council ask that the date stone near the roof line stating 1783 T I E should be removed from the building before being demolished and placed at an appropriate place on the development site as a feature.

Consideration should be given to reducing the speed limit to 30mph in this area with the increase of traffic this development will bring.

The scheme layout and mix of houses should be redesigned to reflect the existing match of terrace and small detached cottages and bungalows with a reduced density and occupancy capacity to overcome the concerns raised above.

The Parish Council request that the Planning Officer for the development site meet representatives of the Parish Council on site before any final decision is made.

3 objections have been received from surrounding neighbours (some originally we submitted on the outline application but referring to this scheme). The objections were outlining a number of issues including the following:

- Not brownfield
- Over looking
- Drainage
- Ecology
- Landscaping

5.0 THE MAIN ISSUES

- Principle of development
- Details of the proposal
- Impact on surrounding residential amenity
- Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application seeks permission for reserved matters as the overall principle of residential development has already been approved under the previous outline approval.

6.1.2 Policy CS6 of the adopted Shropshire Core Strategy is particularly relevant and requires development to be designed to a high quality using sustainable design principles and to be appropriate in scale, density, pattern and design taking into account local context and character. It also seeks to ensure that residential and local amenity is safeguarded and that there is sufficient capacity and availability of infrastructure.

6.2 Details of the proposal

6.2.1 The proposal is for a small estate comprising of seven 4 bedroomed detached properties orientated around a central access. Detached single garages are also proposed for each plot with plot 5 having a detached double garage. One of the objections from the Parish Council is regarding the density of the development. An indicative layout showing 7 dwellings was supplied at outline stage and it was felt then that the site could comfortably accommodate the proposed number of dwellings in the locations without compromising amenity of future occupiers or surrounding neighbours. Officers remain of the opinion that the development is of an appropriate density taking account of the surrounding built form.

6.2.2 Plots 1 to 6 are designed with an open plan kitchen/dining area, living room, utility and WC to the ground floor and four bedrooms (one en-suite) and separate bathroom. Plot 5 is a similar design but with a larger footprint incorporating a study to the ground floor and 2 of the bedrooms at first floor being en-suite.

6.2.3 The Parish Council have objected to the proposal on a number of issues but one of which related to plot 1 and its proximity to the highway. Following this amendments were submitted from the applicant altering the house type on this plot allowing it to

be situated further back into the site away from the adjacent highway. This is considered to be acceptable by officers and it is felt that there would be no safety issues in relation to the highway with the amended design.

6.2.4 Materials proposed for the development are a mixture of lbstock red facing brick types and grey Marley clay & concrete tiles. This would be conditioned on any decision notice that all materials need to be in accordance with details supplied on the plan. The Parish Council have also expressed that slates would be more in keeping with the area. It is felt that this could be explored further with a conditions relating to materials as a concrete tile of a colour which matches the surroundings may be acceptable.

6.3 Impact on surrounding residential amenity

6.3.1 A number of objections have been received from neighbours to the rear in relation to overlooking issues. It should be noted that many of these objections were submitted electronically to the outline application but do relate to the reserved matters proposal so are considered as part of this application.

6.3.2 The site is elevated from properties at the rear and the ground slopes at the back of a plot to a pond area to the south west. The area as a whole is colloquially named 'the bog' which has also generated some drainage concerns (discussed further below).

6.3.3 Firstly the proximity of plot 5 to neighbouring properties was queried. In considering this it should be noted that the original property (i.e. Bombay Palace) was in this location on the site and had windows facing directly to neighbouring properties. Plot 5 has been oriented so that windows facing neighbouring Karenza (approx. 11m from plot 5) are obscure glazed bathrooms at first floor and a sitting room and study at ground floor. It is felt there will be no overlooking issues in this direction due to the boundary treatments between the 2 properties. The elevation facing Cleveland Cottage will have 3 bedroomed windows at first floor but the angle of the proposal is more obscure than the existing Bombay Palace on the plot so views would be part of the rear garden of Cleveland and not any habitable rooms. In addition there will be approx. 20m between the windows and this neighbouring property.

6.3.4 A query has also arisen regarding overlooking issues of Plots 3 and 4. Although a neighbouring property has incorporated land to the rear of the proposal site into their garden this area is still considered agricultural land and hasn't had permission for change of use. However even if this were garden area the proposal would be considered in terms of the distance of the windows in the new properties to habitable rooms in neighbouring properties. This distance is felt to be sufficient so as to not to cause any overlooking issues or harm to surrounding residential houses.

6.3.5 In light of the above it is felt that the proposal will have no adverse effect on surrounding residential amenity and therefore meet with the relevant policies.

6.4 Drainage

6.4.1 A number of drainage concerns have arisen from neighbouring properties plus a condition was added to the Outline permission as follows:

6. 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.

Initially the applicant wished to use soakaways for the disposal of surface water, however this was found to be inadequate on this site due to the water rich nature of the ground in the area. The applicants are currently exploring a separate scheme and have employed a drainage engineer. This scheme has yet to be submitted to our drainage section and is part of a discharge of conditions application (15/00330/DIS) running concurrently with this application. No work on site would be able to start until a scheme has been approved by the Council's drainage engineer so it is felt that no further conditions are required regarding this issue in the reserved matters application. A condition will be added stipulating that all Outline conditions remain in force unless discharged by the LPA.

7.0 CONCLUSION

The proposed development is acceptable in its design and scale and it will not have a detrimental impact on the character and appearance of the area. Furthermore the proposal will not have a detrimental impact on the residential amenities of the area.

Therefore the proposal is in accordance with the NPPF and policies CS5, CS6, CS11, CS17 and CS18 of the Shropshire Core Strategy.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

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

8.3 Equalities

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

9.0 Financial Implications

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

10. BackgroundRelevant Planning Policies

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

National Planning Policy Framework

Relevant planning history:

13/04672/OUT Outline application for the erection of 7 dwellings to include access
GRANT 31st October 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 Steven Davenport

Appendices
APPENDIX 1 - Conditions

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

1. The development shall be carried out strictly in accordance with the plan no.s SA18263/02 rev A, 05 rev A, 11, 09 & 07.

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

2. All conditions attached to outline planning permission 13/04672/OUT, dated 31st October 2014, are unaffected by this notice and shall remain in full force unless discharged previously in writing by the Local Planning Authority.

Reason: The conditions of the outline planning permission remain applicable.

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

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

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

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Committee and Date

North Planning Committee

7th July 2015

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

Application Number: 15/01036/FUL	Parish:	Wem Rural
Proposal: Change of use of land for the stationing of caravans for residential purposes for 1no. gypsy pitch together with the formation of hardstanding and an utility/dayroom ancillary to that use		
Site Address: Land Adj To The Builders Yard Known As No. 8 Barkers Green Wem Shropshire		
Applicant: Mr W Rogerson		
Case Officer: Jane Preece		email: planningdmne@shropshire.gov.uk

Grid Ref: 352699 - 328086



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Recommendation:- That permission be granted, subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the change of use of land for the stationing of caravans for residential purposes for one gypsy pitch together with the erection of a utility/dayroom ancillary to that use and the formation of hardstanding and highway improvements.
- 1.2 More specifically permission is sought to station one mobile home, one touring caravan and to erect a utility/dayroom building. The utility/dayroom building will measure 8 m x 5 m and will have a pitched roof 4.48 m high to the ridge. The utility/dayroom will provide '*... facilities that enable the occupants of the caravans to minimize the recognised hazards associated with cooking and fire in the close confines of caravans and provide facilities for washing and bathing and the maintenance of basic hygiene.*'
- 1.3 The highway improvements involve the removal of the roadside hedge to improve visibility from the junction of Weir Lane. A replacement hedge will be planted behind the line of the visibility splay.
- 1.4 The site will only be used for residential purposes and no business use is intended.
- 1.5 Proposals to increase the level of native planting and landscaping to the site boundaries are included as part of the submitted scheme.
- 1.6 For drainage purposes foul drainage it is intended to dispose of foul drainage to a package treatment plant. Surface water will be disposed to a sustainable drainage system.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is an area of land located within the settlement of Barkers Green at the junction of Weir Lane. Under the North Shropshire Local Plan, adopted 2005, the area is defined as being in countryside with no defined infill boundary. The open countryside status of the settlement will remain unchanged as part of the emerging Site Allocations and Management of Development Plan (the SAMDev Plan).
- 2.2 The land itself is relatively flat and the boundaries are identified by mature hedgerows and a few trees. Otherwise, the site is bounded to the north by Weir Lane (an unclassified no through road with rural properties opposite); to the east by the local highway (a class C road) with agricultural land beyond; to the south by a builders yard and to the west/south west by agricultural land. The wider settlement of Barkers Green comprises a string of residential development and rural properties. Generally the spatial pattern of the existing development follows the line of the highway. The nearest settlement to access facilities and services such as shops, schools, a doctors surgery is the market town of Wem, which lies a short

distance away to the north west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council are of a contrary view and local member request that that the application be referred to committee for a decision.

4.0 Community Representations

4.1 Consultee Comments

SC Highways – No objection. Recommend conditions.

SC Ecologist – No objection. Recommend the inclusion of conditions and informatives in order to enhance the site for biodiversity.

Severn Trent Water Ltd - Original comment: No objection. Recommend the inclusion of a condition requiring the prior approval of drainage plans for the disposal of surface water and foul sewage.

Re-consultation comment: No further comments received.

SC Drainage – Original comment: No objection. The drainage details, plan and calculations could be conditioned if planning permission were to be granted. Recommend conditions.

Officer update to above advice in view of local objections: In view of the fact that the ground conditions are clay the drainage details need to be submitted for approval prior to determination.

Re-consultation comment: No objection. The proposed surface and foul water drainage are acceptable.

Officer update to above advice in view of local objections: I refer to the residents objection regarding the proposed package sewage treatment plant. Our drainage comments were based on the drainage information provided by the applicant and we do not make site visit. I think the applicant was aware that the ground consisted of clay and if percolation tests were carried out it will give a Vp value of over 100. In accordance with the Building Regulations H2, Paragraph 1.38, if the value of Vp is greater than the 100 limit, an alternative form of secondary treatment (drainage mound) should be provided to treat the effluent from the septic tank or the use of a package sewage treatment plant.

On this site, the applicant proposes to use a package sewage treatment plant and a drainage mound which comply with the Building Regulations H2.

SC Learning & Skills – No comments received.

SC Trees – No objection. The site appears to be overgrown with small self seeded trees of limited amenity and no protected or important trees are to be removed. A section of hedgerow is to be removed for visibility but replaced with new native planting as mitigation.

SC Gypsy Liaison – No objections. Have visited the site and have no concerns regarding the layout. Would like the following conditions considered if approved:

1. Site to be occupied by Gypsy/Traveller families only.
2. No vehicles parked on site over 3.5 tonnes
3. No scrap or any other transfer of waste on site.

SC Public Protection – No objection. Having been out on site the area as a whole is very quiet. There is some noise from reversing forklift trucks on the Jewsons site. Therefore, recommend residential living quarters are relocated to north western part of site, away from the noise source. Alternatively, an acoustic barrier could be erected bordering the yard. The specification of the barrier would require prior approval and could be conditioned

SC Historic Environment – No objection. The brick and tile works are confined to a site opposite and do not extend onto this site. However, the Tithe Award map and late 19th century OS maps indicate a small cottage previously occupied the north-east corner of the site, probably associated with a common edge smallholding. Although demolished in the mid-20th century, associated below ground remains of local level significance may survive. The site can, therefore be considered to have low-moderate archaeological potential. In accordance with paragraph 141 of the NPPF, a programme of archaeological work is advised, secured by condition, to comprise an archaeological watching brief during ground works. Recommend appropriate condition.

SC Planning Policy – These comments are quoted in full in the section 6.1 below.

(The full content of consultation comments submitted are available to view on line)

4.2 Public Comments

Wem Rural Parish Council – Original comments: OBJECT. At the meeting of Wem Rural Parish Council held on 7 April 2014 it was resolved to object to the application.

The application relates to a site in the small, loosely developed, ribbon hamlet of Barkers Green. Barkers Green is set in open countryside and comprises of dwellings of a variety of design and age and completely surrounded by productive farmland. Barkers Green is accessed by one single track Class 3 road which is narrow in places and a number of blind bends. Barkers Green was previously classed as 'open countryside' under the NSDC Local Plan and is classified under the SAMDev Plan as 'countryside'. Therefore new development in the hamlet has been strictly restricted.

The Council notes that the Local Plan policies relating to Gypsy and Traveller Provision (CS12) and Gypsy and Traveller Accommodation Assessment (GTAA) have been subject to questions by the Inspector examining the SAMDev Plan. The Parish Council understands that there are a number of issues outstanding and therefore reserves the right to make a further response should clarification on issues relevant to this application be received by Shropshire Council prior to

determination.

In reviewing the application the following points were considered:

The Council questions the suitability of the site for development of any kind. The site has been subject to previous planning applications and local residents are aware of exploratory discussions which did not emerge as applications. The Council would refer to 2 applications submitted in 1994 and 2001 for single storey dwelling, access and private garage.

N/94/751/WR/187/Outline

This application was refused by NSDC and subsequently went to appeal. The Inspector visited the site and dismissed the appeal. The following comments were made: 'Barkers Green lies some 1.2km south east of Wem and I saw that it chiefly comprises some established dwellings in a pleasant rural setting which are informally strung along a stretch of a narrow Class C road. I observed that the site is particularly prominent having a long frontage at the junction of this road with Weir Lane, and in my opinion the proposed dwelling wherever sited, would be a dominant visual intrusion which would undesirably consolidate this sporadic development.'

'I therefore conclude that the proposal would materially harm the character and appearance of this attractive rural area and that the personal needs of your clients do not amount to the exceptional circumstances which necessitate a dwelling on this site and justify the setting aside of the strong local and national planning policies of restraint which seek to protect the countryside for its own sake.'

NS/01/00351/OUT:

This application for a single storey dwelling was refused by NSDC with the following comment: 'Permission would undoubtedly set a precedent encouraging further speculative applications for the consolidation or extensions of the many ribbons of development around the outskirts of Wem.'

The Parish Council considers that the current application is similar being single storey and actually a larger scale development as it proposes 3 units (plus unknown number of vehicles) and therefore should be refused on the basis of development in the 'Countryside' and scale in accordance with CS5, CS6 and PPTS paragraph 23. The Council also considers the proposal does not meet the exceptional circumstances as outlined in paragraph 3.6 of the Government's document 'Designing Gypsy and Traveller Sites' and the Inspectors comments made in 1995 support this position albeit for a 'settled' residential development.

The selection of sites for Gypsy and Travellers is outlined in CS12 and Chapter 3 of 'Designing Gypsy and Traveller Sites'. CS12 and paragraph 3.2 'Designing Gypsy and Traveller Sites' states that sites should have reasonable / easy access to local services and is expanded on in paragraph 3.4. As already stated the site is on the outskirts of Wem and there is no public transport to access shops, schools medical facilities etc. Pedestrians walking to Wem would have to navigate several blind bends on single track lanes. Therefore there is a reliance on own transport to access services and facilities in Wem. Ground conditions are also a factor. The ground in question is heavy clay and in winter is subject to waterlogging and

occasional flooding. The proposal includes a substantial amount of loose bound permeable hardstanding. This is not considered to be conserving or even enhancing the local natural environment.

The site overall is not considered sustainable.

The site's proximity to the builders yard (Jewsons) is of concern to the Council when referring to paragraph 3.3. Deliveries to the yard are by large HGVs with the majority of sales to contractors in commercial vehicles. The day to day noise generating from the yard activities should be considered when assessing the suitability of the site. It is noted in paragraph 3.18 of 'Designing Gypsy and Traveller Sites' that there is greater noise transference through the walls of trailers and caravans than through the walls of conventional housing.

There is open access to the yard during the day and the risks associated with this type of yard are clear from the site safety hazard warning signs.

