



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

Date: Monday, 27 July 2015

Committee:
North Planning Committee

Date: Tuesday, 4 August 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:

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



AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the Minutes of the meeting of the North Planning Committee on 7th July 2015, attached, marked 2.

Contact Emily Marshall on 01743 257717.

3 Public Question Time

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

4 Disclosable Pecuniary Interests

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

5 Land Adj To The Builders Yard Known As No. 8 Barkers Green, Wem - 15/01036/FUL (Pages 9 - 34)

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.

6 Land adjoining 8A St Martins Moor - 13/05016/OUT

Outline application for the erection of 2 no. detached dwellings (all matters reserved) – Report to Follow.

7 Proposed Residential Development Land South East of Childs Ercall - 14/03006/OUT (Pages 35 - 52)

Outline application for the erection of 2 detached dwellings; to include means of access.

8 Proposed Development Land North East of Cemetery, Swan Hill, Ellesmere - 15/00291/OUT (Pages 53 - 64)

Outline application for residential development to include means of access.

9 Land East Of Tarporley Road, Whitchurch - 15/00433/OUT (Pages 65 - 82)

Outline application (access for approval) for residential development; formation of new vehicular access to include removal of trees.

10 Meadowland, Sleaf, Harmer Hill, Shrewsbury - 15/01921/EIA (Pages 83 - 114)

Erection of a poultry building, an expansion of the existing poultry business on site.

11 Meadowland, Sleap, Harmer Hill, Shrewsbury, - 15/01937/EIA (Pages 115 - 146)

Erection of a poultry building, an expansion of the existing poultry business on site.

12 Meadowland, Sleap, Harmer Hill, Shrewsbury - 15/01938/EIA (Pages 147 - 178)

Erection of a poultry building, an expansion of the existing poultry business on site.

13 Appeals and Appeal Decisions (Pages 179 - 238)

14 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Wednesday 2nd September 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

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Committee and Date

North Planning Committee

4th August 2015

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 7 July 2015

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

2.00 - 4.55 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

Present

Councillor Arthur Walpole (Chairman)

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

21 Apologies for Absence

There were no apologies for absence received.

22 Minutes

That the Minutes of the meeting of the North Planning Committee held on 9th June 2015 be approved as a correct record and signed by the Chairman.

23 Public Question Time

There were no public questions, statements or petitions received.

24 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.

25 Proposed Solar Farm At Rhosygadfa, Gobowen, Shropshire (14/03946/FUL)

The Planning Officer (Technical Specialist) introduced the application for the construction of a solar farm, comprising the installation of (circa) 40,000 ground mounted solar panels, 8 inverters, electricity substation and 2.4m high security fencing (revised description), confirming that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on the surrounding area. Members' attention was drawn to the schedule of additional letters

which contained additional comments from an objector and an additional email of objection that had been received from a resident of Hindford.

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

Councillor Ellis, on behalf of Selattyn and Gobowen Parish Council spoke against 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 Charmley addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- There had been a lack of consultation with the residents of Whittington;
- The proposed development was inappropriately located and on good quality agricultural land;
- The site was not appropriate for this type of development; and
- The solar farm would be visible from the Oswestry Hillfort.

Mr Nick Williams, 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 the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Lloyd, 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 had received a large number of objections to the proposals from local residents;
- The proposed development did not create additional jobs for the area, the development would result in heavy traffic along narrow lanes, the loss of habitat for a variety of wildlife and the loss of good quality agricultural land; and
- The proposed development would have detrimental impact on an area that was well used by walkers, families and local residents.

During the ensuing debate, Members acknowledged the need to generate renewable energy, however concern was expressed at the scale and mass of the proposed development and its detrimental effect on the surrounding landscape and the public rights of way which ran alongside and through the site. Additionally it was felt that the proposed hedgerow and planting scheme did not adequately mitigate against the detrimental effect on the surrounding landscape. Concern was also expressed at the loss of productive agricultural land.

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

RESOLVED:

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

It was acknowledged that substantial weight should be given to the generation of renewable energy proposed by the scheme, noting local and national policies, however very significant weight was given to the scale and massing of the development which would introduce an alien and discordant element to the landscape causing significant detrimental visual impact to the landscape character of the surrounding area. Recognising the intrinsic character and beauty of the countryside, the Committee were concerned that the proposed hedgerow and tree planting scheme in conjunction with the existing trees and hedgerows did not adequately mitigate against the detrimental impact of the development on the surrounding countryside. The Committee also felt that the proposed development would result in diminished enjoyment of the public rights of way which ran alongside and through the site. Although the available evidence was that the site was not best and most versatile agricultural land, nevertheless it had been productive and was not brownfield land where it was considered that such developments would be better sited, this being a further albeit minor, negative factor weighing against the scheme. Accordingly it was considered that the impacts of the scheme were not and could not be made acceptable. For these reasons it was felt that the proposed development was contrary to Shropshire Council Core Strategy Policies CS5, CS6 and CS17 and paragraphs 17, 98, 111 of the National Planning Policy Framework (NPPF).

(Councillor Gerald Dakin requested that his vote against this resolution be recorded.)

26 Proposed Residential Development West Of Cottage Lane, St Martins, Shropshire 15/00566/REM

The Principal Planning Officer introduced the application for the 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, confirming 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 schedule of additional letters, which provided a written response to the comments made by St Martins Parish Council.

Councillor Sue Schofield, on behalf of St Martins Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Ms Katherine Else, 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 the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Steve Davenport, 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 density of the proposed development was not appropriate and in excess of the indicative layout, which was for 5-8 dwellings;
- The proposed development was accessed via a narrow lane, which was used frequently by heavy farm vehicles and also children walking to school;
- The site was low lying, situated on the edge of the village and within a flood risk area; and
- Condition 8 of the outline consent, in relation to drainage had not been discharged.

In response to the comments made by the local ward councillor in relation to Condition 8, the Principal Planning Officer explained that a detailed drainage scheme could not be designed and submitted until the layout of the development and the number of dwellings was known and the Condition required a scheme to be submitted before development commenced.

During the ensuing debate, the need to protect the hedges on the boundaries of the site was questioned. In response, the Principal Planning Officer explained that a condition to protect the hedgerow in perpetuity would not meet the required tests, however it was suggested that an additional condition be included to refer back to the conditions attached to outline planning permission (14/01390/OUT) might be appropriate.

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

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendation and an additional condition to refer back to the conditions attached to outline planning permission (14/01390/OUT).

27 Land Adjoining Bombay Palace, Dudleston Heath, Shropshire, SY12 9JY (15/00325/REM)

The Principal Planning Officer introduced the 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 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.

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

Mr Andrew Beeston, 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 the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Steve Davenport, 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 Parish Council and local residents supported development of the site, however the Parish Council had pushed to get the existing building listed and developed into smaller units, which were in keeping with the existing properties within the surrounding area; and
- Smaller, affordable properties were needed within the village.

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

RESOLVED:

That planning permission be granted in accordance with the Officer's recommendations.

(Councillor David Minnery left the meeting at this point and did not return.)

28 Land Adjacent To The Builders Yard Known As No. 8 Barkers Green, Wem, Shropshire 15/01036/FUL

The Principal Planning Officer introduced the application for change of use of land for the stationing of caravans for residential purposes for 1no. gypsy pitch together with the formation of hardstanding and utility/dayroom ancillary to that use.

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

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

Mr N Green, 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.

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 surround area and neighbouring properties.

(Councillors Gerald Dakin and Peggy Mullock left the meeting at this point and did not return.)

**29 Development Land East Of Shrewsbury Road, Cockshutt, Shropshire
13/04868/OUT**

The Principal Planning Officer introduced the report which was an addendum to a previous report on 1st July 2014, when outline application for the erection of five dwellings and formation of vehicular access (all matters reserved) had been granted.

During the ensuing debate, the Committee whilst acknowledging the potential benefits that housing would bring, considered that the site was located outside the development boundary and had not been identified as a site for future residential development within the emerging SAMDev Plan.

RESOLVED:

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

The Committee noted that the site had not been identified as a site for residential development within the emerging SAMDev Plan and, in view of the stage the plan had reached, very significant weight was given to this; they also acknowledged the potential benefits that housing would bring and gave weight to this but did not consider that these benefits, or any other material considerations, would outweigh the emerging plan or the policy support for a plan led approach. As such the development of the site would be contrary to policy CS4 and CS5 of the Core Strategy, policy S8.2 of the SAMDev and the NPPF.

30 Land Off Greenfields Lane, Market Drayton, Shropshire 14/03782/OUT

The Principal Planning Officer introduced the report which was an addendum, to a report presented in November 2014 and sought member's approval to amend the wording of a condition on planning application 14/03782/OUT.

RESOLVED:

That, the wording of the Condition 5 be amended as recommended in the Officer's report.

31 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the northern area be noted.

32 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 pm on Tuesday 4th August 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date

North Planning Committee

4th August 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

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 occupied by Gypsy/Traveller families only.
- 2.No vehicles parked on site over 3.5tonnes
- 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 facilities and services.
- 6.5.6 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 on 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.
- 6.5.6 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.
- 6.4 **Impact on character and appearance**
- 6.4.1 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.
- 6.4.2 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.

6.4.3 There are no special landscape designations in this location and the land is not within the green belt.

6.4.4 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.

6.4.5 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.

6.4.6 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.

6.5 **Residential amenity**

6.5.1 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.

6.5.2 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.

6.5.3 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.

6.5.4 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.

6.5.5 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.

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

6.6 **Historic and natural environment**

6.6.1 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.

6.6.2 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.

6.6.3 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.

6.6.4 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.

- 6.6.5 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.

6.5 Highways

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

- 6.5.2 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.

- 6.5.3 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.

6.6 Drainage

- 6.6.1 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.

- 6.6.2 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.

- 6.6.3 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.

- 6.6.4 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.'

6.6.5 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.

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

6.7 **Other**

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

6.7.2 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)

Cabinet Member (Portfolio Holder)
Cllr M. Price

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 comprise 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.



Committee and Date

North Planning Committee

4th August 2015

Item

7

Public

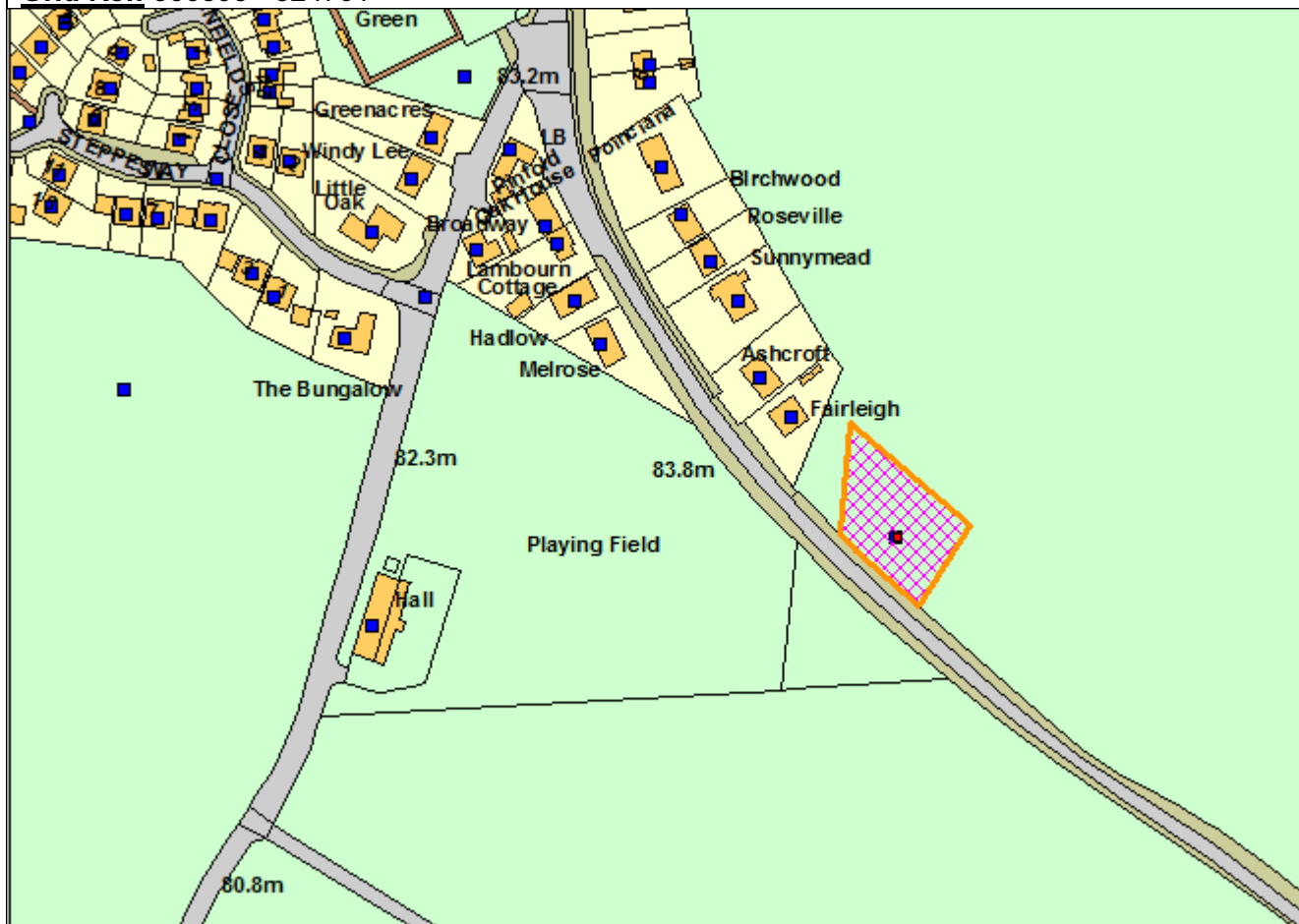
Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03006/OUT	Parish:	Childs Ercall
Proposal: Outline application for the erection of 2 detached dwellings; to include means of access		
Site Address: Proposed Residential Development Land South East Of Childs Ercall		
Applicant: Mr & Mrs P Clifton		
Case Officer: Sue Collins		email: planningdmne@shropshire.gov.uk
Grid Ref: 366895 - 324761		



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

REPORT

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

1.0 Background

- 1.1 On the 29th September 2014 it was resolved by Northern Planning Committee to grant outline planning permission for the erection of 2 no. detached dwellings including the access (all other matters reserved), 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 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.
- 1.3 Since that time there have been further developments 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, Cophorne, 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 29th September 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 applicant wishes to progress the S106 and it is at a point where they are ready to sign the document.
- 2.6 Although the applicant is prepared to sign 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 was 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 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 H7 - Within the former North Shropshire Local Plan a development boundary is included for Childs Ercall, where 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 of 1 or 2 new dwellings in a small gap in an otherwise built up frontage – subject to general development control criteria and environmental expectations would be considered acceptable. The application site lies outside of this boundary but is within approximately 4 metres of it.
- 3.8 At the time of writing it is recognised that the above saved Local Plan policy H6 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 H6 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 close to built development to the north west of the site 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 SAMDev policy - In terms of the SAMdev Plan the settlement of Childs Ercall has been identified as a Community Hub and the Parish Council have given their agreement to the designation of a boundary around the main built up area of Childs Ercall village. No other amendments to the development boundary are proposed.
- 3.12 The SAMDev guidelines for Childs Ercall are for future housing growth of about 10 homes to support existing facilities and services and to help deliver additional community recreation provision. Between April 2011 and March 2015, 4

dwellings had been completed and 6 had gained planning permission. In addition there are opportunities for sustainable development infilling, small groups of houses and conversions on suitable sites and windfall sites within the development boundary. In this case the proposal is a small development comprising two dwellings and they are closely associated to other development at the village facilities. As such their impact on the built form of the village would be minimal whilst providing extra windfall dwellings.

- 3.13 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'.
- 3.15 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.
- 3.16 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.
- 3.17 As a Community Hub it is accepted in principle that Childs Ercall is a sustainable settlement and capable of accommodating an appropriate level of new housing development. The site is close to existing building development 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.
- 3.18 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 is ready to be signed. The planning permission can therefore be released without undue 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.

- 3.19 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.
- 3.20 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.
- 3.21 The issue of the 5 year land supply has been the subject of challenge through the appeal process.
- 3.22 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.
- 3.23 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".
- 3.24 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.
- 3.25 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 is ready to sign the necessary S106 agreement to secure the affordable housing contribution.**

- 4.2 The site is located outside the current Childs Ercall 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 S11.2 when SAMDev is adopted. However, whilst SAMDev is at a stage where significant weight can be given to policy S11.2, 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 Childs Ercall as a Community Hub the proposal site is not isolated in open countryside as such but is closely related to the saved Childs Ercall settlement boundary with existing development on the one side.
- 4.3 On balance the location of the proposed dwellings relatively close to the village of Childs Ercall entails that the proposal might be considered to be sufficiently sustainable to meet the overriding aims of the NPPF and to warrant departure from the local plan. It is therefore recommended that in this case that greater weight is accorded to the NPPF than the saved local plan policies and that the proposed development is deemed to be acceptable in principle.
- 4.4 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and the introduction of the proposed detached dwellings would appear to be commensurate with the general pattern and density of development within the area. The proposal is unlikely to have any implications for highways safety or for protected or priority habitats.
- 4.5 Although the site lies outside the development boundary for Childs Ercall, the number of dwellings proposed is two which is a small scale development. This would provide a small windfall opportunity for development without compromising the built form of the village.
- 4.6 The advanced stage of the application whereby the S106 is ready to be signed

and a draft 12 month permission agreed is noted and 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.

5.0 Recommendation

5.1 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.

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the

public at large, rather than those of any particular group. Equality will be one of a number of ‘relevant considerations’ that need to be weighed in planning committee members’ minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

SPD Type and Affordability of Housing

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 Andrew Davies
Appendices APPENDIX 1 - Conditions

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 Council’s 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.

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

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

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The means of enclosure of the site
The levels of the site
The means of access for disabled people
The drainage of the site
The finished floor levels

Reason: To ensure the development is of an appropriate standard.

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

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

6. No burning shall take place on site including during clearance of the site.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

7. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 80 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.

8. Visibility Splays shall be provided in accordance with the following:
 - (a) a point 2.4 metres measured back from the centre-line of the proposed highway carriageway from the nearer edge of the highway carriageway;
 - (b) a point 43 metres long measured along the nearest edge of the highway carriageway from the intersection with the main highway carriageway;
 - (c) a straight line joining the above points.

These splays shall thereafter be permanently kept free of all obstacles or obstructions at the level of the adjoining highway carriageway / at a height not exceeding 0.9 metres above the level of the adjoining carriageway.

Reason: In the interest of highway safety.

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

9. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety

Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
2. Under the Highways Act 1980 - Section 184(11) you are required to submit an application to form a crossing within the highway over a footway, grass verge or other highway margin. Please note that there will be a charge for the application. Applications forms can be obtained through the web site www.shropshire.gov.uk/hwmaint.nsf. If you

wish further advice please contact the Shropshire Council's Highway Development Control Team.

3. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
4. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. A fee is payable per request.

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

5. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access runs onto the highway.

As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new access, driveway, parking area/ paved area
- ' Attenuation
- ' Greywater recycling system

' Green roofs

Details of the use of SuDS should be indicated on the drainage plan.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

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Committee and Date
 North Planning Committee
 4th August 2015

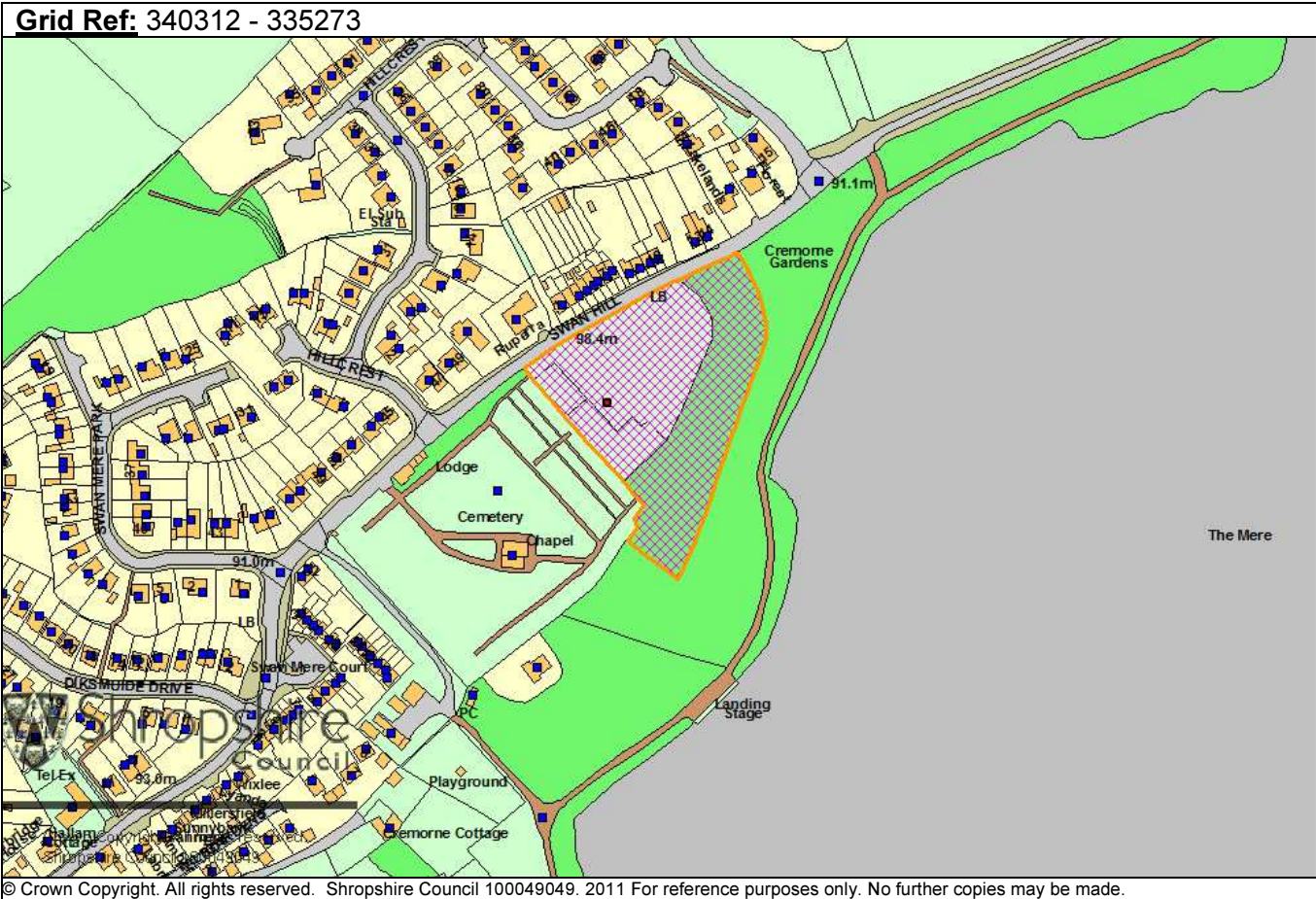
Item
8
 Public

Development Management Report

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

Summary of Application

Application Number: 15/00291/OUT	Parish:	Ellesmere Urban
Proposal: Outline application for residential development to include means of access		
Site Address: Proposed Development Land NE Of Cemetery Swan Hill Ellesmere Shropshire		
Applicant: CMS JAW Ltd		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	



Recommendation:- Refuse the planning application for the following reason:

1. The proposed scheme would provide economic and social benefits including: the provision of a new homes and construction jobs, however, these benefits would be achieved regardless of where the new dwellings would be built. Also, any future occupants would play a role in the community and would be likely to support local services. Future occupiers would have convenient access to the extensive facilities in Ellesmere. However, this must be balanced against the harm that would be caused to the setting of The Mere, Cremorne Gardens, the street scene in Swan Hill, and the setting of the adjacent conservation area which weighs negatively against the proposal. It is considered that the proposal conflicts both with Policy H5 of the North Shropshire Local Plan and CS Policies CS3 and CS5 of the adopted Core Strategy and with the Council's overall strategic approach to delivering sustainable development through the identification of suitable housing sites in the emerging SAMDev DPD.

REPORT

1.0 THE PROPOSAL

- 1.1 This application follows a previous planning appeal against non-determination which was dismissed by the Planning Inspector in 2014 (13/01988/OUT). At that time the appeal scheme was for outline consent for 22 dwellings and also included an extension to the existing cemetery, all matters except access were reserved for later approval. At the time of the appeal the Council did not have a 5 year supply of housing land and therefore the presumption in favour of sustainable development applied meaning that local plan polices were not up to date and therefore paragraph 47 of the NPPF came into effect requiring schemes to be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 1.2 This current proposal now proposes a development of up to 9 dwellings and also includes a 0.6ha parcel of land which would be gifted to the Mere Charitable Trust as community land; this could then be used for whatever purposes it wishes. The scheme also includes a strip of land adjacent to the existing cemetery which would be landscaped appropriately to mitigate the impact of the new dwellings on the cemetery.
- 1.3 The Planning Inspector considered in 2014 that the proposal for 22 dwelling conflicted with relevant planning policies that sought to restrict development outside development boundaries, and with the Council's overall strategic approach to delivering sustainable development through the identification of suitable housing sites in the emerging SAMDev. The Inspector also found that the proposed development would be harmful to the character and appearance of the surrounding area in terms of its impact on the setting of the Mere, the Cremorne Gardens, the streetscene in Swan Hill, and also the setting of the adjacent conservation area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies to the eastern side of Ellesmere between The Mere and Swan Hill and directly to the east of the existing cemetery and chapel. The site lies outside of the development boundary as defined in the North Shropshire District Council Local Plan which runs along the northern edge of the site. The

appeal site is also outside of the Ellesmere Conservation Area, the boundary of which runs along the south eastern boundary and along the edge of Swan Hill in a north easterly direction.