The Council does not consider the site suitable when taking into account the safety and wellbeing of residents so close to the yard particularly as Gypsy and Traveller sites are stated likely to have a high density of children.

The need for a Gypsy and Traveller site as outlined in PPTS paragraph 22 in Barkers Green is questioned. The Council notes the applicant's reliance on the Appeal decision on Abdo Farm, Rosehill to not forward details of a local connection and his status. The Council is unaware of any unauthorised sites in and around Wem so the requirement that this site is developed specific for the Gypsy and Traveller community is not clear. Maybe the lack of details regarding vehicle parking (stated as none) confirms no specific need has been identified. The Council can only then assume this is a speculative application taking advantage of the position Shropshire Council finds itself in with planning policies for this sector of the population. In fact, the Gypsy and Traveller Accommodation Assessment (GTAA) updated in January 2015 showed 2 vacant pitches at Manor House Lane Caravan Site, Higher Heath. With no need proven locally the Council strongly contests whether a general plot for Gypsy and Travellers is appropriate development in this location.

In conclusion, the Parish Council considers the proposal brings material harm to the character and appearance of the area, is unsustainable, has no regard to the well-being and safety of potential occupants and is inappropriate development in this locality.

Re-consultation comments: OBJECT. At the meeting of Wem Rural Parish Council held on 2 June 2015 the proposed drainage solution was reviewed. The Council considered that based on local knowledge of the percolation of the site, the drainage solution is not adequate or suitable. The soil is heavy clay and there is a possibility of land drains under the site. The Council would request the Drainage Team re-visit their decision and investigate thoroughly the proposed solution. The Council is willing to explain its decision in further detail with the Drainage Team.

The Council notes that the Schedule of Main Modifications for the SAMDev Plan has been published but not within the timescales for discussion at the meeting held

on 2 June.

The Council also notes that the Gypsy Liaison Officers response is still outstanding.

In light of the above, the Parish Council continues to object to the application.

Public representations - The application has attracted objections from 23 contributors, together with a signed petition against the proposal from over 200 signatories. The main objections raised relate to:

- Open countryside location unsuitable for development proposed. Approval will set a precedent/encourage other speculative developments.
- Previous planning history of refusals for residential development.
- Adverse impact on character and appearance.
- Out of keeping with area. Design is inappropriate and fails to contribute positively to enhancing the area.
- Size of site could accommodate more caravans than proposed.
- Large size of utility block and question need for a dayroom.
- Access/highway safety issues.
- Traffic increase will be a danger to other road users.
- Permission has already been granted for large development on Aston Rd. Enough is enough. Barkers Green will become a rabbit run.
- Vehicle numbers? Application indicates no parking.
- Impact on ecology. No ecology survey submitted.
- Question the need for a gypsy site at Barkers Green when the site at Prees Heath has recently been extended.
- Will any permission issued have business restrictions?
- Is the applicant the owner? How will use of the site be controlled?
- Fail to see why a Crewe based family want to move to Barkers Green.
- Drainage problems. Subsoil is clay. Land becomes waterlogged during heavy/prolonged periods of rainfall. Soakaways/proposed drainage system will not work.
- Water mains serving four individuals passes under the verge over which vehicles will cross.
- Noise and light pollution.
- Security of isolated properties.
- Archaeological significance.
- The GPTS is currently being reviewed by Government and proposes changes that will give increase the protection to sensitive areas and Green Belt in relation to unmet need, whether for traveller sites or for conventional housing.
- The GPTS is currently being reviewed by Government and proposes changes that state those who have given up travelling permanently should be treated in the same way as those who do not lead a travelling life.
- Impact on/loss of property value.

(The full content of objections submitted are available to view on line).

5.0 THE MAIN ISSUES

- Policy and principle of development
- Previous planning decisions

- Gypsy and traveller status and site supply
- Sustainable location
- Impact on character and appearance of area
- Residential amenity
- Historic and natural environment
- Highways
- Drainage
- Other

6.0 OFFICER APPRAISAL

6.1 Policy and principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

The Development Plan

6.1.2 For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy, adopted March 2011, and the Supplementary Planning Document (SPD) on the Type and Affordability, adopted September 2012. The open countryside status of the area is 'saved' as part of the Core Strategy as defined in the North Shropshire Local Plan 2005.

6.1.3 Following on from the adoption of the Core Strategy the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. As part of SAMDev the open countryside status of Barkers Green is not changing. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.

6.1.4 Development plan policies of particular relevance to assessing the acceptability of this application include:

6.1.5 Shropshire Core Strategy policy CS5 (Countryside and Green Belt) – CS5 strictly controls development in accordance with national policies protecting the countryside. The policy lists housing exceptions that may be permitted on appropriate sites in countryside locations, to include those that meet a local need in accordance with national policies and policy CS12.

- 6.1.6 Shropshire Core Strategy policy CS12 (Gypsy and Traveller Provision) – Policy CS12 recognises the need to meet the housing needs of the gypsy and traveller population and sets out the measures by which this will be achieved. Reference is made to supporting suitable development proposals for sites close to market towns and key centres (such as Wem) and ensuring all sites are reasonably accessible to services and facilities. Reference is also made for the need to demonstrate a strong local connection for small exception sites (under 5 pitches). However, the application has not been submitted for consideration as an exception site.
- 6.1.7 SPD on the Type and Affordability of Housing – Section 6 of the SPD advises of the law protecting gypsies and traveller culture and the difficulties the travelling community face in finding appropriate sites to suit their way of life. It highlights how the Councils' approach applies the relevance of The Human Rights Act (1998) to determining planning applications for Gypsy and Traveller accommodation.
- 6.1.8 The SPD goes on to advise that the need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment and that, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller and the availability of alternative suitable sites. Occupancy conditions will be used to limit initial and future occupancy to bona fide Gypsies and Travellers who meet the established lawful definition. The SPD further states that the Council will seek to establish whether the applicant(s) reside in or resort to Shropshire and expands with further guidance on the criteria in Policy CS12.
- 6.1.9 Gypsy and Traveller Accommodation Assessment (GTAA) – The GTAA identifies the needs of Gypsies and Travellers from across the County, the aim of which is to provide a robust evidence base to plan for future provision and to inform the consideration of planning applications.

National policy considerations

- 6.1.10 National policy relating to planning provision for gypsy and traveller development is set out in Planning Policy for Traveller Sites (PPTS) March 2012 which is intended to be read in conjunction with National Planning Policy Framework (NPPF) March 2012.
- 6.1.11 The aim of the PPTS is to ensure that the needs of the travelling community are assessed and provided for in a fair way for the purposes of both plan-making and decision taking at a local level. The PPTS also aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations to address under provision. This is to be balanced against the need to protect local amenity and the environment and the objective of contributing to the achievement of sustainable development consistent with the NPPF. The PPTS makes it clear that the local planning authorities should determine applications for sites from any travellers and not just those with local connections.
- 6.1.12 From the national perspective objectors have referred to proposed changes to the PPTS, a good practice guide entitled Designing Gypsy and Traveller Sites and two Written Ministerial Statements (WMS's).

- 6.1.13 Changes to the PPTS 2012 have been subjected to consultation in September to December 2014. The purpose of the proposed changes to planning policy and guidance, are to ensure fairness in the planning system, and to strengthen protection of the green belt and countryside – see <https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance> However, feedback on the proposed changes is still being analysed by the Government. The revisions to the PPTS are therefore not yet policy.
- 6.1.14 Designing Gypsy and Traveller Sites: good practice guide – This document pre-dates the NPPF and the PPTS and offers guidance for potential developers and existing site owners, rather than decision takers, about the design features for successful Gypsy and Traveller sites.
- 6.1.15 Written Ministerial Statement 1.7.13 and 17.1.14 – Both WMS focus on travellers sites and the need to protect the Green Belt:
<https://www.gov.uk/government/speeches/planning-and-travellers>
<https://www.gov.uk/government/speeches/green-belt>
 There are no Green Belt designations within North Shropshire. Therefore, the above WMS's have no significant bearing on the consideration of this application.
- 6.1.16 Local and National Planning Policy Assessment
 An assessment of the local and national planning policy position as it applies to this application has been provided by the Councils' Senior Policy Officer and is quoted in full as follows:
- 6.1.17 **'Site context and Introduction**
 The application relates to a site in countryside just to the south east of Wem. Barkers Green is a small, loosely developed, ribbon settlement. The centre of Wem, the closest settlement of significant size with a range of services and facilities, lies approximately 2.5 kilometres away by road (less if measured directly). Wem is identified as a market town in Policy CS3 of the adopted Core Strategy and there are a range of proposals identified for the town in the SAMDev Final Plan. Barkers Green however continues to be identified as countryside in the SAMDev Plan which has been subject to Examination with formal feedback from the Plan Inspector currently awaited. The Wem area and its Community Hubs and Clusters together with gypsy and traveller issues have been considered at hearing sessions. There are however a number of matters subject to queries by the Inspector and therefore outstanding. This includes the approach to Gypsy and Traveller provision.
- 6.1.18 **The Proposal**
 The submitted application details indicate that this is for a single pitch gypsy site although no details are provided confirming the status of the applicant. It is understood therefore that the application is not for a rural exception site as set out in Core Strategy Policy CS12 but for general plot for a gypsy site. It would therefore need to be considered under bullet point 2 of CS12, Planning Policy for Traveller Sites (PPTS) and NPPF. It has however, been acknowledged at the SAMDev examination that paragraph 13 Planning Policy for Traveller Sites (PPTS) does not require a strong local connection for rural exception sites only that

occupants are current residents or have an existing family or employment connection.

6.1.19 **Policy Background**

National policy relating to planning provision for gypsy and traveller development is set out in Planning Policy for Traveller Sites (PPTS) March 2012 which is intended to be read in conjunction with NPPF.

6.1.20 Policies CS5 and CS12 in the adopted Core Strategy provide the main local policy framework for consideration of applications for gypsy and traveller accommodation in the countryside. There is additional guidance in the adopted Type and Affordability of Housing SPD, although it is acknowledged that this needs updating to reflect PPTS provisions. There are no specific policies relating to Gypsy and Travellers in SAMDev Plan however, it is intended that SAMDev Local Plan, when adopted, will form part of a framework of national guidance, adopted plans and supplementary guidance, which together set out the approach to site provision for the gypsy and traveller community. The lack of reference to gypsy and travellers or site allocations in SAMDev Local Plan have been considered as specific objections to the Plan and formed part of the discussions at the Examination session. Additionally the Examination hearing considered whether Policy CS12 is national policy compliant, in particular in terms of paragraph 10 of the PPTS and the requirement, 'where there is no identified need that criteria based policies should be included to provide a basis for decisions...'

6.1.21 The applicant has also made reference to the appeal decision for Adbo Farm, Rosehill (APP/L3245/A/13/2196615), which indicates that , 'In not acknowledging the possibility of any development being located in the countryside, unless it is for affordable local needs provision, the Council's policies (CS5, CS12 and the SPD) are more restrictive than PPTS.' The appeal decision also refers to paragraph 22(e) of PPTS which states, 'that Councils should determine applications for sites from any travellers and not just those with local connections.' This appeal also highlights the impact of being unable to demonstrate a 5-year supply of specific deliverable sites for gypsies and travellers. It refers to Paragraph 21 of PPTS which states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development set out at paragraph 14 of the Framework.

6.1.22 Shropshire Council however proposed at the SAMDev Examination that Core Strategy Policy CS12 provides an appropriate mechanism against which all proposals for gypsy and traveller development (including those in countryside) will be considered having regard to sustainable development and other material considerations. Also Shropshire Council suggested that Policy CS12 provides for the consideration of situations where there may be no identified need requiring site allocation but where specific needs may arise and planning applications result. Shropshire Council highlighted that the Policy provides detailed criteria applying to general proposals for sites (bullet 2) and for the consideration of rural exception sites (bullet point 3) as provided for by paragraph 13 of PPTS. Shropshire Council did acknowledge that the wording of bullet point 3 of CS12, requiring strong local connection, could be considered to be more restrictive than PPTS, in particular paragraph 13.

- 6.1.23 Any proposals therefore need to be considered with reference to PPTS and NPPF, with an assessment of their overall sustainability.
- 6.1.24 **Assessment of Gypsy and Traveller Accommodation Need**
At the time of Core Strategy preparation there was an identified outstanding need (set out in Policy CS12, explanatory paragraph 5.26) for 79 pitches relative to the baseline provided by the then current Gypsy and Traveller Accommodation Assessment (GTAA) published in 2008. There has been some site delivery since Core Strategy adoption, however, by 2013, the 2008 GTAA was no longer sufficiently up to date to provide reliable evidence on pitch need so a new study was commissioned.
- 6.1.25 In accordance with PPTS to determine outstanding need the Authority carried out an updated assessment in the form of the 2014 Gypsy and Traveller Accommodation assessment (GTAA). The 2014 GTAA was considered at the relevant SAMDev Examination session. Subsequent to this, the Inspector has asked for the Council to do further work on substantiating approved pitches and availability, together with additional consultation on the GTAA(2014). As a consequence the published GTAA (2014) was amended and now indicates a shortfall of 19 pitches 2014-2019 (plus requirement for an additional 12 households to 2027) but sufficient capacity if turnover is considered. The revised GTAA (2014) is however not yet finalised as providing the baseline for pitch need.
- 6.1.26 **Policy Considerations**
Feedback from the Examination inspector on the appropriateness of reliance on Core Strategy Policy CS12 and the robustness of the amended GTAA is currently awaited. The updated GTAA, once ratified will provide a robust basis for consideration of planning applications. Nevertheless even where a GTAA does not identify a specific requirement for sites, there remains policy to allow the consideration of applications which come forward on their merits (paragraphs 10 & 22 PPTS). Additionally later revisions to the GTAA (2014) indicate that there may be some additional pitch provision needed.
- 6.1.27 As set out in bullet point 2 of CS12, it is suggested that an application should be supported if it is a suitable proposal located close to Shrewsbury, the Market Towns, key centres and community hubs and clusters. Such a site may be in countryside. There is recognition of the difficulties of providing sites within and directly adjoining settlements and, in interpreting policy CS12, the Type and Affordability of Housing SPD states that, sites may be ‘further outside settlements than would normally be allowed for other developments’
- 6.1.28 There is no specific requirement in PPTS that gypsy sites should be close to facilities. However, paragraph 11 does require that policies ensure that sites are economically, socially and environmentally sustainable, avoid undue pressure on local infrastructure and ensure that access to health services and attendance at school is facilitated. It is a local policy requirement (bullet point 5,CS12) that sites are ‘reasonably accessible to services and facilities and suitably accessed, designed and screened’. The Type and Affordability of Housing SPD provides additional guidance on the criteria. It should be noted that the last appeal decision at Abdo Farm, Rosehill took a broad view of site sustainability and in this case indicated that ‘proximity to services is not a matter which weighs against this

development having regard to local and national planning policy'(paras 21 -36)'. Core Strategy Policy CS6 also states that all development should protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character. Also that development should safeguard residential amenity.

6.1.29 Additionally PPTS paragraph 24 sets other matters which should be given weight to in the consideration of applications, in summary:

- a) Effective use of previously developed, untidy or derelict land
- b) Environmental enhancement
- c) Promotion of healthy lifestyles
- d) Appropriate landscaping

6.1.30 I would also highlight, and reference paragraphs 6.2 to 6.5 of the SPD, that case law, in particular the implications of the Human Rights Act, are also a significant consideration in determination of an application, as is the Equality Act 2010.

6.1.31 **Conclusion**

The site is located in countryside and as with other types of development it is necessary to make an assessment of whether the proposed development can be considered sustainable in the context of NPPF & PPTS. PPTS paragraph 23 states that new traveller sites in open countryside away from settlements should be strictly limited and goes on to set considerations to take into account for sites in rural areas, requiring at paragraph 12 that sites in rural areas are of an appropriate scale. In this case the proposal is relatively small scale in that it is for a single pitch.

6.1.32 Local Policy and evidence, including supply of sites, should also be considered. Although the most recent assessment of accommodation need in the GTAA has yet to be finalised, the currently published GTAA (2014) indicates that there may be a remaining requirement (if turnover is excluded) for additional pitches over the Plan period to 2026. Provision through this application would go towards meeting this need. PPTS (para 10) is also clear that irrespective of identified need it is expected that applications which come forward will be assessed on their merits against local policy criteria which facilitate the traditional way of life of travellers.'

6.1.33 Since submitting the above comments the SAMDev Inspector has confirmed the main modifications to the plan. There has been no additional guidance on gypsy and traveller issues from the Inspector. Thus, as there was no gypsy and traveller policy included in the SAMDev Plan then no modifications are proposed.

6.1.34 The Senior Policy Officer has also clarified that there were outstanding objections to the GTAA and that these have previously been forwarded to the Inspector for consideration. No feedback has been received on the objections or the status of the GTAA, in particular queries over the inclusion of specific sites. Therefore, the Senior Policy Officer is of the view that there is still outstanding need which needs to be met.

6.1.35 In view of the foregoing it is acknowledged that the Council cannot demonstrate a five-year supply of deliverable sites for gypsies and travellers. In so far as policy CS12, and elements of the Housing SPD, relate to the supply of housing, local

policy is therefore considered out-of-date and paragraph 49 of the NPPF is engaged. Paragraph 49 states that:

6.1.36 *‘Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’*

6.1.37 Paragraph 14 of the NPPF further states that where relevant policies are out of date then permission should be granted unless ‘... any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole ...’

6.2 **Previous planning decisions**

6.2.1 Site history - The Parish Council and objectors have referred to the fact that planning permission has previously been refused to develop the land for residential purposes. Particular cases cited are an outline application for a single storey dwelling refused in November 1994 and May 2001, the 1994 decision having also been dismissed on appeal in June 1995. Whilst these decisions are acknowledged, those proposals were considered contrary to the local and national planning policies in force at that time, where the emphasis was one of greater restraint and the only exceptional housing need was for agricultural or forestry workers. The current proposal must be weighed against current planning policy and housing needs and the NPPF’s presumption in favour of sustainable development, all as discussed in Section 6.1 above.

6.3 **Gypsy and traveller status and site supply**

6.3.1 Local connections - In support of the application the agent has referred to favourable appeal decision for a gypsy site at Adbo Farm, Rosehill. The appeal was allowed on the 7th February 2014 and is material to the consideration of this current application. In that appeal case the Inspector particularly arrived at the view that where an application is not seeking to provide affordable housing then the guidance in PPTS does not require an applicant to demonstrate strong local connections. In this context policies CS5, CS11 and the Council’s Housing SPD are not in accordance with the national guidance. Paragraph 22(e) of PPTS states that Councils should determine applications for sites from any travellers and not just those with local connections. This position has been endorsed in further appeal decision for a gypsy pitch allowed at Shawbury Heath on 26th September 2014.

6.3.2 Gypsy status - Annex 1 of the PPTS states: *‘For the purposes of this planning policy “gypsies and travellers” means: Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such’.*

6.3.3 No information has been provided with the application to demonstrate a genuine gypsy status. As submitted it is understood that Mr W Rogerson is the joint owner of the land with Victoria Alison Rogerson. Whilst the address of Victoria Alison Rogerson is given as 26 Kings Drive, Crewe the address of Mr W Rogerson has

not been given, nor has the relationship between the two been provided. Furthermore, it is not specified whether Mr W Rogerson intends to occupy the site himself and whether, if this is the case, that occupation includes other family members. In view of the foregoing and the requirements set out in CS12 and the Housing SPD the agent was requested to provide evidence to demonstrate a genuine gypsy status.

6.3.4 However, the agent has responded that *'In terms of gypsy status, the status is irrelevant as permission runs with the land. The application is for 1 no. gypsy pitch and as such it is accepted that persons defined as gypsy will occupy the site. This is enforced by the inclusion of the Planning Inspectorate's model condition for gypsy site occupation: "The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites."*

6.3.5 Site supply - The agent further highlights that all of the following general material considerations apply to any application for a gypsy site, whoever the applicant, before personal circumstances become relevant as a material consideration:

- *'The unmet need (backlog) for additional pitches in the District, the sub-region, the region and nationally.*
- *The absence of a five-year land supply for additional pitches.*
- *The lack of suitable, acceptable, affordable, available alternative sites.*
- *The ability of the development plan (as adopted) and any emerging process to meet the unmet need for sites, and also to demonstrate a five-year land supply. This will involve a realistic assessment of the LPA's track record of delivery and likely progress of delivering sites through a plan-led process.'*

6.3.6 In both of the appeal cases referred to in paragraph 6.3.1 above the lack of a 5 year land supply of deliverable sites for gypsies and travellers was an issue and the Inspector considered this a significant material consideration in favour of the proposals. It has already been acknowledged that Council cannot demonstrate a 5 year land supply of deliverable gypsy and traveller sites and in this context policy CS12 and the Housing SPD are out of date. Therefore, the application should be determined in accordance with the PPTS and the NPPF. In this regard, it is accepted by officers that the proposal offers a significant benefit of adding to the general pitch provision in the area and further that, bearing this in mind, personal circumstances are not necessary to justify the application at this point in time. In addition there is a lack of alternative sites. All of these matters weigh in favour of the application.

6.3.7 However, if having considered the above Members are of a different view then the agent has indicated that he could provide further additional information regarding personal circumstances of his client but that the Members will have to provide a reasoned planning balance as to why this is considered necessary to bring the application to determination.

6.4 **Sustainable location**

6.4.1 Local plan policy, the NPPF and the PPTS all strive towards development that is sustainable socially, economically and environmentally. In terms of location this generally means concentrating growth in areas where residents will have reasonable access to facilities, services, infrastructure and sustainable transport

options to reduce reliance on the car.

- 6.4.2 Objectors are concerned about the location of the site relative to nearby facilities and question the sustainability of the site in this context.
- 6.4.3 In paragraph 23 the PPTS advises that '*Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure*'.
- 6.4.4 Although located within the hamlet of Barkers Green, the site has an open countryside status for planning purposes and lies outside the development boundary of the market town of Wem. Barkers Green has no acknowledged facilities and services and is served by rural roads with no pavements. It is likely therefore that occupiers would rely on the car to access facilities and services. That said it is accepted that the town centre of Wem is only a short car journey away and in this respect the site is not unreasonably isolated from the services and facilities on offer in the town; including shops, medical facilities and a primary and a secondary school. No evidence has been provided of any capacity issues associated with the infrastructure and facilities to accommodate the potential needs of site occupiers from this small scale of development. Furthermore, in terms of scale it is not considered this one gypsy pitch will dominate the settled community in Barkers Green.
- 6.4.5 Some assessment of sustainable and accessibility is also given in the Senior Policy Officers comments, at 6.1.28 and 6.1.29 above, including the Inspectors broad view of site sustainability in respect of the Adbo Farm appeal decision. In respect of the Shawbury Heath appeal, the application site is considered no less sustainable relative to nearby to facilities and services.
- 6.4.6 In terms of location there is also the issue of social cohesion. Some local residents have expressed objections on the grounds of security for isolated properties. This objection is based of fear rather than evidence. Through the PPTS and the NPPF the government recognises the need to integrate communities to promote understanding and engender a sense of social cohesion over time. The provision of this site within a settled community will lend to that overall objective.
- 6.4.7 Critical Infrastructure provision - On a further note of clarification, policy CS12 sets out that all sites must comply with policy CS9 where appropriate in relation to critical infrastructure provision. The application of this policy requirement of CS9 is not considered appropriate in this case – given that essential infrastructure already exists which will serve the site and the development is small in scale and so will put no undue pressure on this infrastructure.
- 6.5 **Impact on character and appearance**
- 6.5.1 To create sustainable places the NPPF, together with Core Strategy policies CS6 and CS17 seek to achieve an inclusive and accessible environment and to ensure that development is appropriate in scale, density and pattern taking into account the local context and character.

- 6.5.2 Objectors are concerned that the proposal will spoil the look of the locality and be visually damaging. It is acknowledged that the development of the land will change the character and appearance of the site itself and the outlook over the land from nearby properties and the highway. However, the issue is whether that change will be so harmful as outweigh the housing benefit of the proposal. In view of the shortfall in the supply of gypsy sites, paragraph 14 of the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.5.3 There are no special landscape designations in this location and the land is not within the green belt.
- 6.5.4 The site sits within the hamlet of Barkers Green and once accommodated a cottage, albeit some 50 years ago and so the land does not fall within the definition of previously developed land. The character of the area is that of a loose knit, rural hamlet strung along the line of the rural through road. The proposal would have road frontage and is contained by established boundaries. Although development would not therefore constitute incursion into the open countryside it would consolidate the spatial pattern in this location.
- 6.5.5 The proposed layout of the site is such that the new structures will have roadside presence. This follows the line of built development adjacent at the builders yard and the siting of the historic cottage. It is therefore considered appropriate to position the structures in this location. However, this does mean that the structures will be visible in the locality, especially from the public highway and where the removal of the existing roadside boundary hedge will expose the site further. Nonetheless, this site exposure will be temporary as replacement and additional planting is proposed to screen the site in the longer term and enhance biodiversity. Such landscaping mitigation measures coupled with the single storey scale of the structures will help reduce any visual intrusion. On the matter of scale some objectors are concerned about scale and need for the utility/dayroom. The provision of such a building is common place for occupier health and wellbeing, as referred on in paragraph 1.2 above. The scale of the building is similar to that of a triple garage or stable block often found in a rural location and will be finished in appropriate external materials, ie timber cladding and slate roof.
- 6.5.6 Overall, therefore whilst some harm has been identified it is not considered that the impact of the development on the character and appearance of the area will be so materially harmful as to significantly and demonstrably outweigh the housing benefits.
- 6.6 **Residential amenity**
- 6.6.1 Policy CS6 indicates that development should safeguard residential and local amenity, whilst policy CS12, the Housing SPD and the PPTS refer to the need for suitable screening.
- 6.6.2 Impact on neighbouring residential amenity – The proposal is of a small scale, involves no business use, is sited a sufficient distance away from the nearest neighbouring dwellings and can be adequately screened such that it will not lead to overlooking and overshadowing or otherwise unacceptably affect the residential

amenities of neighbouring properties, including light and noise disturbance.

6.6.3 On a matter of scale, whilst the application is for one gypsy pitch objectors do have concerns that in the future the site could be and developed as a travelling site for more gypsy caravans. This matter can be addressed by imposing suitable conditions, limiting the use of the site to one pitch and restricting the number of caravans and their positioning in accordance with the submitted plans.

6.6.4 Implications for occupier residential amenity – The site itself it of a sufficient size to accommodate the manoeuvring of caravans and parking for users and private amenity space for family, including play space for children.

6.6.5 A concern has been expressed by the parish council over the proximity of the proposed residential caravan to the adjoining builders yard and the potential noise nuisance for occupants from that yard. This matter has been taken up with both the Council's Public Protection Officer and the agent. The Public Protection Officer has visited the site and advised that, although the area is generally quiet there is some noise from vehicle movement on the adjoining builders yard. Therefore, two solutions are recommended: either (i) the relocation of the caravan to a part of the site further away from the noise source, or (ii) the installation of an acoustic barrier bounding the site. Having put both options to the agent, the agent has indicated a willingness to install an acoustic barrier. A condition requiring the prior approval of the barrier can be imposed. With this safeguarding condition in place, it is considered that layout and general living conditions are of an acceptable standard to contribute to the health and well being of the occupiers.

6.6.6 Accordingly it is considered that the proposal satisfies policies in relation to safeguarding the residential amenity of neighbours and occupiers.

6.7 **Historic and natural environment**

6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy also require consideration to be given to the impact of the proposed development on the historic and natural environment.

6.7.2 Archaeology – The application has been screened by the Council's Archaeologist in relation to archaeological potential. Historically the site accommodated a small cottage, probably associated with a common edge smallholding. The cottage has long been demolished. However, as below ground remains of local level significance may survive the site is considered to have low-moderate archaeological potential. In accordance with paragraph 141 of the NPPF, a programme of archaeological work is therefore advised, secured by condition, to comprise an archaeological watching brief during ground works.

6.7.3 Trees – The Council's Tree Officer has commented that the site appears to be overgrown with small self seeded trees of limited amenity and no protected or important trees are to be removed. Furthermore, whilst a section of hedgerow is to be removed for visibility purposes, the hedgerow removal will be mitigated against with replacement native planting.

6.7.4 Ecology – The Councils' Biodiversity Officer has considered the application and is satisfied that the application does not trigger the need for an ecological assessment

and that the site can be developed without adversely impacting on statutorily protected species and habitats or biodiversity. The conditional requirement for the provision of artificial nest boxes and the prior approval of a lighting scheme is recommended to enhance site biodiversity. It also recognised that the landscaping proposals present opportunities for biodiversity enhancement.

6.7.5 Accordingly, the development is considered capable of complying with national and local planning policy requirements set out in the NPPF and Core Strategy Policies CS6 and CS17 in relation to ecology, wildlife and the natural environment.

6.8 Highways

6.8.1 Concerns have been raised by local residents regarding the access provision and highway safety issues.

6.8.2 The Council's Highway Officer has been consulted on the application and raised no issues in respect of either the capacity of the local highway to accommodate the likely type and number of traffic movements generated to/from the site or the technical specifications of the proposed access arrangements and highway improvements. The agent has presented the highway improvements as a betterment.

6.8.3 Taking into consideration the views of the Highway Officer, it is considered therefore that the proposals are acceptable on highway grounds and that there are no grounds to refuse permission on this basis.

6.9 Drainage

6.9.1 Foul drainage is to be disposed of to a new on-site package treatment plant. Surface water will be disposed to a sustainable drainage system.

6.9.2 Whilst the Council Drainage Engineer originally commented that the final drainage details, plans and calculations could be controlled through appropriately worded conditions of approval, this view was revised in the light of local representation concerning local ground conditions. As a result the agent was requested to provide full drainage details for approval prior to determination. Additional drainage details have subsequently been submitted and the Drainage Engineer has provided confirmation that these details are acceptable.

6.9.3 Like the Drainage Engineer Severn Trent Water originally recommended imposing a condition requiring the prior approval of drainage details. No further comments have been received from STW in response to the re-consultation. On the basis of the professional opinion of the Councils' Drainage Engineer it is accepted by officers that the drainage details now submitted are acceptable.

6.9.4 Notwithstanding the above, some local residents remain convinced that the proposed drainage scheme will not work. The Drainage Engineer has responded to those objector comments as follows:

'I refer to the residents objection regarding the proposed package sewage treatment plant. Our drainage comments were based on the drainage information provided by the applicant and we do not make site visit. I think

the applicant was aware that the ground consisted of clay and if percolation tests were carried out it will give a Vp value of over 100. In accordance with the Building Regulations H2, Paragraph 1.38, if the value of Vp is greater than the 100 limit, an alternative form of secondary treatment (drainage mound) should be provided to treat the effluent from the septic tank or the use of a package sewage treatment plant.

On this site, the applicant proposes to use a package sewage treatment plant and a drainage mound which comply with the Building Regulations H2.'

6.9.5 As such whilst it is acknowledged that there is local concern about drainage problems from developing the site, it is the professional view of the Drainage Officer that the site can be developed with the drainage scheme as proposed and in compliance with policy CS18, the NPPF and the Building Regulations.

6.9.6 On this basis, there is no technical reason to withhold planning permission on drainage grounds.

6.10 **Other**

6.10.1 Objections have been received on the grounds loss of property value. This is not a material planning consideration.

6.10.2 Concerns have also been raised regarding the implications of the access point crossing over water pipes in the verge. This is a private concern to be addressed between the parties, service provider and land owners involved and is not a matter for the Local Planning Authority.