- 2.2 Historically the site has been used for grazing and more recently for the keeping of poultry. The site is currently unused and overgrown in its appearance. The site is elevated above the adjacent road called Swan Hill by approximately 1 metre, the site then levels out before dropping steeply down towards the Mere. Much of this sloping land is covered with mature trees which provide a buffer between the waters edge of the Mere and the urban area of Ellesmere. The land surrounding the Mere forms part of Cremorne Gardens which is an informal recreation area and includes a children's playground, small BMX track as well as formal footpaths linking a variety of sculptures. The site itself also contains a number of trees that are protected by tree preservation orders.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application has been submitted on behalf of a CMS Jaw Ltd which Cllr Claire Wild is a director of. Therefore in accordance with Part 8 of the Scheme of Delegation must be considered by the Planning Committee.

4.0 Community Representations - Consultee Comments

Town Council-

Members object to this planning application because as a council they are in support of the Localism Act where by the views of the public are recognised as paramount, but this council can not recommend approval as we have grave concerns about its impact to the environment, resulting in possible contamination of the Mere which is central to the quality of our community life, and in addition could have a financial impact on tourism which is an important element in the success of this town with many visitors from other Countries and tourism should not be underestimated in this area. These concerns were demonstrated by a petition signed by the majority of our residents on the earlier application for development at this site (13/01988/OUT) which was dismissed at appeal, but the residents and Town Council Views have not altered. Considerable work has been done to develop leisure and nature experiences at the Mere and Cremorne Gardens and it is essential we maintain a sustainable balance between housing and tourism. This area is outside the 'existing' recognised development boundary but also that the latest revised proposals (e.g. SAMDev preferred sites) will not change that and, furthermore, the Town Council (and recognised in the latest SAMDev proposals) seeks to take the existing development boundary elsewhere around the Mere further away from the Mere side to protect and enhance the ecological, tourist and economic interests of this important natural, environmental and tourist resource for the long term benefit of the town and future generations.

The fact that through community supported housing developments elsewhere in the town area Ellesmere is making a significant contribution (c. 800 new homes) in a phased way over the next plan period to support Shropshire Council to achieve its required housing targets.

In the conclusion of the appeal decision to application 13/01988/OUT, the investigating Inspector Neil Harrison stated "I conclude that the proposal conflicts both with saved LP Policy H5 and CS Policy CS3 in relation to the restriction of development outside development boundaries, and with the Council's overall strategic approach to delivering sustainable development through the identification of suitable housing sites in the emerging SAMdev DPD. Significantly in the balancing exercise I have also found that the proposed development would be harmful to the character and appearance of the surrounding area in terms of its unacceptable impact on the setting of The Mere, the historic designated parkland of Cremorne Gardens, the street scene in Swan Hill, and the setting of the adjacent conservation area." Before dismissing the appeal he ended his report in the following way "I have taken into account all other material considerations raised but they are insufficient to persuade me that the appeal should be determined other than in accordance with the development plan.

As far as Ellesmere Town Council and local residents are concerned they can see that the amount of housing has been reduced the actual footprint size of this application is the same as the previously proposed application, and they do acknowledge that the height of the housing has being slightly reduced, but they feel that this development will still be harmful to the character and appearance of the surrounding area in terms of its unacceptable impact on the setting of The Mere with this in mind the Town Council makes the following material planning objections:

Roof silhouettes would redefine landscape despite being slightly reduced in height since the original application.

Concerns of the nearness of the houses to the buffer zone.

The terms of location for housing in this area is completely inappropriate.

There should be a covenant on the buffer land to protect these areas this must be owned by the applicant as it is not in the ownership of Shropshire Council.

Parking and access on Swan Hill is also a major concern and could also have an impact on the Cemetery.

Outdoor Recreation-

Following discussions and a site visit of the proposed development at Swan Hill, Ellesmere, we are of the opinion that there is enough recreational land outlined for transfer, to add value to the Mere Charitable Trust site. We feel that there is an opportunity to create a circular walk from the existing Mere path leading to the Peneley Gate and returning via the proposed transfer land to the corner of the cemetery land. This could be created as part of the development or monies set aside within a S106 agreement. The proposed transfer area is currently scrub land and again this would need to be cleared and treated to create a suitable area to fit in with the existing park land . The old fencing would need to be removed and a tree survey undertaken on any trees being passed over and any resulting works identified. SC would then be looking for a commuted sum for ongoing maintenance over a 20 year period.

Public Protection-

Land is unlikely to be contaminated due to the presence of the adjoining cemetery.

Ecology-

no objection subject to conditions

Archaeology-

no comments to make on the application

Drainage-

no objection in principle subject to appropriate conditions.

Trees-

It is expected that any proposed development would make provision to retain any trees identified as significant or potentially significant in the terms of public amenity or provide substantial justification and mitigation where their removal is proposed. As this is an outline application the information should demonstrate that there is adequate space to allow for the proposed numbers of structures and associated infrastructure and to provide the required protection / separation zones around retained trees.

- Public Comments

41 letters of objection received commenting on the following issues:

Scheme would be less than 50m from used footpaths

Affect peace and tranquillity

Detrimental visual Impact

Loss of privacy

Over bearing impact

Impact on the peace of the cemetery

Poor access

Impact on infrastructure

Land is needed for cemetery expansion

Conflicts with current and new planning policies

Will harm the character of the area

Impact upon tourism

Impact on wildlife

Loss of access for cemetery workers

Imp[act on the Mere from pollution

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Visual impact and landscaping

6.0 OFFICER APPRAISAL**6.1 Principle of development**

6.1.1 Central government guidance in respect of this application is contained within the National Planning Policy Framework (NPPF), at the heart of the frameworks there is a presumption in favour of delivering sustainable development, the NPPF describes this as being a “golden thread running through plan making a decision taking”. In paragraph 7 of the NPPF it identifies the three dimensions to sustainable development, these are economic, social and environmental, all three

aspects must be sought to be able to deliver sustainable development.

- 6.1.2 Also of relevance is the Shropshire Core Strategy which Polices CS3, CS5, CS6, CS7, CS8, CS9 and CS17. The emerging policies contained within the Council's SAMDev document should also be awarded significant weight. However, full weight cannot yet be awarded as it is not yet fully adopted by the Council although it is now at the stage where the Inspector has provided her proposed modifications which are currently under consultation. SAMDev identifies locations considered suitable for housing development such as locations promoted by the Town Council. The application site (ref: ELL016) was considered at the preferred options stage of SAMDev but it was not carried forward into the final draft plan submitted to the Planning Inspector to be considered at the examination in public. No changes are suggested in the proposed modifications which would affect this particular site.
- 6.1.3 Therefore, in accordance with SAMDev the site has to be assessed as open countryside in accordance with the Council's SAMDev plan. The previous Planning Inspector considered that CS3 should apply, and this says that balanced development of appropriate scale and character that respects a town's distinctive character will take place within the development boundaries and on sites allocated for development". The explanation for Policy CS5 says areas outside the development boundaries identified through the SAMdev process are considered to be open countryside for planning policy purposes, where, subject to local need exceptions, there will be a presumption against residential development. The CS also makes clear that any future changes to development boundaries will be determined through future review of the CS.
- 6.1.4 At the present stage the Council considers that it is able to demonstrate a sufficient 5 year land supply as required by the NPPF and this has been acknowledged in many recent Shropshire appeal decisions in relation to residential development. (The Council published a five year land supply statement in August 2014 which demonstrates that the Council has a five year land supply). The SAMDev Plan Inspector has now confirmed the proposed main modifications to the plan following the examination in public and are currently subject to a 6 week consultation. As such 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. This applies in the case of this application.
- 6.1.5 It is considered that neither the adopted planning policies contained within the adopted Local Plan or those contained within the emerging SAMdev document support the principle of housing development on this site. The Planning Inspector also took a similar view despite SAMDev being earlier in the adoption process, he concluded that the development conflicted with relevant planning policies that sought to restrict development outside development boundaries, and with the Council's overall strategic approach to delivering sustainable development through the identification of suitable housing sites in the emerging SAMDev. The Inspector also found that the proposed development would be harmful to the character and appearance of the surrounding area in terms of its impact on the setting of the Mere, Cremorne Gardens, the street scene in Swan Hill, and the setting of the

adjacent conservation area.

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

- 6.2.1 Since the previous appeal was dismissed the area proposed for housing has been reduced to just 9 dwellings as a maximum. The applicant has also provided an indicative layout to show how the site could be developed. The scheme includes a single point of access into the development.
- 6.2.2 Whilst the scale of the development site has been reduced, so that dwellings are moved further away from the Mere and that all of the dwellings would be bungalows or dormer bungalows it is considered that these would still have a visual impact when viewed from the Mere and from Swan Hill. The applicant has stated that the inclusion of a buffer would mean that no dwelling would be less than 50m from the main path that skirts the Mere, the dwellings would however be less than 50m away from the more informal paths that extend away from the Mere.
- 6.2.3 The appeal Planning Inspector recognised the importance of the Mere in terms of its recreational and ecological value and its contribution towards tourism. The fewer dwellings now proposed and the lower height would likely avoid the creation of a new skyline previously referred to by the appeal Inspector.
- 6.2.4 The residential use of the site would significantly change the character and appearance of the site and its surroundings. What is presently down to rough grass land would take on a domestic character. There are likely to be enclosing fences, lawns, patio area, shrub and flower bed planting, and a range of domestic paraphernalia such as washing lines, garden furniture and perhaps children's play equipment. It is likely that, once established, there would be the subsequent (and entirely reasonable) wish to introduce outbuildings such as a garage, sheds and similar structures some of which are very likely to be visible through the trees when viewed from the Mere. The Inspector agreed with the Council previously that the land provides an area which affords a visual transition between the urban area on the north side of Swan Hill and the wooded areas and rural character of Cremorne Gardens and The Mere. Whilst this new application helps to preserve this visual transition by providing a larger buffer there would still be some detrimental impact when viewed from the Mere side of the site.
- 6.2.5 The appeal Inspector also recognised the semi-rural character of this section of Swan Hill adjacent to the application site and how the site is elevated above Swan Hill. The reduced density has provided an opportunity to push the dwellings further back from Swan Hill by including driveways running across the front of the site, as shown on the indicative plan. However, it is considered that providing dwellings, even one and a half storey dwellings, on the site would continue to be a prominent feature of the site and erode the semi-rural character of the Swan Hill. The applicant has shown that the existing hedgerow would be replaced behind the visibility splays, however, it is considered that this would not mitigate against the visually detriment caused by the development of the site.
- 6.2.6 The applicant is proposing that a substantial area of land would be gifted to the Mere Charitable Trust to provide a buffer between the Mere and the proposed development. It is acknowledged that there would be some community benefit to

having this additional land and as confirmed by the Council's Parks and Green Space Team Leader as it would allow the opportunity to provide a circular walk which could either be provided as part of the development of with monies secured by a S106 agreement which would include a commuted sum for ongoing maintenance for a period of 20 years. This proposal is a positive benefit which can be awarded some weight in the consideration of the application. The draft unilateral undertaking submitted as part of the application includes provisions for the transfer of the land and does not include any mechanisms for making the land usable or for its ongoing maintenance.

6.3 **Highway Safety**

6.3.1 The scheme proposes a single point of access to the site from Swan Hill. The applicant has confirmed on the plans that visibility splays measuring 2.4 by 43m in both directions. Although the Council's Highways Officer has not commented on this current application he didn't raise any objection to the previous scheme which involved more dwellings and a similar central access arrangement.

6.4 **Ecology**

6.4.1 The Mere is an important site in terms of its ecology, it is a Local Wildlife Site which supports a wide range of protected and priority species and habitats. As part of the application an independent phase 1 Environmental Survey was provided and considered by the Council's Ecologist. The Council's Ecologist considered that no surface water from the proposed development should be able to drain into the Mere. It is considered that the impact of the development on ecology can be dealt with by appropriate planning conditions.

6.5 **Affordable Housing**

6.5.1 A S106 will secure a financial contribution towards the provision of affordable housing in accordance with the Shropshire Viability Index as set out in the adopted SPD.

6.5.2 Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, 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.

6.5.3 Given the above, it is considered that should 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 the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 **CONCLUSION**

7.1 The proposed scheme would provide economic and social benefits including: the provision of a new home and construction jobs are recognised. However, these benefits would be achieved regardless of where the new dwellings would be built.

Also, any future occupants would play a role in the community and would be likely to support local services. Future occupiers would have convenient access to the extensive facilities in Ellesmere, including employment, schools, medical services shops and the recreational benefits the Mere has to offer. Therefore, the site is broadly sustainable. However, this must be balanced against the harm that would be caused to the character and appearance of the area which weighs negatively against the proposal.

7.2 It is considered that the proposed development conflicts with both adopted and emerging planning policies and the identified benefits of the scheme do not outweigh the harm.