7.0 **CONCLUSION**

7.1 In view of the acknowledged lack an adequate supply of gypsy and traveller sites, the housing supply policies of the development plan are considered out of date in so far as they relate to gypsy and traveller site assessment in principle. As such the proposal falls to be assessed alongside the requirements of national policy contained in the NPPF and the PPTS. In combination these documents set out that the presumption in favour of sustainable development and the need to provide an adequate supply of housing are both significant material considerations for decision making. The proposal will contribute to addressing the shortfall in gypsy and traveller site supply and satisfies a balance of social, economic and environmental credentials. As such the balance of considerations weighs in favour of the application and permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

7.2 The site is considered to occupy a relatively sustainable location and in the assessment of this case officers are satisfied that there is no significant and demonstrable harm that outweigh the housing benefits of the proposal. Any potential harm that has been identified can be adequately addressed through mitigation measures and the imposition of planning conditions, particularly in relation to matters of character and appearance, residential amenity and the natural and historic environment.

7.3 In relation to access and drainage issues these are technical matters which have

been addressed and resolved to the satisfaction of the Councils' professional drainage and highway advisers.

7.4 Accordingly, it is considered that the application proposal complies with requirements of the National Planning Policy Framework (March 2012), the Planning Policy for Traveller Sites (March 2012), and the relevant aspects of adopted planning policies CS5, CS6, CS12, CS17 and CS18 of the Shropshire Core Strategy (March 2011) and the Supplementary Planning Document on the Type and Affordability of Housing (March 2012).

7.5 Accordingly, approval is recommended, subject to conditions.

7.6 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 six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

against the impact on residents.

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework
Planning Policy for Traveller Sites

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS12 - Gypsies and Traveller Provision
CS17 - Environmental Networks
CS18 - Sustainable Water Management
Supplementary Planning Document on The Type and Affordability of Housing

Relevant planning history:

NS/01/00351/OUT Erection of a bungalow with private double garage, formation of vehicular and pedestrian access and closure of existing access REFUSE 31st May 2001
NS/94/00026/OUT erection of dwelling with septic tank drainage and formation of vehicular access REFUSE 22nd July 1994
NS/94/00027/out erection of a single storey dwelling with private garage and septic tank drainage and formation of vehicular access REFUSE 2nd November 1994

11. Additional Information

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
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Local Member Cllr Pauline Dee Cllr Chris Mellings

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites Department for Communities and Local Government March 2012.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community within the Local Planning Authority's area at the date of the permission hereby granted.

4. The development hereby permitted is limited to one pitch. No more than one static caravan and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed on the site at any time and no caravans shall be stationed other than in accordance with the approved layout. Any caravans positioned on the site shall also be capable of being lawfully moved on the public highway.

Reason: To safeguard the amenities of the locality.

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 and to commence development prior to an appropriate investigation would potentially compromise archaeological interests.

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

6. An acoustic barrier shall be erected along the south/south westerly boundary of the site where it borders the adjacent commercial site. Prior to installation the design and specification of the barrier shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barrier shall be installed in accordance with the approved details before the development is first occupied.

Reason: To safeguard residential amenities.

7. No work shall commence on the construction of the external walls and roof of the utility/dayroom building and no hard surfacing shall be laid until samples of the external and surfacing materials have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

8. The development hereby permitted shall not be first brought into use until the foul and surface water drainage scheme has been completed in accordance with the approved details.

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

9. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan drawing no.14_653_003 prior to the residential unit being occupied. The approved parking and turning areas shall thereafter maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

10. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

11. The visibility splays shown on the block plan drawing no.14_653_003 at both the access and unclassified road junction shall be provided in accordance with the approved details. All growths and structures in front of these lines shall be lowered to and thereafter maintained at carriageway level and shall be fully implemented prior to the residential unit being occupied.

Reason: To provide a measure of visibility from the new access and unclassified road junction in both directions along the highway in the interests of highway safety.

12. 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.

13. 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.

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.

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

15. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To safeguard the amenities of the locality.

16. No commercial activities shall take place on the land, including the storage of materials.

Reason: To protect the residential and visual amenities of the area.

17. There shall be no scrap or any other transfer of waste on the site.

Reason: To protect the residential and visual amenities of the area.



<u>Committee and Date</u>
North Planning Committee
7 th July 2015

<u>Item</u>
9
Public

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: Affordable Housing and the SAMDev Plan Main Modifications

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

Summary of Application

<u>Application Number:</u> 13/04868/OUT	<u>Parish:</u>	Cockshutt
<u>Proposal:</u> Outline application for the erection of five dwellings and formation of vehicular access (all matters reserved)		
<u>SSSite Address:</u> Development Land East Of Shrewsbury Road, Cockshutt, Shropshire		
<u>Applicant:</u> Mrs W Crabb		
<u>Case Officer:</u> Jane Preece	<u>email:</u> planningdmne@shropshire.gov.uk	

1.0 Background

- 1.1 On the 1st July 2014 it was resolved by Northern Planning Committee to grant outline planning permission for the erection of five dwellings and formation of vehicular access at the above site, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 As an outstanding application subject to a S106 resolution the application was referred back to the Committee on 1st October 2014 having regard to the Council's published 5 years housing supply Land Supply Statement of 12th August 2014. Having reconsidered that 5 year land supply issue the resolution of the committee remained one to grant outline planning permission, subject to conditions and the prior completion of a S106 agreement to secure the affordable housing contribution.
- 1.3 In November 2014 there was a change in policy guidance at a national level with the issue of the Written Ministerial Statement (WMS) regarding affordable housing contributions. The WMS stated that affordable housing contributions should not be sought for sites of 10 dwellings and under and under 1000m², with lower thresholds for sites in AONBs and designated rural areas. Given the impact this would have on the level of affordable housing contributions in Shropshire the

Council considered its position with regard to the WMS. In the meantime the application was effectively on hold. Following on from the Cabinet decision of 21st January 2015, the Council's position on the WMS to continue to give full weight to this Council's policies on affordable housing, was published on 30th January 2015. In light of the WMS and the Cabinet decision Members of the North Planning Committee resolved to delegate authority to planning officers to review and determine this planning application at their meeting of 17th March 2015. Notwithstanding the WMS, officers maintained the resolution that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of local policy. With the agreement of the applicant, the processing of the S106 was therefore reactivated.

1.4 Since that time there have been further developments with the affordable housing contributions issue, together with advances with the Site Allocations and Management of Development (SAMDev) Plan. The matters are discussed below.

2.0 **Affordable Housing**

2.1 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.

2.2 Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In respect of S106 agreements and affordable housing contributions officers acknowledge the following as material considerations in determining this planning application:

- a) The Written Ministerial Statement (WMS) issued in November 2014 and amendments to the National Planning Practice Guidance (NPPG) which set out a threshold below which affordable housing contributions should not be sought (ie 10 dwellings or less);
- b) A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, which commented on the Councils' affordable housing contribution position. The Inspector was of the opinion that the WMS provides more up to date national policy and effectively supersedes Policy CS11 of the development plan.

2.3 However, in response to a) and following a subsequent decision by the Cabinet of the Council in January, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites – (please see the public statement attached as appendix A).

2.4 In response to b) Shropshire Council published a further statement confirming its position in May. A copy of that public statement is also attached as appendix B.

- 2.5 A resolution to grant planning permission, subject to the prior completion of a S106 agreement to secure the affordable housing contribution consistent with CS11 and the Housing SPD was originally reached on 1st July 2014. Whilst the applicant was agreeable to proceed with the signing of a S106 to secure planning permission, the processing of the S106 has been held in abeyance pending a review of the Councils' position as outlined in a) and b) above. Since the issue of the Public Statement in May the S106 has now been signed and the application can progress for approval.
- 2.6 Although the applicant has signed the S106 considered necessary by Shropshire Council, for completeness officers set out below changes in material considerations which affect the current application in light of the Vashlyn appeal decision, including the following clarification:
- The Vashlyn decision is a material planning consideration but it was taken without full consideration of arguments and evidence with regard to the impact of the WMS on the provision of affordable housing in Shropshire, and the Council is seeking to make those arguments in another case before an Inspector on 1 July as a test case, the outcome of which will then become material.
 - The Councils' policy is linked to an adopted core strategy policy (CS11) based on evidence presented to an independent Planning Inspector and tested through an examination process.
 - The policy has been applied and in place since 2012 and there is no compelling evidence to suggest that its application is adversely affecting the delivery of smaller sites.
 - The policy was developed in conjunction with a developer panel to determine a dynamic viability rate relevant to Shropshire.
- 2.7 In summary, therefore material considerations have been identified in the form of the WMS, the NPPG and the Vashlyn appeal decision which affect development plan policy and the ability to seek affordable housing contributions in respect of developments involving 10 dwellings and under. However, as is evident from the discussion above, including appendix a) and b), Shropshire Council maintains its stance at this point in time that the greater weight should be given to adopted development plan policy CS11 and the Housing SPD in decision making. The Council is advancing this argument to the Inspectorate as part of an appeal case which is yet to be heard in July. Until the outcome of that appeal is known as a material test case, then the recommendation therefore remains that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of adopted development plan policy.
- 3.0 **The SAMDev Plan Main Modifications**
- 3.1 The following is a review of the 'Principle and Policy of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications and updates to the 5 year land supply issue.
- 3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-

date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

- 3.3 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan.
- 3.4 The Development Plan
For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011, certain saved policies of the North Shropshire Local Plan 2005 and a range of Supplementary Planning Documents.
- 3.5 Following on from the adoption of the Core Strategy the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 3.6 Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below:
- 3.7 Saved local plan policy H5 - Within the former North Shropshire Local Plan Cockshutt is described a main service village with a wide range of facilities and centre serving its surrounding rural area. Under the 'saved' policies of the Local Plan the settlement has a development boundary, where in accordance with policy H5 and in accordance with Shropshire Core Strategy policies CS6 and CS11, together with the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing, infilling and groups of houses is acceptable – subject to sustainable objectives, general development control criteria and environmental expectations.
- 3.8 However, at the time of writing it is recognised that the saved Local Plan policy H5 can only be given limited weight. This policy essentially seeks to restrict housing development to within settlement boundaries and so, in essence, applies a more restrictive approach that is not entirely consistent with the NPPF's presumption in favour of sustainable development. This reduces the weight that can be attached to policy H5 in the assessment of this case.
- 3.9 Shropshire Core Strategy policies CS1 and CS4 - Policies CS1 and CS4 of the

Core Strategy set out the strategic approach to housing provision in the rural areas. It is envisaged that rural areas will become more sustainable through a 'rural rebalance' approach to residential development and that locating development predominantly in community hubs and community clusters will contribute to social and economic vitality. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.

- 3.10 Although contiguous with the built form of the settlement the site lies outside the development boundary. Therefore, the proposal conflicts with adopted Core Strategy policies CS1 and CS4 and falls to be assessed against adopted Core Strategy policy CS5. Policy CS5 states that new development will be strictly controlled in the countryside and only allows for exceptions in housing needs, including those to meet an essential rural business need or local need, none of which apply to this proposal. The proposal therefore also conflicts with CS5. It is considered that policy CS5 is consistent with the objectives of the NPPF to protect the intrinsic character and beauty of the countryside.
- 3.11 (NB: In view of the forgoing the application was advertised as a departure from the adopted development plan, which would indicate that the proposal should not normally be supported for development).
- 3.12 SAMDev policy S8.2 - In terms of the SAMdev Plan Cockshutt has been identified as a Community Hub, where policy S8.2 will apply. The housing guideline and development strategy for the village was previously reported to Members, ie '*The housing guideline for the village is of around 50 additional dwellings over the plan period. It is envisaged that this will be delivered through the development of 5 allocated sites of up to 5 dwellings (delivering around 20 homes) which are all located to the west of the A528 'so as to provide some balance to the village'. In addition to identified site allocations, there are existing commitments of around 18 dwellings and it is envisaged that the remainder of the target will be delivered with development by infilling, conversions and small groups (again up to 5 dwellings) on suitable sites within the identified development boundary.*'
- 3.13 The only main modifications in relation to Cockshutt relate to impacts on protected sites arising from our Statement of Common Ground with Natural England. There are no modifications proposed to the allocated sites or to the development boundary in the location of the application site. Officers are therefore of the view that significant weight can now be given to policy S8.2 of the SAMDev Plan in this regard. As a development outside the development boundary the proposal would conflict with policy S8.2.
- 3.15 The SAMDev guidelines are for around 50 dwellings, it is noted that around 20 will be provided on allocated sites and there are committed sites providing 18 dwellings. As such there would be a windfall allowance of around 12 dwellings. The Council have granted consent for 1 dwelling, outside the development boundary. There are 2 applications, including this site, pending S106, both outside the development boundary and both resolved to approve which would provide a total of 7 dwellings between them. There are also two other applications pending determination, one of which is one of the allocated sites and one of which is outside the development boundary. The one outside the development boundary

is for 7 dwellings. As such the applications approved or pending would amount to 14 new dwellings (not including the SAMDev allocated site as this is already counted). As such it is officer's advice that the current proposal would not amount to significant housing above the guideline number of new houses proposed in the SAMDev.

- 3.16 The NPPF and emerging SAMDev policies - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 3.17 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.
- 3.18 Ultimately the policies contained in the SAMDev Plan will therefore need to comply with the sustainable guidance set out in the Framework in order to proceed to adoption. In this context SAMDev policy MD3 is also of relevance to the assessment of this application. Policy MD3 is concerned with 'Managing Housing Development' and sets out some scope for approving sustainable residential development outside development boundaries, subject to certain criteria and compliance with other policies of the development plan. Policy MD3 has been modified to allow for a more flexible approach in line with the Framework. However, as policy MD3 is subject to modifications then, whilst it can be given some weight it cannot be given full weight. Therefore, the presumption in favour of sustainable development as advanced by the NPPF remains as a material consideration. Under the NPPF sustainable sites for housing where the adverse impacts do not outweigh the benefits of the development will still have a strong presumption in favour of permission when considered against the NPPF as a whole.
- 3.19 As a Community Hub it is accepted in principle that Cockshutt is a sustainable settlement and capable of accommodating an appropriate level of new housing development. Whilst it remains to be acknowledged that the approach to direct housing land allocation only to the western side of the village may reflect the preferences of the Parish Councils' and the wishes of the community, the site is considered contiguous with the built form of the settlement and does not represent isolated development. On this basis it is considered that the proposal can continue to be supported as occupying a sustainable location in principle consistent with the objectives of the NPPF.
- 3.20 Furthermore, officers would highlight the advanced stage of the application and the following factors which reinforce the sustainable credentials in favour of the application at this point in time:
- The S106 has been signed. The planning permission can therefore be released without delay with affordable housing contribution secured.
 - The draft planning permission is limited to a 12 month consent to bring the application to early delivery and contribute to the housing supply.
 - Bearing in mind the all the above and until the SAMDev Plan is adopted,

officers are of the opinion that the balance of planning considerations still tips in favour of permission.

- 3.21 Housing Land Supply – The National Planning Policy Framework (NPPF) paragraph 47 sets out an aim of boosting significantly the supply of housing, and the measures how local planning authorities will achieve this. One of those measures is a requirement for LPA's to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. NPPF Paragraph 49 then states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 3.22 In August 2014 the Council published an updated Shropshire Five Year Housing Land Supply Statement confirming the ability to demonstrate a 5 years' supply. This means that the Council's housing supply policies are not considered out of date under paragraph 49 of the NPPF.
- 3.23 The issue of the 5 year land supply has been the subject of challenge through the appeal process.
- 3.24 Shropshire Council's position that it has a demonstrable 5 year supply of deliverable housing land has been supported by recent appeal decisions at land adjacent to The Larches, Shawbury Road, Wem (APP/L3245/W/14/3000672) and land south of Brook Cottages, Ford (APP/L3245/A/14/2228348), both of which were determined on the 19th May 2015.
- 3.25 During these Appeals, the inspector undertook a detailed appraisal of the Shropshire Council 5 Year Housing Land Supply, considering extensive submissions from both Shropshire Council and representatives of the relevant appellants. The Inspector concluded that "it appears that from the Council's perspective, they are able to demonstrate a 5 years supply of deliverable housing land. Consequently paragraph 49 of the Framework is not engaged and local plan policies relevant to the supply of housing land are up-to-date, subject to their consistency with the Framework as set out in paragraph 215".
- 3.26 Since these comprehensive reviews of the Shropshire Council 5 year housing land supply, there have been a number of other recent appeal decisions within which the 5 year supply has been assessed without the consideration of the detailed evidence, as provided in support of The Larches and Brook Cottages appeals. For this reason those other appeal decisions are not considered definitive and Shropshire Council maintains that it has a 5 year supply of housing, as evidenced in The Larches and Brook Cottages appeal decisions and appendices attached to the appeal cases.
- 3.27 Consequently Shropshire Council maintains that it has a demonstrable 5 year supply of deliverable housing land and paragraph 49 of the NPPF is not engaged.
- 4.0 Conclusion**
- 4.1 Officers note the recent Ministerial Statement and amendments to the National Planning Practice Guidance, together with the recent Vashlyn appeal decision as material considerations in determining a planning application. However, the

Council continues to give greater weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites for the reasons discussed in this report. The applicant has already signed the necessary S106 agreement to secure the affordable housing contribution.

- 4.2 The site is located outside the current Cockshutt development boundary and is therefore classed as a departure from the development plan, contrary to Core Strategy policies CS1, CS4 and CS5. Furthermore, the site has not been identified as a site for future residential development within the emerging SAMDev Plan, and will therefore be contrary to policy S8.2 when SAMDev is adopted. However, whilst SAMDev is at a stage where significant weight can be given to policy S8.2, the requirements of this emerging policy and those of adopted policies CS1, CS4 and CS5 must be balanced against the NPPF. The NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. Ultimately SAMDev policies will need to comply with the sustainable guidance of the Framework in order to proceed to adoption. In this context SAMDev policy MD3 is also of relevance as it sets out some scope for approving sustainable residential development outside development boundaries and the local criteria that should be applied. However, Policy MD3 is the subject of modification and as such can only be given some weight. The presumption in favour of sustainable development as advanced by the NPPF therefore remains as a material consideration. Taking into consideration the designation of Cockshutt as a Community Cluster and the close relationship of the site with the existing built form of the settlement together with the advanced stage of the application whereby the S106 has been signed and a draft 12 month permission agreed, it is accepted that the site is in a sustainable location and is available now to deliver additional local housing supply in accord with national planning policy priorities relating housing provision and sustainable development.

4.0 Recommendation

- 4.1 The application remains recommended for approval, subject to the prior completion of a Section 106 agreement in relation to the financial contribution for affordable housing and to the conditions set out in Appendix 1 of the original committee report. As the Section 106 agreement has already been signed by the applicant the completion of the Section 106 rests with the Council.

APPENDIX A**Shropshire Council Statement with regard to:
Ministerial Statement of 28th November 2014****Support for small scale developers, custom and self builders**

In a Written Ministerial Statement on 28th November 2014, Brandon Lewis MP, Minister of State for Housing and Planning, announced that the Government was making a number of changes to the national Planning Practice Guidance (PPG) with regard to Section 106 planning obligations. These included the introduction of a threshold beneath which affordable housing contributions should not be sought.

The Ministerial statement confirms that:

- (a) For sites of 10 units or less and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.
- (b) In designated rural areas (under Section 157 of the Housing Act 1985), authorities may choose to implement a lower threshold of five units or less, beneath which affordable housing and tariff style contributions should not be sought.
- (c) Affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions.
- (d) A financial credit, equivalent to the existing gross floor space of any vacant buildings brought back into any lawful use or demolished for re-development, should be deducted from the calculation of any affordable housing contributions sought from relevant development schemes.

Shropshire Council was particularly concerned by proposals a), b) and d) and through the consultation process in April 2014, put forward a comprehensive evidence response on how these changes would fundamentally affect the Council's ability to deliver much needed rural affordable housing directly on site or indirectly through financial support for Registered Providers (RP's) and as a consequence it would undermine its housing and community sustainability aspirations enshrined within its adopted Core Strategy.

This statement has been met with much consternation from Local Authorities, particularly rural authorities and other respected national organisations representing rural communities and rural housing.

Following the Ministerial Statement and update to the National Planning Practice Guidance the Council placed a report before the Council's Cabinet on 21st January 2015. The Council's Cabinet met and considered a report outlining the consequences of applying the Ministerial Statement of 28th November and the Council's current Type and Affordability of Housing SPD which sets out the Council's policy on the provision of affordable housing on open market developments in Shropshire .

The following decision was made:-

- (a) That the Council lobbies the Minister to review his statement to take account of differing conditions nationally and locally.
- (b) That the Council notes the Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application.

- (c) That the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and **continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites.**”

Following the decision of the Council's Cabinet to continue to give full weight to Policy CS11 of the adopted Core Strategy and the Type and Affordability of Housing SPD the Council will continue to seek provision of on-site affordable housing and/or affordable housing contributions for all residential developments of 10 dwellings or less within the Shropshire area and will continue to require developers to enter into s.106 agreements for this purpose.

Shropshire Council
Communities and Housing Policy
Shirehall
Shrewsbury
SY2 6ND

APPENDIX B**Council Statement – Ministerial statement 28th Nov 2014 and Appeal decision Vashlyn, Kelsalls Lane, Copthorne.**

The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.

This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.

A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council’s unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.

The Council notes that the High Court is currently considering its judgement in the judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council’s position.

A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue. The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council’s current position, based upon a robust policy position endorsed by Cabinet, will continue.

The Copthorne planning decision and subsequent public observations from various self interests have added considerable uncertainty and hesitation into the planning approval process that the Council is considering options to address as a matter of urgency.

In the event that after a full examination of the Council’s position, an Appeal or Judicial Review challenge leads to the Council changing its current stance, it is important to note that resolutions to approve that are subject to outstanding s106 agreements at that time, will have to be fully reconsidered afresh by Council in light of current local and national policies.

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Committee and Date

North Planning Committee

7th July 2015

Item

10

Public

Development Management Report

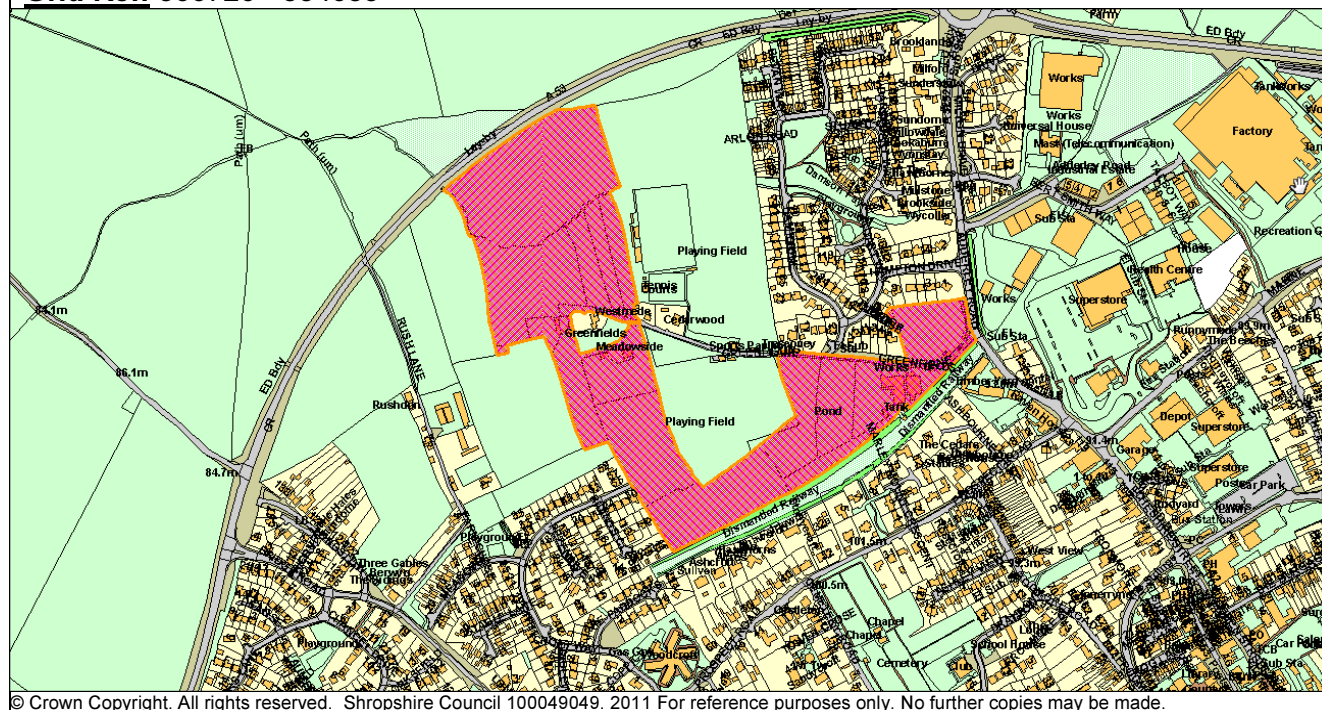
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Summary of Application

<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 up to 250 dwellings; 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	

Grid Ref: 366726 - 334685



Recommendation:- Subject to the deletion of the access of the A53 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 This report is an addendum to the report presented to members in November 2014, which detailed the proposal for outline planning permission for residential development of 250 dwellings on a 11 hectare site on the northern side of Market Drayton, on the inside of the A53, and a subsequent report in February 2015 which dealt with construction access to the site. Members resolved to approve the application at the November meeting along with an application for the adjacent site. The application was originally presented to committee alongside an application on adjacent land to the west by Gladman Developments. The adjacent site was subsequently subject to an appeal and this appeal decision is a material consideration in the determination of the current application and needs to be considered by members.

1.2 The recommendation of the Council on both applications included a condition which required the submission of a master plan to ensure that both sites worked together to provide appropriate housing development for the town of Market Drayton worded as follows:

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.

1.3 However the Planning Inspector in determining the appeal has not sought to impose the above condition but has instead imposed two different conditions as follows:

i) The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian and cycle routes through the site, linking to the eastern and western boundaries. The scheme shall be implemented in accordance with the approved details, and shall be constructed prior to the occupation of the first dwelling on the site.

ii) The layout submitted as part of any reserved matters application shall include details of vehicular routes to be provided from the approved A53 site access to points on the eastern and western boundaries of the site. The scheme shall be implemented in accordance with the approved details and shall be constructed prior to the occupation of the first dwelling on the site.

1.4 This report seeks members approval to amend the wording of the conditions on this application from the master plan condition detailed above to wording similar to that imposed on the adjacent Gladman scheme by the Planning Inspector, but re-worded as relevant to this application site.

2.0 Matters for Consideration

- Appropriateness of condition 5
- Consistency of decisions

2.1 Appropriateness of condition 5

2.1.1 Officers remain of the opinion that condition 5 is relevant, necessary and appropriate to the application. The condition as worded would ensure that the two separate applications would show how they can 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.

2.1.2 The condition would require a master plan to be submitted showing how the development would integrate with the remainder of the allocated site and would ensure that a consistent approach is applied to the wider allocated site.

2.2 Consistency of decision

2.2.1 However, as noted above, the Council need to be mindful of the Planning Inspector's decision on the appeal on the adjacent Gladman site which is a material planning consideration in the determination of the application proposed. It is officer's advice that for ease of understanding how the two sites work together to provide a co-ordinated development it would be appropriate to re-word the conditions on this site. Officers consider that it would be harder to understand the co-ordinated approach with two significantly different sets of conditions on the two adjacent sites seeking to provide this detailed information.

2.2.2 Although the wording of the conditions imposed by the Planning Inspector would not provide the same level of detail as the previously proposed conditions it does provide for details of how the two sites will link together for vehicular, pedestrian and cycle routes and therefore deals with most of the points to be covered within the original proposed condition.

2.2.3 In imposing the two conditions the Inspector advised that they could achieve the same objective of connectivity with the adjoining sites, the details of which would be for the Council to determine in the future. Such an approach would reduce the likelihood of delays in deliverability of housing on the site. In the event that the neighbouring sites were developed first, the Council would be in a position to ensure that the appeal site was designed in such a way to ensure connectivity and integration with them.

- 2.2.4 It is noted that the Inspector has included wording to require the works to be completed prior to occupation of the first dwelling. This was at the request of the appellant and there is nothing within the Inspectors report or the conditions which provide any justification for the requirement for the works to be done prior to occupation. However, officer's advise that the condition imposed by the Inspector is relevant to the Gladman appeal site in that it is intended to provide the main vehicular access point from the A53 and to serve the land either side of the appeal site. As such it is considered relevant and reasonable, given that the developer can build the houses as the road is built. The restriction is against occupation rather than build. For the Gladman appeal site the wording of the condition encourages the development of the main road through the site and the houses either side of this road as the first phase of the development.
- 2.2.5 The current site, the Danbank site, is materially different. Access is already available from Hampton Drive, subject to a restriction on construction traffic; the road through this site is not required to provide access to any other land; and the road through this site would be substantially more development than the Gladman appeal site due to the shape and layout of the site. Furthermore the agent has also advised that the land owner is close to reaching an agreement with a house builder who would not be interested in the site if the road is required to be completed through this site before occupation is permitted. As such officer's advise that the precise wording of the substituted conditions for this application has been amended to reflect the site specific circumstances and to ensure that the wording of the conditions meet the tests within the Planning Practice Guidance of being reasonable, relevant, necessary, precise and enforceable. It is considered that it would not be reasonable to impose a requirement on this site for the works to be carried out prior to occupation of the first dwelling.
- 2.2.6 The wording recommended is as follows:
- i)The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian and cycle routes through the site, linking to the eastern and western boundaries. The scheme shall be implemented in accordance with the approved details.
 - ii)The layout submitted as part of any reserved matters application shall include details of vehicular routes to be provided from the approved eastern access to a point on the western boundaries of the site. The scheme shall be implemented in accordance with the approved details.
- 2.2.7 Open space is dealt with separately in the Inspector's decision and is site specific to the Gladman scheme in that it requires the extension of the existing play area. It would not be reasonable or relevant to impose identical wording on this application, which is detached from this play area and as such a different form of wording is therefore proposed for this application which requires the provision of a play area as follows:
- i) The layout submitted as part of any reserved matters application shall include details of a play area including a safe pedestrian route to it, and the provision of informal, natural and semi-natural open space on the site, along with a timetable for implementation. The scheme shall be implemented in accordance with the approved details.

2.2.8 The recommendation to members is to amend the conditions to the wording detailed above for the reasons given above. However, members also have the alternative to retain the condition as originally proposed (the master plan condition) taking into account the appeal decision as a material consideration should members consider that the amendments to the conditions are not necessary and that the master plan condition can still clearly achieve the outcome of the requirements of the SAMDev for a coordinated development across the whole of the allocated site.

3.0 CONCLUSION

3.1 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.

3.2 It is therefore recommended that planning permission be granted subject to:

- The deletion of the junction from the A53;
- The applicants entering into a S106 agreement to secure affordable housing and a contribution towards public transport;
- The amended conditions set out in Appendix 1; and
- Submission of Reserved Matters Application to be considered by the North Planning Committee (as previously requested by committee).

3.4 It is therefore 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.

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. The layout submitted as part of any reserved matters application shall include details for the provision of pedestrian and cycle routes through the site, linking to the eastern and western boundaries. The scheme shall be implemented in accordance with the approved details.

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. The layout submitted as part of any reserved matters application shall include details of vehicular routes to be provided from the approved eastern access to a point on the western boundaries of the site. The scheme shall be implemented in accordance with the approved details.