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3- Market Towns and Other Key Centres
CS4- Community Hubs and Clusters
CS5- Countryside and Greenbelt
CS6- Sustainable Design and Development Principles
CS11- Type and Affordability of Housing
CS17- Environmental Networks

SAMDEV

RELEVANT PLANNING HISTORY:

PREAPP/13/00096 Proposed construction of 22 houses and 5 metre extension to cemetery. NPW 16th October 2013
13/01988/OUT Construction of 22 no. dwellings and extension to existing cemetery
NONDET 27th January 2014

Appeal

13/02058/NONDET Construction of 22 no. dwellings and extension to existing cemetery
DISMISSED 27th January 2014

11. Additional Information

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Ann Hartley

Appendices

APPENDIX 1 - Conditions

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Committee and Date

North Planning Committee

4th August 2015

Item

9

Public

Development Management Report

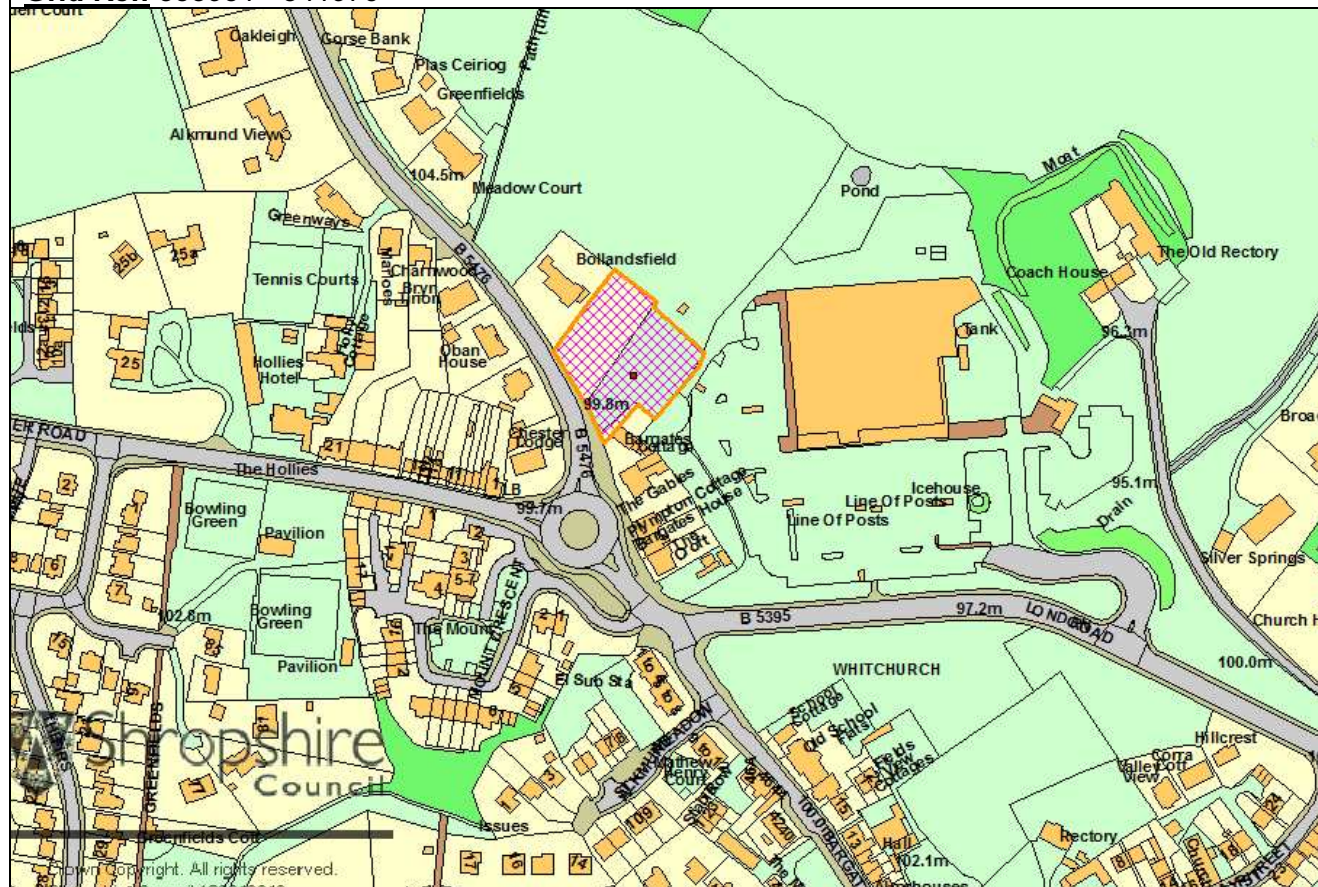
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/00433/OUT	Parish: Whitchurch Urban
Proposal: Outline application (access for approval) for residential development; formation of new vehicular access to include removal of trees	
Site Address: Land East Of Tarporley Road Whitchurch Shropshire	
Applicant: Muller Property Group	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 353951 - 341970



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Recommendation: That, subject to satisfactory resolution of the outstanding archaeological issues, planning permission be granted, subject to a S106 legal agreement to secure affordable housing and subject to the conditions listed below.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on the site. Access is detailed in this outline application with all other matters of layout, scale, appearance and landscaping reserved for later approval. Access is proposed on the site frontage onto Tarporley Road.
- 1.2 In support of the application a planning statement, tree survey and ecology report have been submitted. The application was also submitted with an indicative layout showing 6 dwellings (made up of 4 detached dwellings and a pair of semi detached properties). However, during the course of the application it was recommended that this indicative layout plan be withdrawn of officers raised concerns about the scale and layout of the development in the context of the surrounding area. The layout was subsequently amended and, although indicative, is considered to be more appropriate as discussed below.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is an area of land which is currently partly the garden to the detached dwelling known as Bollandfield and partly a small paddock adjacent to the garden. It is an area of 0.3 hectares and lies between Bollandfield and Bargates Cottages. The garden is elevated above the level of Tarporley Road and above the level of the paddock. There are existing trees and hedges within the garden and also on the boundary of the site with the recently completed Sainsbury store.
- 2.2 The site is within Whitchurch, wholly within the development boundary as shown in the saved North Shropshire Local Plan and also within the proposed development boundary in the SAMDev. It is between existing housing which fronts Tarporley Road and close to the services and facilities of the market town.
- 2.3 A separate application has also been submitted for land to the north of Bollandfield (reference 15/00916/OUT), however as a separate application that site needs to be considered under its own merits, as does this application. The two are only connected through ownership and the applicant.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The views of Whitchurch Town Council are contrary to the recommendation of officers. As such the determination of the application can not be delegated without discussion with the local members and Chairman and Vice Chairman of the planning committee as detailed in the adopted scheme of delegation.

Applications where the Parish Council submit a view contrary to Officer's approval based on material planning reasons; the following tests need to be met:

- These contrary views cannot be reasonably overcome by negotiation or the imposition of planning conditions; and

- The Principal Planning Officer in consultation with the committee Chairman or Vice Chairman and the Local Member agrees that the Parish Council has raised material planning issues that the application should be determined by committee.

The issues raised by the Town Council were considered by the local members and Councillor Biggins agreed that the development should be considered by committee. Councillor Biggins considers that the proposal is overdevelopment which is not in keeping with the character of the area and the existing dwelling.

The matters were discussed with the Chair and Vice Chair and the Chairman has agreed that the local member concerns and the Town Council concerns are valid and should be debated at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Whitchurch Town Council – object on poor visibility when exiting the site and the application is not in the SAMDev.

4.1.2 Archaeology – The proposed development site lies partially within and immediately adjacent to the historic core of Whitchurch as defined by the Central Marches Historic Towns Survey. In particular, it lies partially within the area of the Bargates Roman cemetery (HER PRN 05918), and adjacent to a site where seven inhumation burials said to be of Roman date were discovered in the earlier part of the 20th century (HER PRN 00914), and also adjacent to a group of post-medieval tenement plots (HER PRN 05956). On the basis of current evidence, the proposed development site is therefore deemed to have high archaeological potential.

The National Planning Policy Framework (NPPF) Paragraph 128 states that 'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed or has potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'.

In view of the above, it is advised that an archaeological desk based assessment and the results of a field evaluation, to comprise an archaeological trial trenching exercise, should be commissioned by the applicant, and the results submitted to the Local Planning Authority prior to the determination of this application. This in turn would enable an informed planning decision to be made regarding the archaeological implications of the proposed development in relation to Paragraphs 129 and 135 of the NPPF, and whether any further archaeological mitigation would be required as a condition of any planning consent in relation to Paragraph 141. There should be no determination of the application until the results of the desk based assessment and field evaluation has been submitted to the Local

Planning Authority.

The Historic Environment Team would be able to provide the applicant with further guidance on how to proceed with carrying out the archaeological field evaluation.

- 4.1.3 **Highways** – The Highway Authority raises no objection to the granting of outline consent.

The visibility splays provided are acceptable although in reality the splays will be in excess of those shown due to the alignment of the carriageway in either direction from the access point. The access junction has been shown with access splays, which are not satisfactory and should be designed with 7.5 metres access radii and recommends that this is dealt with by condition.

- 4.1.4 **Ecology** – Has read the application and the supporting documents, including the Extended Phase 1 Habitat Survey by Arbor Vitae dated January 2015, the Great Crested Newt Survey by Arbor Vitae dated May 2015 and also referred to the Ecological Assessment by TEP dated August 2013 submitted with application 13/03413/OUT.

Following receipt of the May 2015 GCN survey advised that Arbor Vitae carried out four presence/absence surveys on Ponds 1 and 3 in April and May 2015, which recorded no great crested newts. All ponds are over 100m from the development site and no mitigation measures are considered necessary. Informatives are recommended

Bats

None of the trees on site were assessed to have potential to contain bat roosts. An informative is recommended in relation to lighting and bats, which may use the tree lines for foraging.

Nesting birds

The hedgerows on site provide good habitat for breeding birds. There will be some tree and hedge removal to create access to the land. Bird boxes have been erected on the site boundaries as part of the adjacent Sainsbury's development. An informative is therefore recommended.

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.

- 4.1.5 **Trees** – No objection in principle - 5 "C" category trees are to be removed - two for a new access. A full application will need a Tree Protection Plan and mitigation planting
- 4.1.6 **Drainage** – 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.

On the planning application, it states that the surface water from the proposed development is to be disposed of directly to a main sewer. Such a connection

must not be made, as it can result in increased flood risk elsewhere. As part of the development's surface water drainage system, the applicant must demonstrate how measures such as the following have been considered:

- Surface water soakaways
- Attenuation pond
- Infiltration basin
- Rainwater harvesting system
- Water Butts

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

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

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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

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

The 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.

Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be

applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area
 Less than 25 – 10%, 30 – 8%, 35 - 6%, 45 – 4%, More than 50 – 2% (Flats & apartments 0%). Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

4.2 Public Comments

4.2.1 6 letters of representation have been received raising the following concerns:

- 6 semi-detached houses would be overdevelopment and out of keeping with other development on Tarporley Road
- Is part of a larger scheme for nearer 60 dwellings
- Would result in loss of sunlight, privacy and increased noise
- Loss of view from existing properties and loss of property value
- Impact on security through new houses backing onto existing with gaps in boundary
- Poor visibility from access and increase in traffic
- Further ecology information is required as protected species have been observed in the area
- Ecological surveys have not been carried out at the right time of year
- Potential loss of tree and impact on boundary hedge

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Impact on heritage
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

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 is the saved policies within the North Shropshire Local Plan (NSLP) and also the Shropshire Core Strategy (CS). Policy H5 of the NSLP is a saved policy and supports infilling and groups of houses in market towns such as

Whitchurch. As noted under the description of development above the site is within the development boundary in the NSLP and as such the development of the site for housing would be supported in accordance with policy H5. The CS policy CS3 sets Whitchurch as a market town which will have substantial development with a housing target of 1,200 dwellings over the plan period on allocated sites and windfall sites in the development boundary. The boundary will be set within the Site Allocations and Management of Development (SAMDev) plan.

- 6.1.3 The proposed development boundary for Whitchurch in the SAMDev includes the application site as within the development boundary and as such housing development on the site would also be in compliance with the SAMDev as submitted for examination. The comments of the Town Council that the site is not in SAMDev are presumed to mean that the site is not a proposed allocated site, however not all sites for housing need to be allocated, the housing target for the market town includes an percentage of houses to be provided on windfall sites. These are sites which are not allocated but are within the development boundary and are for all other reasons appropriate. It is the consideration of whether there are any other reasons, any material harm, which would outweigh the presumption in favour of development of the site within the development boundary that needs to be carried out.
- 6.1.4 It is noted that the SAMDev has yet to be adopted, although it has been submitted to the Planning Inspector for consideration and public enquiry and the main modifications have been received, published and consulted on it does not yet hold full weight. However, the Council consider that significant weight can be given to the policies within the SAMDev which are not proposed to be modified. The development boundary in relation to the planning application site is not proposed to be modified, there are no modifications proposed to housing numbers or development boundary for Whitchurch within the SAMDev and there are no outstanding objections against the SAMDev which relate to this specific site.
- 6.1.5 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it also applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan.
- 6.1.6 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.

6.2 **Is the site sustainable?**

- 6.2.1 As a site which is wholly within the development boundary of Whitchurch as shown in the NSLP and SAMDev there is less need for an assessment of sustainability. The site would be supported in principle, however the NPPF is a material consideration and sets a presumption in favour of sustainable development.
- 6.2.2 Within the submitted planning statement the agent has noted the proximity of the site to the town services and facilities, the recreation at Jubilee Park, schools and the closes bus stop and frequency of service. The agent therefore considers that the site is in a sustainable location.
- 6.2.3 However ‘sustainable development’ isn’t solely about accessibility and proximity to essential services but the NPPF states that it is ‘about positive growth – making economic, environmental and social progress for this and future generations’. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:
- *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
 - *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
 - *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*
- 6.2.4 There are economic benefits of new house building in providing housing within the settlement and, as is the case with this application, within a large settlement with a range of services and facilities and where potential employment opportunities exist. The site is within walking distance of some services and facilities, is close to a bus stop and the town also has a train station. The development of the site for housing will provide additional support for services and facilities and additional income into the town.
- 6.2.5 The development of the site will also have social benefits in providing an affordable housing contribution and a financial contribution towards infrastructure (CIL). Whitchurch is currently a 10% affordable housing area and the agent has confirmed that they are willing to provide affordable housing in accordance with policy CS11 and the SPD. This will be controlled through a S106 on the outline consent but would depend on the scale of development and the policy requirement at the time of the submission of reserved matters. CIL is dealt with separately to planning after consent but is used to help fund local and County

wide infrastructure as identified by the Council and by the local place plan.

6.2.6 The site is currently partly garden and also partly a paddock. It is grade 3 agricultural land, however it is considered that the loss of this piece of agricultural land for agricultural purposes would not be significant. The visual impact of building on this site will be a harm of the development, however this is not considered by officers to be a significant harm given the position of the site between existing housing and with current limited views of the site from public vantage points the development, subject to an appropriate layout could relate to the existing built form.

6.2.7 There are benefits to allowing this proposal that would outweigh the harm of developing this small greenfield site. Furthermore the site is within the development boundary and as such would be, in principle, acceptable. It is considered that the proposal would represent sustainable development and that there are no harms which would outweigh the benefits of the scheme.

6.3 **Impact on heritage**

6.3.1 The site is outside of the conservation area for Whitchurch but is close to a number of listed buildings and also partially within and immediately adjacent to the historic core of Whitchurch (as noted by the Council Archaeologist under section 4 above). The development is considered to have high archaeological potential and the Council Archaeologist has requested the submission of an archaeological desk based assessment and trial trenching field evaluation.

6.3.2 The applicant has submitted a heritage statement and this has been sent to the Council Archaeologist for comment. At the time of writing this report the response of the Archaeologist has not yet been received. As such the recommendation reflects this outstanding matter.

6.4 **Layout, scale and design**

6.4.1 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. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.4.2 In this instance the application is for outline planning permission where only the access is being approved at this stage. The matters of scale, layout and appearance are all matters that are to be dealt with at the later reserved matters stage. Therefore no details of the proposed dwellings have been provided with this application.

6.4.3 Within the submitted planning statement the agent suggests that the site will be seen in the context of the existing frontage development on Tarporley Road and that the retention of hedges and trees will reduce the visual impact. This will depend on the final layout of the site. As submitted the indicative layout was not considered to be appropriate by officers as it was not in keeping with the existing built form and may have resulted in a cramped appearance.

- 6.4.4 An amended indicative layout was therefore submitted which officers consider is more appropriate in that it provides one dwelling on the frontage adjacent to Bargates Cottages and the other four dwellings to the rear of the site, in line with Bollandfield all served off a single access road leading into the site and finishing at a turning head. The layout is indicative only and has not been submitted for approval at this stage. A separate application will need to be submitted for approval of reserved matters (or a full application) at a later date and at that time the layout, scale and appearance of the dwellings and the landscaping of the site will need to be considered.
- 6.5 **Impact on residential amenity**
- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.5.2 Concerns have been expressed by local residents that the proposed development would cause a loss of privacy, loss of sunlight and additional noise impact to neighbouring properties. Concern has also been raised about loss of security as there are currently gaps in the boundary with the adjacent property. This concern is noted, however any development of the site would need to provide appropriate boundary treatment to ensure the security of existing and future residents and as such it would be expected that the reserved matters application would detail boundary fences or hedges which would close any gaps.
- 6.5.3 The indicative layout initially submitted may have resulted in some loss of privacy as the proposed dwellings were shown to have rear elevations facing directly over the adjacent property which has windows in the facing elevation. However the amended indicative layout has overcome this issue by positioning the proposed dwellings gable end facing over the existing housing and furthermore the proposed layout and design of the dwellings is not to be determined as part of the outline planning application. The issue of the scale of the impact on the existing neighbouring properties and whether this impact would be unacceptable would need to be considered as part of the reserved matters application. Adequate separation to the existing properties and a layout which respects the existing built form will be sought and a development which does not protect amenity sufficiently would not be supported.
- 6.6 **Highways, access, parking and rights of way**
- 6.6.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
- 6.6.2 The submitted planning statement advises that the access, off Tarporley Road, can be provided with visibility splays of 2.4m by 56m in both directions within the site frontage and public footpath. The agent also considers that the level of traffic generated by the proposed development (of indicatively 6 dwellings) would not have a demonstrable impact on the safe movement of traffic on Tarporley Road or

the local highway network.

- 6.6.3 The indicative layout and access detail plan initially submitted showed the swept path of a refuse collection vehicle showing that the vehicle can enter and leave the site in a forward gear. This plan has been superseded by an amended indicative layout plan which does not show the same level of detail but does show an internal road which is considered to be of sufficient width and with a turning head to provide access for refuse and delivery vehicles. The indicative layout also shows parking for each property, however this plan is indicative only and the level of parking will need to be considered as part of the reserved matters application.
- 6.6.4 Whitchurch Town Council have objected to the application on two grounds, the issue of SAMDev has already been considered, the other issue raised by the Town Council was access. This has also been raised as a concern by local residents. These concerns are noted, however the technical advice provided by the Council Highway Officer is, as detailed in section 4 above, that more than sufficient visibility can be provided. The radii of the access needs to be increased, however this does not provide justification for refusal.
- 6.6.5 The concerns of residents regarding traffic increases and speeds of traffic are also noted, however the scale of the development proposed in this planning application is of a level which would not result in a severe increase in traffic on the local road network and the enforcement of speeds is not a matter which a planning application can control. Overall it is considered that the development can be provided with a safe means of access and that the size of the site will restrict the scale of development and therefore the traffic levels so that the impact is no severe.
- 6.7 **Ecology and trees**
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.
- 6.7.2 The submitted ecology report notes the recorded species in the area and also advises of the survey results of the site and surrounding area. The report notes the on-site plant species, trees and hedges. It advises that there are 3 ponds within 500m of the proposed site and notes their relationship to the site, features and HIS score. The report notes that there is no evidence of badgers and although the adjacent supermarket site had recorded evidence of badgers the sett has now been abandoned, no evidence was present of bats roosting on site although birds may use the hedgerows and trees for nesting.
- 6.7.3 Mitigation measures are recommended within the report which includes carrying out work outside of nesting season and appropriate lighting to not impact on bats commuting. The report initially advised that further survey work would be required on two of the ponds for GCN as they scored as “good” against HSI and the Council Ecologist questioned this recommendation given the recommendation and survey work undertaken on the adjacent land. A further GCN report was submitted which concluded that there was no evidence of GCN and the Council

Ecologist has agreed with this survey information and advised that there is no objection on protected species grounds.

- 6.7.4 Objectors have noted protected species and raised concerns about the loss of habitat, however the reports submitted with the application have advised that there is no evidence of species on the application site and although there may be species using the wider area (and the adjacent application site) the development, subject to appropriate conditions, is not considered to be likely to adversely affect habitat or protected species as advised by the Council Ecologist.
- 6.7.5 The submitted tree survey has recorded the presence, species, size and condition of all trees on the site and within influence distance on adjacent land. The report advises that three trees (T2, T3 and T4) are to be removed for reasons of arboricultural management, as they were noted to be suffering from Dutch Elm disease. A further two (T8 a Japanese Red Cedar and T9 a Cypress) are to be removed to provide the access. Trees T1 (Oak) and T6 (Beech) are shown as the most noteworthy and should be retained and protected during development, T6 is adjacent to the proposed access and as such the design of the access will need to take into account the requirement to retain this tree. T1 is in the garden of the adjacent property and as such the final layout of the site will need to take the tree canopy and root zone of this tree into account to ensure its retention and also ensure that the tree does not adversely affect the amenities of the future occupants of the site.
- 6.7.6 The Council Tree Officer has confirmed that the removal of 5 "C" category trees is acceptable in principle and has recommended a Tree Protection Plan and mitigation planting to be submitted with the reserved matters application. The Tree Protection Plan would therefore help to ensure the retention of existing trees including the tree within the neighbours garden.
- 6.8 **Drainage**
- 6.8.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The submitted application form advises that foul drainage is to be connected to the existing mains drainage system and that surface water is also to be connected to mains. The connection of foul drainage to mains is the most appropriate means of dealing with foul drainage, however surface water should not be discharged to a mains drainage system and on-site means of disposal should be considered.
- 6.8.2 The Council Drainage Engineer has provided detailed advice and this is provided in section 4 above. The Drainage Engineer has not raised any objections in principle to the development but has raised concerns about the disposal of surface water and has recommended conditions which will require the details of the drainage systems to be submitted. As such there is no evidence to show that the site is not capable of being drained in an appropriate method which would comply with policy CS18 and ensure that there is no added flood risk.

6.9 **Other matters**

- 6.9.1 The loss of a private view and the loss of property value raised by objectors to the scheme are not material considerations. There is no right to a private view and the development of the site would not remove any public views of interest or importance or reduce views of the open countryside beyond the site as there are not currently any public views of the countryside available.
- 6.9.2 Concern has also been raised by objectors that this application is part of a larger site for around 60 dwellings. Although, as noted in section 2 above, there is a second planning application for land to the north of this site it is a separate planning application. Should consent be granted on the site to which this report relates this will not set a precedent for the site to the north. There are different considerations to be taken into account in that application including that the site is outside the development boundary for the town. The current application can be considered on its own merits separate to the other application.

7.0 **CONCLUSION**

- 7.1 The proposed development, as amended, is considered to be acceptable in principle and compliant with the aims of the Shropshire Core Strategy and the NPPF. The development will result in sustainable development in that there are economic, social and environmental gains. It is considered that an appropriate layout, scale and design could be accommodated on the site, subject to the submission of a reserved matters application, which will ensure that the development does not adversely affect the amenities of neighbouring properties.
- 7.2 The development of the site is proposed with an appropriate access for the scale of the development, can accommodate ecology mitigation and does not result in substantial loss of habitat, can be developed without detriment to trees which are worthy of retention and can be appropriately drained. As such the scheme is considered to be acceptable in principle. 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 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.

9.0 **FINANCIAL IMPLICATIONS**

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

10. **BACKGROUND**

Relevant Planning Policies

National Planning Policy Framework

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS18 - Sustainable Water Management

H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages

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 Thomas Biggins
Cllr Peggy Mullock

Appendices
APPENDIX 1 - Conditions

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

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

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

2. Application for approval of the 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 be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

- The number of units
- The means of enclosure of the site
- The levels of the site
- The drainage of the site in accordance with the advice of the Flood and Water Management Team
- The finished floor levels
- The means of protecting existing trees and a plan showing tree protection

Reason: To ensure the development is of an appropriate standard.

5. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 – 18:00, Saturday 08:00 – 13:00. No works shall take place on Sundays and bank holidays.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall

be submitted to the local planning authority for approval in writing. Any methods contained within any approved statement shall be implemented on site.

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

7. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

8. Prior to the commencement of development full engineering details of the means of access, including access radii of 7.5 metres and the visibility splays indicatively shown on the approved plan SCP/14229/F02 shall be submitted to and approved in writing by the Local Planning Authority; the access, and visibility splays shall be fully implemented in accordance with the approved details before the development hereby permitted is first occupied.

Reason: To provide a satisfactory means of access to the site in the interests of highway safety.

9. No development shall take place until the details of the design and construction of any new roads, footways, accesses, parking and turning areas together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented prior to the dwellings are occupied.