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. The layout submitted as part of any reserved matters application shall include details of a play area including a safe pedestrian route to it, and the provision of informal, natural and semi-natural open space on the site, along with a timetable for implementation. The scheme shall be implemented in accordance with the approved details.

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.

8. 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.

9. Prior to the commencement of the development, including any works of demolition, a Construction Traffic Statement shall have been submitted to, and approved in writing by, the local planning authority. The Statement shall restrict the use of Hampton Drive for construction traffic to the construction of the first 50 dwellings only and shall show alternative means of construction traffic access for development beyond the first 50 dwellings. The approved Statement shall be adhered to throughout the construction period.

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

10. 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.

11. 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. The provision of herras fencing shall be provided to create a 30m buffer to the badger sett prior to works commencing and no ground works or material storage shall be permitted within the 30m buffer fencing.

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

12. 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

13. 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.

14. 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

15. 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

16. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written 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 protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

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

17. 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

18. 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

19. 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.

20. 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

21. 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.

17th NOVEMBER 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 an 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-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 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 be 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 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

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<u>Committee and Date</u>
North Planning Committee
7 th July 2015

<u>Item</u>
11
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 7th July 2015

Appeals determined

LPA reference	14/00580/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs N Watson
Proposal	Erection of dwelling and detached garage following demolition of existing.
Location	Summerhill Criftins Ellesmere
Date of appeal	03.03.2015
Appeal method	Written reps
Date site visit	12.5.2015
Date of appeal decision	08.06.2015
Costs awarded	
Appeal decision	Allowed

LPA reference	14/03316/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Miss L Baer
Proposal	Outline application (access for approval) for the erection of four detached dwellings; formation of vehicular access
Location	Land North Of Oakleigh Lower Heath Prees
Date of appeal	27.03.2015
Appeal method	Written reps
Date site visit	01.06.2015
Date of appeal decision	23.06.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/03104/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr T E R Morris
Proposal	Outline application for the erection of 3 no. dwellings and associated garaging to include means of access
Location	Land To The North Of Chain Lane Maesbury
Date of appeal	20.03.2015
Appeal method	Written reps
Date site visit	11.05.2015
Date of appeal decision	24.06.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/02634/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr K C Brown
Proposal	Outline Application for a single detached residential dwelling and garage to include means of access
Location	Land to The West Of Dovaston Shropshire
Date of appeal	20.03.2015
Appeal method	Written rep
Date site visit	11.05.2015
Date of appeal decision	24.06.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01777/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Seven Sisters
Proposal	Installation of a single wind turbine and associated ancillary infrastructure
Location	East Side Of Ellesmere Road Tetchill, Oswestry
Date of appeal	20.03.2015
Appeal method	Written reps
Date site visit	11 and 12/05/2015
Date of appeal decision	26.06.2015
Costs awarded	
Appeal decision	Dismissed

Appeal Decision

Site visit made on 12 May 2015

by S M Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 June 2015

Appeal Ref: APP/L3245/W/15/3003087
Summerhill, Criftins, Ellesmere, SY12 9LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Watson against the decision of Shropshire Council.
 - The application Ref 14/00580/FUL, dated 6 February 2014, was refused by notice dated 24 July 2014.
 - The development proposed is the demolition of the existing house and detached garage and replacement with new detached house and garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house and detached garage and replacement with new detached house and garage at Summerhill, Criftins, Ellesmere, SY12 9LW in accordance with the terms of the application, Ref 14/00580/FUL, dated 6 February 2014, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. Amended plans were submitted during the course of the application. My decision is based upon the refused plans which were agreed between the parties at my site visit.

Main Issues

3. The main issues are the effect of the development upon (i) the character and appearance of the countryside; and (ii) the provision of the type and mix of housing in the area.

Reasons

Character and Appearance

4. The site is located in the open countryside and, as it is within an area of undulating land, the site is somewhat raised above the level of the road. There are dwellings sparsely scattered around the locality of varying size, height, type and design.
 5. The proposed dwelling would be sited in a similar position to the existing house, although it would be slightly more to the west. The floorspace of the
-

proposed dwelling would be some 76% larger than the floorspace of the original house and the ridge of the roof would be about 1.5m above the existing and I note that the house would have a slightly lowered ground level than the existing dwelling. Policies MD7a and MD7b of the Council's draft Site Allocations and Management of Development Plan (SAMDev) indicate that replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. This SAMDev has been subject to examination but as I do not have details of any modifications I will give these policies some weight as material considerations.

6. The appellants have provided drawings showing how the dwelling could be extended by way of (i) an 8m long extension which has been approved by the Council under the Prior Notification procedure; and (ii) side, rear and front extensions plus a new garage which are authorised by a Lawful Development Certificate. The appellants' statement provides figures, which the Council does not dispute, that indicate that the floorspace, footprint and the volume of the existing house, if lawfully extended, would be substantially greater than that of the proposed replacement dwelling. Whilst I agree with the Council that the proposed increase in height over the allowed scheme would be significant and noticeable, I must treat the lawful proposed extensions as a material consideration.
7. The lawful scheme would be bigger than the proposed scheme. It would also have a more sprawling footprint and it would be of a less coherent design; comprising a mismatch of different discordant elements with widely varying roof-heights and profiles. In contrast, the proposed scheme would be of a more compact and even form, with balanced features such as the use of gables and dormers with similar roof pitches. Overall, whilst taller, the proposed dwelling would be smaller, be architecturally superior and therefore visually preferable to the lawful scheme. I therefore give the existence of the fall back scheme significant weight in favour of the appeal and, in accordance with Policy MD7a of the SAMDev, the case for the acceptability of the material increase in size over the original dwelling has been demonstrated. For the above reasons I also find that the proposal would conserve the natural and built environment.
8. I note objections from interested parties that the existing house should not be demolished due to its vernacular architecture which exhibits features such as hand-made clay bricks and brick arches. However, the house has no statutory protection and I have insufficient evidence of its historical or architectural interest to persuade me that it should be considered as a non designated heritage asset. I realise that the proposed house would incorporate timber boarding which is not a common feature of the area but it would add visual and architectural interest and as such I find it to be acceptable. I also acknowledge neighbours' comments that clay tiles are not characteristic of the area, however, they would be appropriate to the architectural style of the house and the specific details, including their colour, will have to be agreed by the Council.
9. I therefore conclude that the proposed dwelling would not harm the character and appearance of the countryside and that there would be no conflict with Policy CS6 of the Shropshire Local Development Framework: Adopted Core

Strategy, 2011 (CS) which indicates that development should protect, restore, conserve and enhance the natural and built environment.

Type and Mix of Housing

10. The Council is concerned that it should control the size of replacement dwellings in the countryside to maintain a supply of more affordable dwellings. This is confirmed in the Council's Supplementary Planning Document, Type and Affordability of Housing, 2012 (SPD). However, I have already determined that the proposed dwelling would not be larger than the size of dwelling that can be lawfully built. I also have no evidence that the existing dwelling is particularly affordable. Therefore, the proposal would not harm the provision of the type and mix of housing in the area and there would be no conflict with the SPD, CS Policy CS11, which seeks to create mixed, balanced and inclusive communities; or Policy MD7 of the draft SAMDev.

Other Matters

11. I note third party concerns in respect of the solar panels. However, whilst an area for solar panels is indicated on the plan, it is outside of the appeal site and therefore does not form part of this appeal. I also note comments in respect of privacy and outlook from neighbouring properties but I am satisfied that sufficient distance exists between the proposed dwelling / garage and surrounding dwellings to avoid any adverse impact upon the living conditions of neighbours.
12. There is no evidence of protected species on the site, however, the appellants have submitted a scheme of biodiversity enhancement and this is secured by way of a planning condition.
13. The existing vehicular access would remain and I have no real evidence that there would be any adverse effect upon highway safety.

Conditions

14. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance (PPG). In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. In the interest of visual amenity I have imposed conditions in respect of external materials. As I have taken into account what could be built under permitted development as a justification of the size of the permitted dwelling, I have removed permitted development rights for extensions and outbuildings to preserve the character and appearance of the countryside. However, I have insufficient justification for the removal of any other permitted development rights and the PPG says that permitted development rights should only be removed in exceptional circumstances. A condition has been attached in the interests of the proper drainage of the site. A condition is imposed to protect the occupants of the dwelling from contamination as there is a historic landfill within 250m of the site. Bird and bat boxes are required in the interest of biodiversity.
15. I have not imposed a condition in respect of the private use of the garage as it is not necessary. If a material change of use were to occur planning permission would be required even without the condition.

Conclusion

16. I have considered all other matters raised but none outweigh the conclusions I have reached and the appeal is allowed subject to the conditions below.

Siobhan Watson

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: - P1 (26/13); P2 (26/13) Rev D; P3 (26/13) Rev C; P4 (26/13) Rev D; P5 (26/13) Rev B; P6 (26/13); P7 (26/13); P8 (26/13); P9 (26/13) Rev A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until samples of the materials to be used in the construction of the drive and parking/turning areas hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a scheme for surface water drainage of the site has been submitted to and approved in writing by the local planning authority. No part of the development hereby permitted shall be brought into use until the approved drainage scheme has been implemented, and the surface water drainage shall be retained thereafter.
- 6) No development shall take place until a report in respect of potential contamination of the site has been submitted to and approved in writing by the local planning authority. If an unacceptable risk of contamination is established in the report, the report shall specify the measures to be taken to remediate the site to render it suitable for the development hereby permitted. The site shall be remediated in accordance with the approved measures before development begins.
- 7) Details of 2 bat boxes and 2 bird boxes, to be erected on the site, must be submitted to and approved in writing by the local planning authority. The approved boxes shall be installed before the dwelling is occupied and shall be retained thereafter.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-

enacting or modifying that Order), no garages, outbuildings, dormers, porches or extensions shall be erected other than those expressly authorised by this permission.

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Appeal Decision

Site visit made on 1 June 2015

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2015

Appeal Ref: APP/L3245/W/15/3009171

Land to the North of Oakleigh Cottages, Lower Heath, Prees, Whitchurch, Shropshire SY13 2BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Lisa Baer against the decision of Shropshire Council.
 - The application Ref 14/03316/OUT, dated 23 July 2014, was refused by notice dated 22 September 2014.
 - The development proposed is described as "outline application (access for approval) for the erection of four detached dwellings: formation of vehicular access".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is submitted in outline with access to be determined at this stage. I have dealt with the appeal on this basis, treating the plans that show the layout of the site as illustrative.
3. I note the detailed description of the development given on the application form. The more concise description used in the heading above is taken from the appeal form.

Main Issues

4. The main issues in the appeal are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether or not the proposed development would achieve an accessible form of development in the light of national and local policies.

Reasons

Character and appearance

5. The appeal site is a field that lies between a row of 6 semi-detached houses and a small equestrian business. Housing in the area consists of small, scattered groups of dwellings interspersed by open fields. Whilst there is a primary school in the vicinity, there appeared to be no other services, or facilities, or anywhere that can be said to be the centre of the Lower Heath.

6. The appellant notes that Oakleigh Cottages currently form the largest single group of houses in the locality. The proposal would add a further four detached houses to this group. As a result, it would create an uncharacteristically large group of houses that would not reflect the dispersed and scattered nature of housing in the area.
7. The appellant has noted that the existing and proposed landscaping would soften and mitigate views of the development. Notwithstanding this, the resulting concentration of dwellings created would be out of keeping with the character of housing in the area and detrimental to the rural landscape.
8. All matters of detail apart from access are reserved, but it is indicated that design of the properties would reflect the character of the more traditional houses in the locality, and specifically the adjacent dwellings. These indications of the form and appearance of the proposed dwellings do not overcome my concerns relating to the principle of the development.
9. Therefore, I consider that the proposed development would be damaging to the character and appearance of the area. Accordingly it would be contrary to Policy CS6 of the *Shropshire Core Strategy (adopted March 2011)* (SCS) which seeks to ensure that new development, amongst other things, reflects the local character and context. It would also be contrary to the environmental dimension of sustainable development set out in the *National Planning Policy Framework* (the Framework).

Accessible pattern of development

10. A core planning principle of the Framework is to focus development in locations which are, or can be made, sustainable. With the aim of promoting sustainable development in rural areas, paragraph 55 directs housing to areas where it will enhance, or maintain, the vitality of rural communities. In general, new residential development is most appropriate in locations where there is access to services, opportunities for employment, and alternative modes of transport than the private car (paragraph 30 and 37).
11. This is also reflected in Policy CS4 of the SCS which, in rural areas, promotes sustainability by focusing new development into Community Hubs and Clusters. These are to be identified in the *Site Allocations and Management of Development Policies* (SAMDev). Following the examination of this document in December 2104, the Main Modifications proposed by the Inspector are currently out for consultation. Although in an early version of the Plan, Lower Heath formed part of a community cluster with Prees and Higher Heath, the Council have stated that it no longer does and that it was removed due to lack of services, and concerns regarding the local road network. I note the appellant's views on this, but the settlement strategy proposed in the SAMDev is not a matter that is before me at this appeal.
12. As noted above, other than a primary school, Lower Heath does not have any other services and facilities. The site is located approximately 550m from the school. Whilst this is walking distance, the lack of any pavement along the majority of the intervening stretch of road, and the bends which restrict visibility of oncoming traffic, does not make it an attractive pedestrian route and so people may prefer to drive.

13. There is a good range of services and facilities in Whitchurch, but this is about 10km from the site. Other surrounding villages contain some facilities, and various small scale employment opportunities are located within the area. In particular, Prees contains a few shops, a small industrial estate, a medical centre and a train station. It also benefits from a bus service that links it to larger settlements, although there is no service in the evenings or on Sundays. Whilst the Framework accepts that development in one village may support services in nearby villages, these other villages are located at a distance to which most people are more likely to drive.
14. The Framework acknowledges that opportunities to travel by sustainable means, and to minimise journey lengths, will vary from urban to rural areas. Notwithstanding the fact there may be regular deliveries of dairy products and newspapers, and the use of internet shopping, the limited services within the area would require future residents to travel to meet the majority of their basic needs, and they would largely be dependent on the private car to do so. As a result the proposal would increase the amount of unsustainable journeys made. In addition, the limited range of local services means that the impact on the vibrancy and vitality of the immediate community would be minimal.
15. As a result, I consider that the proposal would not create an accessible form of development. As such it would conflict with Policy CS4 and CS6 of the SCS which seek to create sustainable places and focus development in accessible locations. It would also be contrary to the guidance within paragraphs 30 and 37 of the Framework.

Other Matters

Housing Land Supply

16. The Framework sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. The Council have indicated that since the submission of the SAMDev for examination they can demonstrate this, although they acknowledge that full weight cannot be given to this until the document is adopted. The appellant has disputed this, and states that the figures were a key issue at the examination of the document.
17. From the evidence before me I have no firm basis for reaching a conclusion on whether the Council has a 5 year housing land supply. In any case I do not consider it appropriate to prejudge the findings of the Inspector examining the SAMDev. Nevertheless, I am mindful that in the absence of a definitive position, the matter of housing supply potentially carries significant weight. I return to this matter in my conclusions below.

Affordable Housing

18. The *Strategic Housing Market Assessment (published March 2014)* indicates the need for affordable housing in the parish of Prees. Whilst it is indicated that one of the four units would be affordable, there is nothing before me that would guarantee that any element within the scheme would be affordable.
19. It is stated that it is the intention the appellant, who has lived in one of the adjacent houses for a number of years, to live in one of the houses, and that the affordable unit would enable her daughter and family to return to the area. The other two houses would be open market dwellings, the sale of which would

fund the construction of the other two dwellings. I note that the Parish Council have confirmed that the appellant has a local connection to the parish in relation to the Council's policy on affordable housing exception sites, which allows self-build affordable housing as an exception to normal planning policies.