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

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

10. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. 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 upon written notification from the local planning authority 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
 4th August 2015

Item
10
 Public

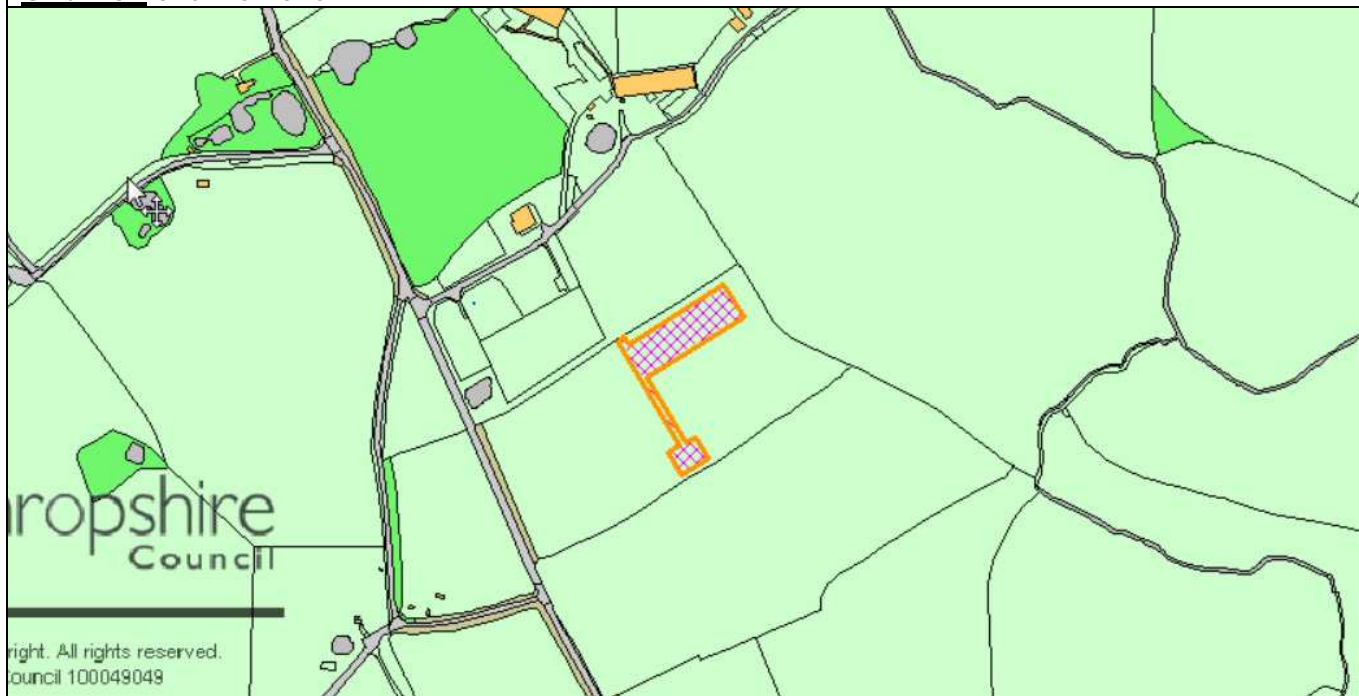
Development Management Report

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

Summary of Application

Application Number: 15/01921/EIA	Parish: Myddle And Broughton
Proposal: Erection of a poultry building, an expansion of the existing poultry business on site	
Site Address: Meadowland Sleaf Harmer Hill Shrewsbury Shropshire	
Applicant: Mr D Grocott	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 349125 - 326124



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is one of three applications for new poultry sheds at Meadowlands, Sleaf, as an extension to the three previously approved poultry sheds adjacent to the application site. Each of the three poultry sheds now proposed will be the same as the approved buildings, and will measure 108m x 24.7m. Eaves heights are 2.76m and with a low pitched roof the ridge height is 4.9m. The design and access statement submitted with the application advises that the buildings will be constructed of a steel frame, the roofs and side walls will be clad with box profile polyester coated steel sheet with high level double glazed windows to provide natural light to match the existing buildings. The three sheds are intended for a maximum of 150,000 broiler chickens at any one time, which would increase the capacity at the site as a whole to 300,000.
- 1.2 In addition the scheme proposes the erection of six feed bins which are proposed to be 7.5m high with a diameter of 2.8m and 30 tonne capacity. The previous applications on the site also included the erection of a control room, biomass boiler building and agricultural workers dwelling. However, the boiler building has not been erected and instead each poultry shed has a small boiler and wood chip store room at the end, off the hard surfaced access road. The new buildings will also connect to the existing services and facilities including the drainage system.
- 1.3 The scheme has been submitted in three separate applications by the agent and on this occasion this method of applying for permission appear to be acceptable. However, to ensure that the development is considered as a whole all three applications need to be considered alongside each other. The separating of the composite parts can allow the authority to grant parts and refuse parts if not all of the overall scheme is acceptable and as such each application will also need to be considered on its own merits.
- 1.4 EIA requirements
The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 requires that for certain types of development an EIA must be undertaken. The proposed poultry development as a whole falls within the criteria in Schedule 1 of the Regulations (as it will accommodate in excess of 85,000 broiler chickens) and an EIA was therefore a mandatory requirement of the application submission.
- 1.5 The EIA procedure is a means of drawing together, in a systematic way, an assessment of a project's likely significant effects on the environment. The Regulations at Schedule 4, Parts 1 and 2, stipulate the information to be included in an Environmental Statement (ES). An ES should identify, describe and assess the likely significant impacts of the development on the environment.
- 1.6 The application has been submitted with an ES non-technical summary as required by the regulations and the contents of this document will be considered in the relevant sections of the report below.

2.0 SITE LOCATION/ DESCRIPTION

- 2.1 The site is located at Meadowlands, a 46 acres (18.6 hectares) farm which currently contains three modern poultry buildings. The applicant is purchasing the adjacent 21.9 acres in order to expand the business. The three existing buildings

have been in place since October 2014 the agent has advised that the buildings have operated three cycles of birds. Prior to the construction of the modern buildings the site was used for poultry farming and housed two free range sheds which were used most recently to provide shelter and housing for sheep grazed on the surrounding land. The site sits in an area of countryside for planning purposes as it is outside any of the development boundaries set within the saved North Shropshire Local Plan or the SAMDev. Sleaf is located to the south of Wem and is made up of sporadic houses and farms, the private airfield operated by Sleaf Aero Club and a small number of other businesses.

2.2 Access to the site is proposed to be via the minor road known as Burma Road which is accessed off the B5476 Shrewsbury to Wem road. Wem, Clive and Myddle are all approximately 3km from the site and Loppington is 3.75km away. There are a small number of houses and farms in Sleaf, it is not an identified settlement in the North Shropshire Local Plan but is recognisable on an OS map. The site is therefore considered to be countryside in planning terms with the main use being the airfield which is still in active use by small aircraft.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposed development is Schedule 1 development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 which under the Councils adopted scheme of delegation requires determination by Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Myddle and Broughton Parish Council** – Members have considered it in detail and visited the site and have raised no objections. They are content for the Planning Committee to make the decision.

4.1.2 **Environment Agency – No objection.**

Environmental Permitting Regulations:

Intensive pig and poultry sites are regulated by us under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. Farms that exceed capacity thresholds >40,000 birds require an Environmental Permit (EP) to operate. The site holds an intensive poultry permit issued by the Environment Agency in July 2012 for 350,000 bird places and associated biomass boilers. The site has three existing sheds (total of 150,000 bird places). To date, no complaints have been received by us and two inspections at the site have not revealed any non compliance with the permit.

The proposed development of three extra sheds would increase the overall operations on site to 300,000 birds, which is under the maximum bird places permitted. However there is an amendment to the location of the proposed sheds compared to the existing EP. The planning application details confirm that the three new sheds will be sited on land to the south east of the existing sheds rather than to the north of the existing sheds as detailed in the existing EP. I can confirm that the operators of the site have applied to vary the existing EP to reflect the revised location of the three proposed new sheds, which will site the development further away from the nearest residential properties and designated conservation

sites to the north. The EP installation boundary would be amended as part of the variation application to reflect the current proposals.

Under the EPR the EP and any future variations cover the following key areas of potential harm:

- Management – including general management, accident management, energy efficiency, efficient use of raw materials, waste recovery and security;
- Operations – including permitted activities and operating techniques (including the use of poultry feed, housing design and management, slurry spreading and manure management planning);
- Emissions – to water, air and land including to groundwater and diffuse emissions, transfers off site, odour, noise and vibration, monitoring; and
- Information – including records, reporting and notifications.

Development Proposals:

Key environmental issues that are covered in the EP include odour, noise, ammonia, bio-aerosols and dust. These relate to any emissions that are generated from within the EP installation boundary.

Based on our current position, we would not make detailed comments on these emissions as part of the planning application process.

As part of the EP application it is the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc.

Should the site operator fail to meet the conditions of an EP we will take action in-line with our published Enforcement and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the EP installation boundary. Your Council's Public Protection team may advise you further on these matters.

Water Management:

The Water Framework Directive (WFD) waterbody in closest proximity to the proposed development site is the 'Sleep Brook - source to confluence with unnamed tributary' (Waterbody Reference GB109054049170), which is currently 'not assessed'.

Clean surface water can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters. Dirty Water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces, as proposed. Any tanks proposed should comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present may result in the build up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and

enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via:
<http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

Flood Risk (Surface Water):

Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed site is located within Flood Zone 1 which comprises of land assessed as having a less than 1 in 1000 annual probability of river flooding (<0.1%). In considering surface water run-off, the Environmental Impact Assessment (EIA) includes a Section on flooding and surface water run-off (section 7.3 of the Environmental Statement). For applications subject to EIA we wish to provide 'strategic' surface water comments. We would recommend that your Flood and Water Management team are consulted on the detail of the surface water drainage proposals, as the Lead Local Flood Authority (LLFA). We acknowledge the proposals recommend SuDS (sustainable drainage systems) in the form of a swale prior to discharge to the Sleaf Brook, limited to greenfield run-off rate in line with the National Planning Practice Guidance for events up to a 1 in 100 year plus climate change (20% allowance) design standard.

For further information please refer to our LPA Process Note 'Operational Development (1ha) within Flood Zone 1'.

Manure Management (storage/spreading):

Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable.

The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. We can confirm that the proposed site (as shown on the site plan submitted) is located within a NVZ.

Pollution Prevention:

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

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

The construction phase in particular has the potential to cause pollution. Site

operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

4.1.3 **Natural England – No objection**

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the ‘Habitats Regulations’). The application site is in close proximity to the West Midlands Mosses Special Area of Conservation (SAC) which is a European site. The site is also in close proximity to a number of sites which are listed as parts of the Midlands Meres and Mosses Phase 1 and Midlands Meres and Mosses Phase 2 Ramsar sites. There are also a number of nationally designated Sites of Special Scientific Interest (SSSIs) that may be affected by the proposed development namely:

Clarepool Moss

Fenemere

Brown Moss

Sweat Mere & Crose Mere

Hencott Pool

Colemere

White Mere

Fenn’s, Whixall, Bettisfield, Cadney & Wem Mosses

Grinshill Quarry

Ruewood Pastures

Brownheath Moss.

Please see subsequent sections of this letter for Natural England’s comments on SSSI interest features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Habitats Regulations Assessment required

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England’s advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site,

proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

The effect pathways between the development and the international sites are likely to be through increased air pollution and the related deposition and through the water environment. We have not been provided any air pollution reports in support of the application but the Environmental Statement refers to a permit to operate from the Environment Agency. You may be able to undertake your HRA based on the details of this permit.

Nationally designated sites

As stated previously, this application is in close proximity to a number of Sites of Special Scientific Interest (SSSIs). The Environmental Statement report refers to an Environmental Permit for 350,000 broilers however the development only proposes increasing the numbers of birds from 150,000 to 300,000. We have not seen the permit or the modelling which informed it however it is reasonable to assume that the Environment Agency's assessment will demonstrate that the proposal will not lead to deposition on designated sites outside of the thresholds which they consider significant.

We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should you disagree or the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

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

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

Protected Species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed

development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted. If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk

Biodiversity enhancements

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

- 4.1.4 **Council Conservation Officer** – no comments to make on this application with respect to archaeological matters.
- 4.1.5 **Council Public Protection Officer** – odour is related under the EA permit. As the permit is already in place for the increased number of birds the controls specified are likely to be sufficient to control odour. All complaints regarding odour should have been directed to the EA as the regulating body.

Having looked at the distances involved does not consider it likely that there will be a significant detrimental impact on the amenity of the area through the proposals made.

- 4.1.6 **Council Highway Officer** – Whilst 3 separately submitted applications, they relate to three 50,000 bird individual poultry units but collectively, in effect, represent a development of 3 additional poultry sheds to the 3 which currently operate from the site. The site as a whole would therefore increase the bird production on the site from 150,000 to 300,000 birds per cycle. As I understand it whilst these 2 sites could operate separately in terms of the timing of the birds cycles, the intention is that they would operate under the same bird cycle. That however would ultimately be a matter for the operator/applicant.

As with the previous planning consent for the existing 3 active poultry units, the current proposal is supported by a highway report which sets out the level of HGV traffic generated. In reality however, there is likely to be a doubling of the HGV movements rather than any saved movements.

From the highway perspective, the highway authority have some concerns regarding the road infrastructure and in particular the impact of increased HGV movements on the approach road leading to the site from the Class II road. Some

localised improvements were carried out as part of the previous consent for the 3 existing poultry sheds. It is considered however that further improvements, funded by the applicant, should be sought in connection with the current application proposals having regard to the increased HGV movements.

The highway authority is satisfied that the above matter can be dealt with by way of planning condition and/or legal agreement.

- 4.1.7 **Council Rights of Way Officer** – There are no legally recorded public rights of way at any status which cross or abut the site identified.
- 4.1.8 **Council Ecologist** – Has read the above application and the supporting documents including the Environmental Statement provided by Peter Richards & Co Ltd (2015), Email from Kevin Heede (6th June 2015), Ecological Assessment conducted by Star Ecology (10th June 2015 & 2012). Recommends the conditions and informatives on the decision notice, that the Planning Officer includes the Habitat Regulation Assessment (HRA) matrix within their site report and that formal comments should be received from Natural England prior to a planning decision being granted.

Bats

5 mature trees have been identified as having bat roost potential. These trees are to be retained and protected during and post construction (as shown on the site plan). SC Tree team should be able to provide the planning case officer with appropriate planning conditions. To enhance the site for bats a condition is recommended to provide 2 bat boxes, a condition to require the details of the external lighting and an informative.

Great Crested Newts

Following on from gcn survey work conducted in 2012 water samples from four ponds within 250m of the proposed development have been analysed by the Fera eDNA testing service. The results of the eDNA analysis indicate that great crested newt are not present within the ponds (May 2015). Due to a gcn record within 500m and the lack of survey information from p5-21, all over 200m from the site, Star Ecology has proposed development risk avoidance measures for great crested newts and a condition and informative should be on the decision notice.

Nesting Wild Birds

There is potential for nesting wild birds on the site and as such recommends a condition requiring 4 artificial nests and an informative.

Badgers

No evidence of badger was recorded within 100m of the site. Star Ecology concludes that there is potential for badgers to traverse/forage on the site and has therefore provided Reasonable Avoidance Measures for Badgers. The method statement should be conditioned.

Landscape Planting

A suitable landscape plan condition should be on the decision notice.

Habitat Regulation Assessment

This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented. Natural England must be formally consulted on these 3 planning applications and their response should be taken into account prior to a decision being granted. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site.

- 4.1.9 **Council Drainage Engineer** – The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

The application form states that surface water drainage from the proposed development is to be disposed of via a sustainable drainage system (SuDS). The Environmental Statement suggests that surface water will enter the watercourse via a swale with attenuation. Full details, plan and calculations of the proposed SuDS and attenuation should be submitted for approval together with the treatment for dirty water. As part of the SuDS, the applicant should consider employing measures such as the following:

Surface water soakaways (Designed in accordance with BRE Digest 365)

Swales

Infiltration basins

Attenuation ponds

Water Butts

Rainwater harvesting system

Permeable paving on any new driveway/paved area

Attenuation

Greywater recycling system

Green roofs

Confirmation is required that the design has fulfilled the requirements of Shropshire Councils 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.

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

4.2 **Public Comments**

- 4.2.1 A site notice has been erected; press notice published and the 3 nearest neighbouring properties were directly consulted. 1 letter of representation has been received as a result raising the following concerns:

- Access road already over used
- Smell is dreadful

- Size already large enough and a negative impact
- Risk of other industrial uses if poultry meat market slumps

5.0 THE MAIN ISSUES

- Policy & principle of development
- Proposed operations
- Layout, scale and design of proposed structures
- Landscape and visual impact
- Impact on heritage assets
- Impact on residential amenities and local businesses
- Traffic and highway implications
- Trees and ecology
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 This proposal is for an expansion of a recently created agricultural enterprise for the production of poultry meat for human consumption which is a traditional agricultural function and whilst farming methods and intensity of production may have changed, its purpose has not. The Town and Country Planning Act contains a definition of agriculture, which includes the breeding and keeping of livestock, including any creature kept for the production of food. The proposed operation is therefore considered to be agricultural, although large scale, it can still be expected to be located in the countryside.

6.1.2 The nature of the current proposal and the methods used for meat production are likened by some to an industrial rather than an agricultural process. Were that argument to be accepted then the correct location for enterprises such as that proposed would be within commercial and industrial estates, usually within or on the edge of urban centres. Nationally this is not where such facilities are being located. They are generally being sited within the countryside in typically traditional agricultural locations, with a general agreement that this is acceptable in principle subject to all other material considerations.

6.1.3 On this application only one letter of representation has been received raising concern about the impact the proposal could have on their local environment and quality of life and using the existing, recently built, units as an example of the impact. The Local Planning Authority has a duty to remain objective and to ensure that the proposal is considered against the policies of the Development Plan, and that the proposal is determined in accordance with those policies unless other material planning considerations indicate otherwise. National and local policies require the LPA to use its judgement in determining whether a proposal is sufficiently harmful to interests of acknowledged importance to justify it being refused in the public interest. Of key importance in weighing the merits of a planning application and reaching that judgement are the views of statutory consultees who provide advice within their fields of expertise.

6.1.4 The National Planning Policy Framework has at its heart a presumption in favour

of sustainable development. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

6.1.5 Policy CS5 of the Shropshire Core Strategy states:-

New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Subject to the further controls over development that apply to the Green Belt, development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to inter alia:- Agricultural/ horticultural/ forestry/ mineral related development. Although proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts.

6.1.6 As such the principle of new agricultural development in this location is acceptable. The key issues are whether the proposed development would have an unacceptable adverse impact and these are considered below.

6.2 **Proposed operations**

6.2.1 The current three applications submitted propose a poultry installation with the capacity to house 150,000 birds per cycle, 50,000 birds per shed, and produce approximately 2,366 tonnes of poultry meat per annum. These three sheds would double the number of birds and production from the site from the current 150,000 birds to 300,000 birds per cycle. There will be a maximum of 7.6 cycles per year with 6 days clearing out in between each cycle. The site will operate 24 hours per day, 7 days per week. The chickens will be grown as “Standards”, i.e. they will be purchased as one day old chicks, the males are removed after 36 days and the females after 42 days. Mortalities are removed from the sheds each day and the numbers recorded, they are stored in freezers until they are removed by an approved contractor. After all the birds are removed the manure is loaded onto tractor and trailer and taken off site for spreading on farm land outside of the applicants control. The sheds are then cleaned with compressed air and water before drying and re-stocking. The wash down water will also be taken off site. The D&A advises that the applicant will not undertake this work on bank holidays.

6.2.2 Within the D&A the agent also details that the development will employ a further full time member of staff, two part time workers and additional short term employment during clearing out, cleaning and re-stocking which will be over and above the existing employment generated from the site. The previously approved agricultural workers dwelling provides a permanent member of staff on site and other staff employed as required for bird welfare and production to meet the standards set by the buyers. If bird welfare is not maintained and the birds become ill or dead sock is not removed this has the potential to affect the whole

flock and therefore it is not in the applicant's commercial interest to let this happen.

6.3 **Layout, scale and design of proposed structures**

- 6.3.1 Policy CS6 of the Shropshire Core Strategy requires all developments to be designed to a high quality using sustainable principles, respecting and enhancing local distinctiveness and to protect, restore, conserve and enhance natural, built and historic environments by being appropriate in scale, density, pattern and design. As detailed more in the following section the application site lies in an area classed as countryside for planning purposes as it is outside of any of the identified development boundaries. However, as previously noted agricultural developments are generally acceptable in principle in the countryside. The scale, density, pattern and design of the development still needs to be appropriate and reflect the local context.
- 6.3.2 The footprint of the whole of the proposed development, for which the current application seeks consent for part, covers approximately 9,998sqm (of a 3.291 hectare field). The application proposes to use the existing access off Burma Road which was modified under the previous application. The existing access track within the site leads between the new dwelling on the north and an area of paddocks on the south. An existing brick building, thought to be a military building, has been retained and used for storage, opposite this is the three recently completed poultry sheds and hard standing for vehicle manoeuvring and a turning area. The current application is one of three for three new sheds and six new feed bins to the south of the recently completed sheds. If approved these three new sheds would then be in line with the existing three with their gable ends and entrances facing onto an extended area of hard standing, parallel with each other and the biomass & brick buildings. The sheds are set back from Burma Road. The access track within the site will lead past the sheds and into the land being retained as grazing land where the previous consent also proposed additional planting and a replacement pond and swale.
- 6.3.3 As noted above the three sheds are to be identical in size measuring 108m x 24.7m. Eaves heights are 2.76m and with a low pitched roof the ridge height is 4.9m. The materials proposed for the buildings as detailed in the design and access statement suggest the use of Goosewing grey cladding, Goosewing grey profile sheeting to the roof and matching coloured doors. However, the existing sheds on site are not grey as officers advice to members previously was that the use of grey was not appropriate for this area where the buildings will sit within a wooded and hedgerow landscape. At the time of the previous applications a condition was imposed requiring details of the colour to be submitted and a green finish was approved. It is therefore recommended that a condition is imposed on this application and the other two to require the materials to match the existing buildings.
- 6.3.4 The feed bins will also be the same as the previously approved and erected feed bins in terms of design, size, colour, capacity and position in relation to the sheds. Each shed will have an attached control room, boiler room and store and water storage tanks. A new office and staff facility will also be provided within the footprint of the proposed buildings.

- 6.3.5 Reference is made by the agent and by the Environment Agency to an amendment to the EA Permit. The Environment Agency have confirmed that the applicant has a permit for 350,000 birds on site but that the permit is for additional buildings to the north. The agent has submitted the current three applications as it is considered that this southern site would be less visually intrusive, accessible from the existing track and also provide easier management of the site as the sheds would be all together in one group. These are relevant points and are all positive in favour of the application site. Furthermore the development of the southern site would take the new sheds further away from the nearest neighbouring property, which lies to the north, than the scheme shown in the EA Permit.
- 6.3.6 Overall officers consider that the proposed layout, scale and design are appropriate and meet the requirements of policy CS6. The layout of the development will provide three new poultry sheds in a layout and scale that are the same as the recently completed buildings. The issue of the impact on wider area is considered in the following section, however officers recommend that the proposed scheme is well designed.
- 6.4 **Landscape and visual impact**
- 6.4.1 The application proposes an expansion of an existing, recently developed, modern poultry farming business which is surrounded by existing native hedges interspersed with trees and is adjacent to mature woodland. As such the key issue to consider is whether the current proposal would result in landscape and visual impacts that are significantly greater and more harmful than the existing development. In addition to retaining and maintaining this existing landscaping the applicant has previously provided new landscaping to the rear of the proposed sheds and a buffer to the nearest neighbour, within the land retained for grazing. Officers consider that the existing landscaping and the position of the site in the wider area will minimise the visual impact of the development. Additional planting is proposed along the eastern boundary of the site, to the rear of the sheds which will help to screen the new buildings. This current proposal is also sited adjacent to the recently built buildings, but on the opposite side of the buildings from the nearest neighbour. As such the visual impact from the neighbouring property will not be significantly altered.
- 6.4.2 The Shropshire Landscape Typology for the application and surrounding area is Estate Farmland which is defined as mixed farming with clustered settlements, planned woodland character and gently rolling lowland. This landscape covers large areas of Shropshire and officers consider that the area surrounding the application site is a good example of Estate Farmland. However, this does not preclude development. What needs to be determined is whether the proposal would have a detrimental impact on the landscape and the wider area. In assessing this matter the case officer visited the application site, the immediate surrounding area and potential view points in the wider area. The conclusion of this was that the development will be visible from Burma Road but only near to the site and the neighbouring property. In the wider landscape the buildings will be viewed amongst other agricultural buildings and with the backdrop of the woodland and field hedges and trees.
- 6.4.3 There are no rights of way across the site with the nearest right of way identified

by the applicant being 460m from the site and also screened by the woodland. The Council Rights of Way Officer has advised that the development will not have an impact on any right of way. Overall officers consider that, although the buildings will be visible from the immediate surroundings, this is not resulting in an unacceptable harm to the landscape of the area and the provision of additional landscaping will further assist in reducing the visual impact of the development.

6.5 **Impact on heritage assets**

6.5.1 Sleaf airfield and the surrounding area was used by the military during the 2nd World War and there is still evidence of military uses and buildings in the area, including what remains of the airfield and the brick building within the application site. As such Sleaf could be considered to have some historic merit though this includes built form and has not been preserved in its historic form as other newer buildings have been developed on and around the airfield. In the wider area there are four listed buildings within 2km of the site. However, on considering the previous applications, for the recently built poultry sheds, the Conservation Officer confirmed that, in her opinion, the proposed development will not adversely affect the setting of any designated or non-designated heritage assets. As with the impact on the landscape the proposed buildings will be read amongst other agricultural developments and will be broken up by existing and proposed landscaping.

6.6 **Impact on residential amenities and local businesses**

6.6.1 Policy CS6 requires all developments to safeguard residential and local amenity and policy CS5, although supportive of agricultural developments requires large scale developments to ensure that they do not have an unacceptable detrimental impact on the environment. It is acknowledged that poultry sites can be an issue with the potential for noise, odour, dust, flies and vermin. One objection has been received raising these concerns and commenting that there have been problems from the recently completed sheds. These concerns are summarised in section 4.2 of the report.