20. However, whilst I note these personal circumstances, no mechanism has been provided to control the occupancy of any of the dwellings, and so to ensure that this would happen. In addition, no financial information has been provided to substantiate the assertion that the open market dwellings are needed to enable the provision of the affordable unit.
21. In the light of changes made to Planning Policy Guidance in November 2014, it is disputed by the parties whether the proposal would be required to make a contribution towards the provision of affordable housing. However, as I am dismissing the appeal for other reasons, I have not determined whether this contribution is necessary.

Other Considerations

22. The construction of the dwellings would contribute to local economic activity, and spending by new residents would be beneficial to the economy of the area as would any contribution that development would make through the Community Infrastructure Levy. However, in respect of these matters, the effect of this small-scale proposal would be limited. Whilst it is stated that the development would not have any adverse impact on wildlife or ecology, an absence of harm in this respect is a neutral factor.
23. My attention has been drawn to a number of applications for houses in villages that have been approved by the Council. Whilst the appellant has indicated that the circumstances of these cases are similar to the appeal case, the Council's evidence indicates that the circumstances of these applications are not directly comparable to those which apply to this appeal. I have, in any case, reached my own conclusion on the appeal proposal on the basis of the evidence before me.

Conclusion

24. In the event that one accepts the appellant's argument that the Council cannot demonstrate a five year supply of housing land, paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
25. The workings of the presumption in favour of sustainable development are set out in paragraph 14 of the Framework. This states that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking, the presumption means approving proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

26. In terms of harmful impacts, the proposal would have a detrimental impact on the character and appearance of the area. In addition, the development proposed would not be an accessible form of development, and so would create a pattern of development that the Framework seeks to resist.
27. Therefore, even if one attaches significant weight to the benefits that the provision of housing on the appeal site would bring, these benefits, taken together with the limited economic benefits are significantly and demonstrably outweighed by the harm I have identified, when assessed against the policies of the Framework as a whole.
28. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR

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Appeal Decision

Site visit made on 11 May 2015

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24th June 2015

Appeal Ref: APP/L3245/W/15/3005522

Land off Chain Lane, Maesbury, Near Oswestry, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr T.E.R. Morris against the decision of Shropshire Council.
 - The application Ref 14/03104/OUT, dated 9th July 2014, was refused by notice dated 5th November 2014.
 - The development proposed is erection of 3 no. dwellings and associated garaging to include means of access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline form with all matters other than access reserved.

Main Issues

3. The main issues for this appeal are:
 - Whether a 5 year supply of deliverable housing sites can be demonstrated;
 - Whether the proposal would conflict with policies for residential development which seek to achieve a sustainable pattern of development;
 - The effect of the proposal on the character and appearance of the countryside; and
 - If any harm arises in respect of these, whether it is outweighed by housing land supply or other considerations.

Reasons

4. The parties dispute whether a five year supply of housing is available. The Council have put forward policies from the *Shropshire Adopted Core Strategy* (Core Strategy), the *Oswestry Borough Local Plan* (1999) and the emerging *Shropshire Site Allocations and Management of Development Document* (SAMDEV).

5. Policies CS4 and CS5 of the Core Strategy seek to direct rural development to within "Community Hubs and Clusters" at locations and at a scale to be identified in the SAMDEV, and to restrict development outside them. The SAMDEV will therefore give effect to the Core Strategy. It is at present under examination and is at an advanced stage. Nevertheless, I cannot be sure that the policies and site allocations within it will be adopted in their current form. From the evidence before me I have no firm basis for concluding that a 5 year supply of housing land is available. It would also be inappropriate to prejudge the findings of the Inspector examining the SAMDEV.
6. Policy H5 of the Local Plan identifies locations for housing development. Policy CS4 seeks to direct new development, including housing, to identified settlements or groups of settlements in the rural area. Furthermore, with the exception of specific categories of development to meet local needs, CS5 seeks to prevent new residential development within open countryside. Having regard to relevant case law¹ I consider that Policy H5 of the Local Plan and Policies CS4 and CS5 of the Core Strategy are policies which make provision for the supply of housing. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up to date if a five year supply of housing sites cannot be demonstrated.
7. The Framework also advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 states that where relevant policies are out of date, planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits. In the absence of a demonstrable five year housing land supply the modest contribution the development would make to housing in the County weighs in favour of the proposal.

Sustainable Pattern of Development

8. The Framework recognises that rural housing can enhance or maintain the vitality of rural communities (paragraph 55). It also states that in general, isolated homes in the countryside should be avoided unless there are special circumstances, none of which apply to this proposal. The Framework also states that new residential development is most appropriate in locations where there is access to alternative modes of transport other than the private car (paragraph 30) and where journey lengths to services and opportunities for employment can be minimised (Paragraph 37). Although the Framework differs from the Core Strategy in that it refers to isolated dwellings, rather than merely precluding development outside defined boundaries, these objectives within the Framework are consistent with those of Core Strategy policies CS4 and CS5.
9. The appeal site lies around 800 metres outside the settlement of Maesbury Marsh, although a cluster of dwellings lies at the crossroads with Maesbury Road, a short distance from the site. The only services I noted in the village itself are a public house and a village hall. A canal side shop and café also lies outside the village some distance from the site, as does a further pub at Ball. This general absence of services and facilities would require residents to travel outside the village for even basic needs, and although the local bus service to Oswestry and Shrewsbury runs every 2 hours from Maesbury Marsh, occupants

¹ South Northamptonshire Council v SSCLG & Robert Plummer [2013] and Cheshire East Council V SSCLG & Richborough Estates Partnership [2015]

would nonetheless be likely to be largely dependent upon the private car to access services.

10. Although the proposal might not, of itself, generate very large amounts of traffic, the cumulative effect of allowing such development in the countryside would increase the amount of unsustainable journeys made. Furthermore, due to the lack of local services, the degree to which new residential development would be able to contribute to sustain existing facilities or contribute to vitality would be limited.
11. Taking these factors into account I conclude that the proposal would not contribute to the achievement of a sustainable pattern of development. It would therefore conflict with guidance within paragraphs 30 and 37 of the Framework and would be contrary to the objectives of policies CS4, CS5 and CS6 of the Core Strategy, which seek to direct new development to locations where it can improve the sustainability of local communities.

Character and Appearance of the Countryside

12. The Framework recognises the intrinsic character and beauty of the countryside. The appeal site comprises the corner of a largely flat field, which is currently partly screened from the lane by a high hedgerow. The site is detached from the main part of the village and along with the two adjoining dwellings is removed from the dwellings along Maesbury Road, on a narrow country lane in open countryside. It has a quiet rural character, due to the distance from the main settlement, its open agricultural appearance, and the lightly trafficked nature of the road.
13. In this context 3 further dwellings would have a significantly urbanising effect on the tranquil and undeveloped character of the countryside in this location. Although the proposed development could in part be screened by hedgerows, the dwellings would nonetheless be visible in immediate views from Chain Lane and in longer range views across open farmland from Maesbury Road. This additional built form, and the activity that would arise from the occupation of the dwellings, would erode the tranquillity of the area, detracting from its rural character and its open agricultural appearance.
14. It would therefore conflict with Policy CS6 of the Core Strategy which seeks to protect, conserve and enhance the natural environment taking into account local context and character. These aims are consistent with those of the Framework, expressed within paragraph 17 – Core Planning Principles.

Other Considerations

15. The development would make only a limited contribution to sustaining local services and would provide 5 construction jobs, which would be temporary. I attribute limited weight to both these matters.
16. I note the absence of harm to ecology or flooding, but this absence of harm is a neutral factor that does not weigh in favour of the proposal. I also note that another housing scheme has recently been approved in the village. I am not aware of the circumstances which led to this approval, which in any case, do not alter my views in relation to the proposal before me.
17. The appellant has indicated his willingness to provide a S106 to provide for a affordable housing contribution. Notwithstanding recent changes to Planning

Policy Guidance² the document does not form part of the submission before me, and it is therefore not a matter to which I can attribute any weight.

18. The appellant has also provided figures relating to the contribution the development, and future residents, would make to the local economy, including CIL, the New Homes Bonus, Council Tax and the spending power of future residents. However, these figures are based on assumptions which may, or may not apply to the future proposal, which is currently in outline form only. There is also no clear indication that such receipts would be used in a way that would be directly related to the development proposed. This limits the weight I can attribute to them.

Conclusions

19. The proposal would provide 3 dwellings which the appellant considers to be deliverable. Having regard to the impetus for growth within the Framework I attribute to this matter some weight. The proposal would not be in an accessible location and so would result in an unsustainable pattern of development which the Framework seeks to resist. It would also detract from the character of the countryside in this location. These are matters which both carry significant weight.
20. The identified harm that the proposal would cause to the character and appearance of the countryside and as a result of the inaccessible location of the proposal would significantly and demonstrably outweigh the benefit to housing supply, and the other stated benefits. I therefore conclude that the proposal would not, on balance, comprise a sustainable form of development as advocated within the Framework (paragraphs 7 and 14).
21. Therefore, for the reasons set out above, and having regard to all other matters raised, I dismiss the appeal,

Anne Jordan

INSPECTOR

² Written Ministerial Statement of the 1st December 2014 by Brandon Lewis MP and subsequent amendments to Planning Policy Guidance in relation to Paragraph: 012Reference ID: 23b-012-20150326 "Are there any circumstances where infrastructure contributions through planning obligations should not be sought from developers?"



Appeal Decision

Site visit made on 11 May 2015

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24th June 2015

Appeal Ref: APP/L3245/W/15/3005642

Land west of Mountfield, Dovaston, Oswestry, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr K C Brown against the decision of Shropshire Council.
 - The application Ref 14/02634/OUT, dated 12 June 2014, was refused by notice dated 28 November 2014.
 - The development proposed is outline application for a single detached residential dwelling and garage to include means of access.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is made in outline form with all matters, other than access, reserved.

Main Issues

3. The main issues for this appeal are:
 - Whether a 5 year supply of deliverable housing sites can be demonstrated;
 - The effect of the proposal on the character and appearance of the countryside;
 - Whether the proposal makes adequate provision for protected species; and
 - If any harm arises in respect of this, whether it is outweighed by housing land supply or other considerations.

Reasons

Housing Land Supply

4. The parties dispute whether a five year supply of housing is available. The Council have put forward policies from the *Shropshire Adopted Core Strategy* (Core Strategy), the *Oswestry Borough Local Plan* (1999) and the emerging *Shropshire Site Allocations and Management of Development Document* (SAMDEV).
5. Policies CS4 and CS5 of the CS seek to direct rural development to within "Community Hubs and Clusters" at locations and at a scale to be identified in

the SAMDEV, and to restrict development outside them. The SAMDEV will therefore give effect to the Core Strategy. It is, at present, under examination and the Council refer to significant unresolved objections. Although it is at an advanced stage I cannot be sure that the policies and site allocations within it will be adopted in their current form. From the evidence put before me I therefore have no firm basis for reaching the conclusion that the Council has demonstrated a five year housing land supply. It would also be inappropriate to prejudge the findings of the Inspector examining the SAMDEV.

6. Policy H5 of the Local Plan identifies locations for housing development. Policy CS4 seeks to direct new development, including housing, to identified settlements or groups of settlements in the rural area. Furthermore, with the exception of specific categories of development to meet local needs, CS5 seeks to prevent new residential development within open countryside. Having regard to relevant case law¹, I consider that Policy H5 of the Local Plan and Policies CS4 and CS5 of the Core Strategy are policies which make provision for the supply of housing. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up to date if a five year supply of housing sites cannot be demonstrated.
7. The Framework also advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 states that where relevant policies are out of date, planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits. In the absence of a demonstrable five year housing land supply the modest contribution the development would make to housing in the County weighs in favour of the proposal.

Character and Appearance of the Countryside

8. The appeal site lies on the edge of the village, immediately adjacent to the existing dwelling and opposite a large, recently constructed bungalow. It comprises part of an open field which provides a natural break between Dovaston and Mountfield, a cluster of properties which lie on the edge of nearby Kinnerley. Dovaston is largely linear in pattern, with dwellings of varying ages and styles forming a sporadic and stretched out frontage. In contrast, Kinnerley, is larger in size, and a more distinct, nucleated settlement. The two villages are separated by a short stretch of open fields.
9. The development site lies within the natural gap which separates the two settlements. I note that the site is relatively small and that any dwelling on it could be relatively modest in size and could be designed to reflect the prevailing architectural style. Nevertheless, the open field fulfils an important function in distinguishing Dovaston from the adjoining settlement. The site is clearly visible from the road and even if screened it would detract from the open appearance of the site. Even modest built form in this location would have an urbanising effect which would erode the open gap and lead to the coalescence of the two distinct settlements. This would be at odds with the intrinsic character of the countryside and its open appearance in this location.
10. The Council have put forward a number of policies of which I consider CS6 and CS17 of the CS to be most relevant. The proposal would conflict with Policy

¹ South Northamptonshire Council v SSCLG & Robert Plummer [2013] and Cheshire East Council V SSCLG & Richborough Estates Partnership [2015]

CS6 of the Core Strategy which seeks to maintain and enhance the vitality and character of the countryside, and with Policy CS17 which seeks to protect Shropshire's environmental assets, and its local character and distinctiveness. These aims are consistent with those of the Framework, expressed within paragraph 17 – Core Planning Principles.

Protected Species

11. During the application process the Council's Biodiversity Officer identified the site as being within 110m of a pond which may have the potential for Great Crested Newts to be present. As such she recommended that an ecological assessment be carried out to assess the potential impact of the proposal on protected species, prior to the application being determined.
12. Circular 06/05² advises in paragraph 99 that 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. Although the presence of Great Crested Newts has not been identified, the site lies within a short distance of the pond across open farmland. Given the position and open nature of the site, and its proximity to the potential habitat, the potential impact of the proposal upon protected species is a material consideration to which I must have regard.
13. The appellant has indicated that based on standing advice from Natural England (Rapid Risk Assessment Tool) the potential effect of developing the whole of the site (0.10 hectares), in the event that Great Crested Newts were present, would be unlikely to be harmful. However, this tool is not intended to replace a habitat survey, which should nonetheless be undertaken as a first step to determining risk to protected species. Based on the information before me I am not aware of any circumstances which would negate the need to address this issue as a material consideration. The failure to do so runs contrary to national policy in relation to protected species and must be given significant weight.
14. I am aware that the Council did not raise this issue as a concern. I am also advised that other developments in the area have not been subject to the requirement for a habitat survey. I am not aware of the circumstances of these developments, and am therefore unable to say whether they are directly comparable. Nevertheless, they would not lessen the potential for harm that would arise in this case.
15. On the second matter I therefore conclude that the proposal would fail to take appropriate account of the impact of the development on protected species and would thereby conflict with guidance contained within the Framework and Circular 06/05 which seeks to implement a precautionary approach in relation to developments which may impact upon the habitats of protected species.

Other Considerations/Balancing Exercise

16. Notwithstanding the encouragement in the Framework to respond to opportunities for growth, a single additional dwelling would make a very small contribution to housing provision within the Borough. Although residents would

² Circular 06/05: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System.

be dependent upon the private car to access some services, a reasonable level of services would be available locally in Kinnerley, and in this regard, by rural standards, it would be in a relatively accessible location and could be constructed sustainably. It would also play a small part in sustaining local services. I also attribute this matter some weight.

17. I note the absence of harm to flooding, but this absence of harm is a neutral factor that does not weigh in favour of the proposal. I also note that another housing scheme has recently been approved in the village. I am not aware of the circumstances which led to this approval, which in any case, do not alter my views in relation to the proposal before me.
18. The development would provide 2 construction jobs, which would be temporary. The appellant has also provided figures relating to the contribution the development, and future residents, would make to the local economy, including CIL, the New Homes Bonus, Council Tax and the spending power of future residents. However, these figures are based on a number of assumptions which may, or may not apply to the future proposal, which is currently in outline form only. There is also no clear indication that such receipts would be used in a way that would be directly related to the development proposed. This limits the weight I can attribute to them.
19. The appellant has indicated his willingness to provide a S106, in line with requirements contained within the submitted Supplementary Planning Document³. However recent Planning Policy Guidance⁴ is a material consideration to which I must have regard. It states that affordable housing contributions should not be sought from developments of 10 or less dwellings, or 5 or less dwellings in designated rural areas. In the light of this change to national policy, such a contribution would fail to meet all the tests of paragraph 204 of the Framework in relation to planning obligations as it would not be necessary in this case. As a consequence, although the appellant's offer to provide an affordable housing contribution would be in line with development plan policy, it is not a matter to which I can attribute any weight.
20. The proposal would erode the established character of the countryside in this location. It would also fail to take appropriate account of the impact of the development on protected species. These are both matters to which I attribute substantial weight.

Conclusion

21. The identified harm that the proposal would cause to the character and appearance of the countryside and to protected species would significantly and demonstrably outweigh the benefit to housing supply in a relatively accessible location and its contribution to sustaining local services. I therefore conclude that the proposal would not, on balance, comprise a sustainable form of development as advocated within the Framework (paragraphs 7 and 14).

³ Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document (SPD) Adopted September 2012

⁴ Written Ministerial Statement of the 1st December 2014 by Brandon Lewis MP and subsequent amendments to Planning Policy Guidance in relation to Paragraph: 012 Reference ID: 23b-012-20150326 "Are there any circumstances where infrastructure contributions through planning obligations should not be sought from developers?"

22. Therefore, for the reasons set out above, and having regard to all other matters raised, I dismiss the appeal,

Anne Jordan

INSPECTOR

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Appeal Decision

Site visits made on 11 and 12 May 2015

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 June 2015

Appeal Ref: APP/L3245/W/15/3006425

Land at East Side of Ellesmere Road, Tetchill, Shropshire, SY12 9HU.

- 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 Mrs Angela Williams of Seven Sisters against the decision of Shropshire Council.
 - The application Ref 14/01777/FUL, dated 28 March 2014, was refused by notice dated 31 October 2014.
 - The development proposed is installation of a single wind turbine and associated ancillary infrastructure.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of accuracy I have altered the site address. This does not affect the planning merits of the proposal.
3. The Council have included as part of their appeal statement a submission by John Campion Associates (JCA). This refers specifically to the LVIA¹ submitted with the application, and JCA's previous comments on it, commissioned by the Council in order to assess the application. It also refers to the appellant's responses to these concerns. I am satisfied that this statement does not raise any issues which were not raised at the application stage, but rather provides further commentary of the Council's concerns. I am also satisfied that the Appellant has had the opportunity to comment on it. I have taken all these views into account in my determination of the appeal.

Main Issues

4. The main issues for the appeal are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the setting of listed buildings in the area.

Policies

5. The development plan includes the *Shropshire Local Development Framework Adopted Core Strategy* (Core Strategy). Policy CS5 of the CS seeks

¹ Landscape and Visual Impact Assessment Single Turbine, Ellesmere, Shropshire, JBA Consulting, April 14.

development which will maintain and enhance the character and vitality of the countryside where they improve the sustainability of local communities including developments for required community uses or infrastructure which cannot be accommodated within existing settlements. Policy CS6 seeks to create sustainable places which respond to the challenge of climate change. It also seeks to protect, conserve and enhance the natural built and historic environment, taking account of the local context and character. Policy CS17 seeks development which protects and enhances Shropshire's environmental assets and which contributes to local distinctiveness.

6. Amongst other things, the *National Planning Policy Framework* (the Framework) seeks to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources. It seeks to increase the use and supply of renewable and low carbon energy, by encouraging local planning authorities to provide a positive strategy to promote energy from renewable and low carbon sources. When determining planning applications, applicants should not be required to demonstrate the need for renewable energy. The Framework also requires account to be taken of the different roles and character of areas and to recognise the intrinsic character and beauty of the countryside.
7. Footnote 17 of the Framework advises that in assessing the likely impact of potential wind energy development, regard should be had to *the National Policy Statement for Renewable Energy Infrastructure*. Amongst other things, this, in effect, emphasises the role onshore wind generation can play in the Government's strategy for meeting the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020.
8. Paragraph 131 of the Framework advises local authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and of new development making a positive contribution to character and distinctiveness.
9. I have also noted the Ministerial Statements of 6 June 2013 and 18 June 2015 and the Planning Practice Guidance (PPG). Amongst other things, these provide that the cumulative impact of wind turbines should be taken into account and the need for renewable energy does not override environmental protection or the planning concerns of local communities. This guidance has not introduced any new factor such as to cause my decision to rest on anything other than the issues I have identified above.

Reasons

The Benefits

10. The appellant predicts that the 800Kw turbine could produce a total of approximately 1,400 MWh per year. In the wider environment, this would offset approximately 658 tonnes of CO₂ annually and would be enough energy to power around 280 houses each year². The turbine is proposed to generate electricity direct to the grid. The Framework advises that small scale projects provide a valuable contribution to cutting greenhouse gas emissions. The

² Appellant's Statement.

proposal would assist in tackling climate change³ and help meet national and local targets and ambitions for reducing greenhouse gas emissions. It would also add to the security of supply. These renewable energy benefits can be given considerable weight in the overall planning balance.

11. The proposal would also provide a stable income for the agricultural business, which employs 2 local people. It would reduce its carbon footprint and contribute towards its viability, facilitating future expansion and diversification. These are benefits to which I also attribute some weight.

Visual Impact and Landscape Character

12. The site lies within an area of rolling farmland characterised as "Principal Timbered Farmlands" within the *Shropshire Landscape Typology*. This is made up of undulating arable fields of varying sizes with irregular field boundaries of established hedgerows. Small copses of woodland and hedgerow trees are scattered across the landscape along with single farmsteads and small clusters of farm buildings. The undulating topography and high hedgerows provides an intimate character when experienced in the winding lanes and footpaths within it, with sustained views broken up by hedgerows and rising land in places. Although buildings and structures such as telegraph poles and power lines punctuate the landscape, these features sit comfortably within the rolling topography and do not generally detract from wider views.
13. Steep sided hills to the west and south provide longer ranging views across to the more open farmland beyond to the north. Within these views built intrusion is more evident, including existing turbines in medium to long ranging views. Further afield small clustered settlements and the town of Ellesmere are also visible in the landscape.
14. The proposed turbine would have a hub height of 73 and a rotor diameter of 52.9 metres, the total height to blade tip would be 99.7 metres. It would be located in an open field with an access track and concrete base. As part of the proposal the appellant provided a LVIA which contains views from 14 viewpoints in the local area and an assessment of the zone of theoretical visibility which I have dealt with in turn below.
15. In close and medium range views the turbine would be visible within the open field and would not be seen within the context of other existing structures. Due to its height it would be very prominently visible in sustained views from the A495. This would extend from the brow of the hill on the approach from the direction of Welsh Frankton, to the outskirts of Ellesmere, in the vicinity of the business park. From viewpoint 4k, adjacent to the turn to Newnes, the turbine would form a starkly conspicuous feature which would dominate local views from both the road and from the rising land behind, including the caravan park, where the scale of the turbine, and its rotation would form an omnipresent feature in views to the south. From Coachmans Bridge (viewpoint 4f) the turbine would also be starkly prominent, due to both its height, and its slightly elevated position in the rising fieldscape, and would protrude significantly above the treeline. Sustained views would also be available from the canal towpath (viewpoint 4d), which forms part of the Shropshire Way. In these local views the turbine would be visible as a dominant feature which would

³ Including 'in combination' effects with other renewable and low carbon energy schemes.

- detract from the unspoilt qualities of the surrounding countryside, and would have a very significant adverse effect on local landscape.
16. A number of mid-range views have been provided in the LVIA. These show that the turbine would clearly be seen as a moving structure above established field boundaries. It would be evident above the treeline from Tetchill (viewpoint 4m), from Ellesmere College (viewpoint 4l), around a kilometre from the site. It would also be prominently visible above the building line from Ellesmere Canal Branch Junction (viewpoint 4c), around 2km from the site. Viewpoints 4g (Montgomery Canal) and viewpoint 4e (Lee Old Hall), more than 2km from the site show the turbine largely obscured by tree cover. However, tree cover is intermittent and in points close to these, clear views of the turbine would nonetheless be available. In this context, the turbine would be clearly visible as a manmade element into the largely open skyline above the trees. In these views the turbine the visual effect of the turbine on the surrounding countryside would still be significant.
17. From viewpoints further afield the prominence of the turbine would be diminished by bands of trees, intervening buildings and the undulating topography, which would diminish the visual impact of the structure in the landscape when viewed from a distance. Other, smaller turbines which are operational in the area, predominantly to the south of the site would also be visible in these views. As such, the proposal, although visible, would not feature prominently in long ranging views as shown in viewpoints 4i at Nilgreen, 4j in Ellesmere and from Oswestry Hill Fort, viewpoint 4n. However, from viewpoint 4h, the shore path at the Mere has an open view of the lake with a backdrop of the historic skyline of the Ellesmere. Although the LVIA shows no impact, Figure 2d shows that views of the turbine would nonetheless be possible. On clear days the turbine would be a distracting intrusion at an attractive local beauty spot. The effect on some long ranging views in and around the site would therefore still be notable.
18. Therefore, although I consider that the proposal would have only a moderate impact upon long range views, in local and mid-range views the visual impact of a turbine of the scale and location proposed, would nonetheless have a very significant harmful effect on the local area. Given the limited lifespan of such developments such harm would be temporary and reversible. Nevertheless, this identified harm weighs heavily against an approval in the planning balance.

The Effect of the Proposal on Heritage Assets

19. In support of the application a Cultural Heritage Assessment (CHA) has been submitted, relating to the impact of the proposal on 32 identified heritage assets within 5km of the appeal site. Of these 29 are listed buildings, two are scheduled monuments and one is a locally listed park. I have dealt with the effects upon the main groups of buildings as identified by Historic England, below.

The Canal Bridges

20. A number of canal bridges and a canalside cottage are Grade II listed. These are Bridges 60, 62 and 63. In views from these structures across open countryside the turbine will feature prominently. I concur with the CHA that the nature of the bridges means that their architectural and aesthetic value is appreciated primarily from the canal and towpath. In close views in and

around each bridge from the canalside the turbine would not feature and as much of the historic significance of the structures is derived from their function and intimate association with the Ellesmere Canal this historic attribute would remain unchanged. However, in some longer views along the towpath the turbine will also be clearly visible along with the listed asset, and this would in some cases intrude upon its setting. This is particularly the case on the approach from the north to Bridge 60, and from the canalside in views of the canalside cottage at bridge 62. The overall impact on the significance of these heritage assets would therefore be moderate but harmful.

The Wharf Buildings

21. The buildings known as the British Waterways buildings comprise a collection of well-preserved Grade II and Grade II* canalside wharf buildings including Beech House, Beech House Cottages, a drydock, office and timber store and a blacksmiths and joiners shop. The setting of this group is derived from their association with the canal and with each other and the most significant views are those within the complex and in and around the canal junction. However, the wider setting of these buildings when viewed from the north is of largely open countryside and this would be affected by the introduction of the turbine as a prominent feature within the open countryside to the west. This would have a moderate impact upon the setting, which would amount to a slight impact on the overall significance of these heritage assets.

Hardwick Hall and its Surrounds

22. Hardwick Hall is a Grade II* Listed Building. It is set within formal gardens including terraces and a ha-ha which are also grade II listed, and which contain a listed barn. The submitted CHA concludes that the immediate setting of the listed complex would not be affected, as views of the turbine from the site would be screened by trees. However, the wider parkland around the main complex, including a cricket ground are locally listed and these provide a setting for the listed Hardwick Hall and gardens.
23. The CHA states that the impact on the parkland would be slight, as the turbine would feature in only limited views. The LVIA also contains an assessment of the visual impact of the proposal from the approach road, across the cricket ground. I also viewed the site from the entrance on the A495. In these views the turbine would be prominently visible above the treeline. Therefore although I concur that key views of the Hall and its intimate setting would not be impacted, views of its wider setting would also clearly feature the turbine, and these would occur from more than a limited part of its setting. In this regard, the overall impact on the significance of the heritage asset would be adverse and more than slight.

Conclusion on Heritage Assets

24. In considering whether to grant planning permission for development which affects the setting of a listed building special regard should be had to the desirability of preserving that setting. The proposal would lead to some harm to the settings of a number of listed buildings in the locality. This harm, would amount to less than substantial harm to the significance of the heritage assets. The Framework directs that such harm nonetheless carries considerable importance and weight against the approval in the overall planning balance.

Other Matters

25. Some interested parties have raised concerns relating to the impact of the proposal on local wildlife. I note that the appellant's ecological survey found that no significant wildlife populations would be likely to be harmed by the proposal and that the County Ecologist raised no objections to the proposal on that basis, and I share the view that harm to local wildlife would be unlikely to arise. There is also no cogent evidence to support concerns that the development would harm tourism interests.
26. I note the concerns of many that the proposal would cause a distraction to road users. However, the Council did not consider that any harm to highway safety could be demonstrated. Although I noted that traffic travels along the A495 at relatively high speeds, the road is mostly straight and views of the turbine would be sustained. Although the structure would come in and out of view when driving on side roads and local lanes in and around the appeal site, traffic would be travelling at lower speeds and the structure would not represent such a distraction as to hamper the attention of road users. In this regard the proposal would not represent a significant risk to highway safety in the locality.
27. A noise assessment was provided with the application. This assessed the predicted impact at the nearest noise sensitive receptors and took into account the cumulative impact of one existing and one proposed turbine. The assessment shows that the proposed turbine would marginally exceed the guidance thresholds that are recognised by the Government as being appropriate when considering wind energy schemes.
28. The Council's Environmental Health Officer was satisfied that the proposal could be considered acceptable, subject to appropriate noise conditions. Based on the information before me, although I am mindful of the concerns raised by some residents in relation to the potential impact of noise, I do not consider the noise levels predicted to fall significantly above the recommended levels, and therefore have no basis to disagree with the stance taken by the Council on this matter. A number of residents have raised specific concerns in relation to Low Frequency or Infra-noise, however, I have no evidence that this, and its effect on human health, would be a particular concern in this case. The application was also accompanied by a shadow flicker assessment which indicates that potential impacts in this regard could be effectively dealt with by a planning condition. The matters of noise and shadow flicker do not therefore weigh against the proposal.
29. I note the concerns raised in relation to the effect of the proposal on horses using nearby roads, in particular the matter of fall-over distances. From a review of the submitted plans I note that the proposed site of the turbine would exceed the recommended minimum fall-over⁴ distance to any shown highway or bridleway. This matter does not therefore add to my concerns. Finally, a number of residents have raised the potential impact of the proposal on local property values. This is not a material planning consideration or one to which I can attribute any weight.

⁴ The height of the proposed turbine to blade tip + 10%

The Balancing Exercise

30. In coming to a decision I take into account the contribution the development would make to renewable energy provision, and that the Framework identifies the reduction in greenhouse emissions and the delivery of renewable energy infrastructure as being central to sustainable development (Paragraph 93). I attribute significant weight to these considerations. Against this I weigh the significantly harmful impact the proposal would have on visual amenity in local and mid-range views, and the moderately harmful impact on the wider landscape, which would be both temporary and reversible. I add to it the harm the proposal would cause to the setting of a number of heritage assets in the locality. The Framework directs that this must carry considerable importance and weight.
31. Together the harm to landscape and visual amenity, and the harm the proposal would cause to a number of heritage assets in the locality would be greater than the benefits to renewable energy provision, and to the economic sustainability of the agricultural holding. Whilst it would comply with Policy CS6 of the CS, it would conflict with policies CS5 and CS17. The development would not comprise sustainable development and would conflict with national policy as defined in the Framework.
32. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude, on balance, that the appeal should not succeed.

A Jordan

INSPECTOR

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