6.6.2 The submitted Environmental Statement suggests that other than the dwelling proposed on the application site the nearest dwelling is New House Farm which is over 600m from the application site with Sleaf Gorse in between. The case officer noted on a site visit that the dwelling can be viewed from the agricultural land between the existing poultry sheds and visa versa. However, the current application proposes three new sheds on the opposite side of the recently completed sheds which themselves were considered to be acceptable and not harmful to the amenities of this neighbouring residential property. The issue is whether the current proposal would result in greater impact. It is acknowledged that the three applications currently being considered would double the number of birds at the site and therefore there is a risk of an increase in the impact and the odour, noise and other environmental harms.

6.6.3 The development would be required to operate under an Environmental Permit (EP) issued and monitored by the Environment Agency. As noted at 4.1.2 the permit has been granted for a larger scale development than that which was previously approved and built. Although the permit is for more sheds and a greater number of birds this does not pre-determine this current planning. The ES and EP both note that the site is proposed to be run in accordance with “Best

Available Techniques”. A formal definition of this is provided in a European Directive as “the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing the basis for emission limit values designed to prevent and, where that is not practicable, generally reduce emissions and the impact on the environment as a whole”.

- 6.6.4 The Environmental Statement (ES) submitted with the application has assessed all of the potential impacts on the surrounding area and the following section considers the information provided and the advice from the Environment Agency (EA) who have also considered the potential impacts in assessing the Environmental Permit (EP) application. It is worth noting at this stage that the EA have advised that they have not received any complaints about the existing three sheds on site and that during their visits to the premises no non-compliance was recorded.
- 6.6.5 Noise – mitigation measures have been implemented on the previous consent and could also be implemented for this application. These include regular maintenance; limiting hours for feed deliveries to normal working hours; and checks and repairs to plant and equipment. The ES has noted that there is existing background noise from traffic and from the aircraft at Sleaf, though acknowledges that this is mainly in the summer months and during daylight hours and as such has considered the impact of the proposed development on a typical rural area, discounting the existing noise sources. In conclusion the ES suggests that the traffic movements will not affect any properties there are not any directly facing Burma Road before the site entrance and noise from the birds and the fans will be minimised by the use of baffles.
- 6.6.6 The proposed baffles at the end of the building will direct odour in an upwards direction during operation. The main impact of odour and dust will be during the cleaning out process. Management processes are proposed within the EP to seek to reduce the impact of the cleaning out by keeping the cleaning period as short as possible; seeking to avoid weekends and bank holidays unless absolutely necessary; and loading waste onto trailers adjacent to the entrance to each shed.
- 6.6.7 The EA response advises that the approved EP includes conditions to control odour/noise through the requirements of the permit, including further assessment where required and for the operator to produce both an odour and noise management plan to recognise any potential sources and to have actions in place to prevent nuisance occurring. Records are required to be kept by the operator so that, through site inspections, the EA can check that the operation of the units is compliant with the EP. As such officers consider that the risk of unacceptable noise levels emitting from the operations of the site would be low and would not warrant refusal of the application.
- 6.6.8 Odour – The ES notes that the nearest neighbour is 600m from the proposed development and that there is no history of complaints relating to odour (or noise). As such the agent considers that a detailed assessment is not required. The Public Protection Officer has confirmed that no complaints have been made to the Council and furthermore it is noted that these matters are also dealt with by the EA through conditions on the Environmental Permit which would manage the

odour levels at the site and would not result in unacceptable harm. As noted previously the EP already covers more birds than are currently being proposed and as such the conditions and assessment of the EP have considered the potential impact of the scale of the development now proposed as not unacceptable.

- 6.6.9 Dust – The main sources of dust identified in the ES are the birds, feed and floor coverings. In order to reduce the effect of dust the development proposes the installation of dust baffles which will reduce the amount of dust which will leave the sheds and any dust which does pass through the baffles is likely to be small particles which will disperse in the atmosphere. Any larger particles will not travel the distance to the nearest neighbouring properties. As such officers consider that dust from the operation of the site is not expected to cause any major problems in the area.
- 6.6.10 Flies and Vermin – The ES has identified that flies can be attracted to storage of feed and manure. Providing the feed is stored appropriately and that the feed bins are regularly checked the storage of feed should not cause a fly infestation or attract vermin. The issue of manure storage is considered later in the report, however with regard to fly infestations the ES advises that the covering of manure heaps with appropriate material would raise the temperature of the manure sufficiently to kill off any flies or larvae and this can be done as the manure would be regularly inspected for evidence of flies.
- 6.6.11 Feed is proposed to be delivered direct to site and stored in the feed bins between the poultry sheds. Each delivery vehicle will fill one feed bin and as such there will be no need to move the vehicle between off-loading. Spillages will be cleared away immediately and regular checks will be made to deal with any damage or leaks to the storage bins.
- 6.6.12 As advised under the section on the operation of the site the applicant has acknowledged that there will be instances of dead birds as with any similar operation. The proposal is to store dead birds in freezers and that these will be collected by approved contractors. The overall management of the site in terms of dead birds and feed should also ensure that the potential for rodents and flies is minimised.
- 6.6.13 It is acknowledged that an increase in flies could result in an increase in feeding birds which has the potential to cause problems for the use of the airfield the potential for flies and vermin is, as with noise and odour, reduced at a well managed modern site. Flies are more associated with older sites with deep litter systems and greater moisture content in the manure. Furthermore any larvae which hatch inside the sheds are eaten by the birds and as the proposal is to transport the manure off site, as detailed in the next section, the potential for flies on stored manure is reduced.
- 6.6.14 Manure – The ES details the process undertaken at the end of each cycle to clean down the building and remove the manure. The ES advises that the manure is kept dry to prevent fly infestation and is collected from site on clear down and stored in field piles until such time as it is suitable to be applied as fertilizer. The proposal is to sell all of the manure for disposal on other farmers land and the ES

advises that this will be done in accordance with best practice to ensure that there is no increase risk of pollution. The application site is within a Nitrate Vulnerable Zone and as such Defra guidance sets out limits for the levels of nitrogen which can be applied to the land, sets distances from sensitive receptors such as watercourses and boreholes and guidance on land types and geography that it is not appropriate to spread manure on. It is likely that any farms which take the manure will also be within the NVZ and also have to comply with the guidance.

6.6.15 The details in the ES also advise of the processes to minimise the risk of flies and the farm waste management plan required for each farm taking manure from the site. Following the granting of the previous consent the ES also includes the requirement to remove manure in trailers covered with a tarpaulin sheet and this meets with the suggestion previously made by the EA. The final spreading of the manure on agricultural land does not require planning permission or approval through the EP regime as it is an agricultural process.

6.6.16 Waste water from washing down the buildings between cycles will be treated in the same way. Washed down to storage tanks on site and then tankered off site for spreading on fields. This will also be done under best practice and the vehicle movements for this have been included in the calculation of the overall end of cycle movements.

6.6.17 Lighting – The lighting of the site is proposed to be low wattage lights on the gable ends of the poultry sheds where the doors are located to match the lighting on the existing buildings. The lights will be directed downwards to not create any light spillage beyond the area immediately adjacent to the buildings. Low lighting is also required during cleaning out times. The proposal does not include any other lighting and as such officers consider that the lighting would not have an impact outside of the site.

6.6.18 It is considered that all of the potential impacts on the local amenity, including the operation of the airfield, have been assessed within the ES and the approved EP. The site will operate under the conditions imposed on the EP and to Best Available Techniques. As such the day to day operations of the site should not be noticeable beyond the application site and the nearest neighbouring residential property is approximately 600 metres away from the proposed poultry sheds. As such officers consider that the development will comply with the requirements of policy CS5 and not result in an unacceptable adverse environmental impact.

6.7 **Traffic and highway implications**

6.7.1 To support the application a Traffic and Highway Statement has been submitted. The assessment details the traffic movements as existing and proposed and the route proposed for the traffic to access the main road network. There is an existing access to the site off the Burma Road which leads to the B5476, Wem to Shrewsbury road which is being used to serve the existing business. This access was improved as part of the previous consent. In addition an extra passing place was provided on the Burma Road and, following a request by the Highway Officer during the consideration of the previous application, improvements were made to the junction of Burma Road with the B5476.

6.7.2 The report predicts traffic movements to be the same as the existing three sheds

as follows:

- Bedding – 2 HGVs per cycle
- Chick delivery – 6 HGVs per cycle
- Feed – 42 HGV's per cycle (maximum of 2 per day)
- Mortality collection – 8 HGV's per cycle
- LPG delivery – 2 HGV's per cycle
- Poultry collection – 44 HGV's per cycle (up to a maximum of 34 in one 24 hour period in the cycle)
- Manure collection – 34 HGV's per cycle (maximum 22 in one 24 hour period in the cycle)
- Vets, engineers, inspectors, cleaning and catching contractors – 10 small vehicles per cycle

As such this would double the vehicle movements from the existing movements. The report notes that the business will operate 24 hours a day but that deliveries will mainly be between 7am and 8pm and that bird collection occurs over night due to bird welfare and factory hours.

- 6.7.3 In order to assess the potential impact of the development traffic the Highway consultant for the applicant has assessed the current highway conditions, traffic conditions (through traffic counts) and accident records. The accident records show no personal injury accidents within the last 5 years for either Burma Road or the B5476. The traffic counts and observations show that the highway network operates well with peak traffic movements between 08:00 and 15:00 westbound and 11:00 and 17:00 eastbound and a significant drop in traffic levels between 20:00 and 06:00. The consultant has concluded that the cumulative impact of HGV and tractor and trailer movements on the Burma Road is not significant. On 44 out of 48 days of the cycle there will be, on average, less than one additional vehicle movement on the road and the majority of increase during collection and cleaning will be during the night when existing traffic levels are low.
- 6.7.4 The previous consent required improvements to the access to the site to widen the first 20m to 6m wide to enable two HGV's, or two tractor and trailers, to pass in the access. In addition a passing place has been provided on Burma Road which has improved the ability of two HGV's to pass on the Burma Road and works have been undertaken to the junction of Burma Road to the B road to widen the splay at the junction improving entrance and exit paths for large vehicles by reducing the angle of the corner to turn.
- 6.7.5 The proposal also includes a 14m wide concrete apron in front of the poultry sheds to provide a service area for delivery and collection of birds, delivery of feed and removal of manure. This will enable vehicles to enter and leave the site in a forward gear and also allow for the hard standings to be washed down after delivery, bird collection, manure collection and cleaning. It is recommended that the hard standing wash down also pass through an oil interceptor to ensure that any vehicle leakages do not enter the waste water, which is to be spread on fields.
- 6.7.6 The Council Highway Officer has assessed the information submitted, the proposed improvements and the predicted traffic movements and has not raised an objection to the principle of the development. However, the Highway Officer has advised that the proposed three units would increase HGV movements on the

approach road leading to the site from the class II road and that this would have an adverse impact. The Highway Officer has recommended that further improvements should be carried out to this road and that this can be dealt with by a condition or a legal agreement. The precise wording of the condition will be provided to members at the meeting, the condition would require the developer to construct the improvements to the road. If a legal agreement is to be used this would require the applicant to pay a financial contribution to the Council to undertake the improvement works. Either procedure will provide improvements which are considered to be required due to the impact of the increase in HGV movements.

6.8 **Trees and ecology**

- 6.8.1 Policy CS17 seeks to protect, enhance, expand and connect Shropshire's environmental assets which include landscape and ecology. The proposal is to retain the existing landscaping and the additional landscaping and ecology areas previously provided. Additional landscaping is also proposed on the eastern boundary of the site. As such the current proposal is not considered to have a negative impact on trees and will increase tree planting and enhance the existing landscaping.
- 6.8.2 An Ecological Assessment has been submitted with the application which advises that the current site is intensively managed arable land bounded by species poor hedgerows and mature trees. The ecologist has identified the potential for bats and nesting birds but no evidence of Great Crested Newts. However, the assessment does suggest mitigation for CGN, badgers and hedgehogs, in addition to bats and nesting birds, to deal with the potential that the site is used by these species.
- 6.8.3 The Council Ecologist's advice is provided in full under section 4 above. Overall the Ecologist has no objection to the proposal and has recommended conditions relating to bats, GCN, nesting birds, badgers and landscaping all of which are provided in the appendix below.
- 6.8.4 In assessing the permit the EA previously advised that they had also assessed the potential impact on the SSSI's in the wider area and predicted that the ammonia emissions at Brownheath Moss, the closest SSSI, would be just over 4% and that this would not have an adverse impact. The advice of Natural England is also provided in section 4 above and notes that the SSSI's are not constraints to the proposed development and as such, subject to the recommended conditions it is considered that the development meets the requirements of policy CS17 with respect to ecology.
- 6.8.5 This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations). A Habitat Regulation Assessment matrix is attached to this report for members observation and comment if considered necessary.
- ## 6.9 **Drainage**
- 6.9.1 The site for the proposed buildings is within flood zone 1 and as such is not at high risk of flooding. The application proposes the use of Sustainable Drainage

System (SuDS) for all of the surface water from the buildings. The water from the hard standings and washing out of the insides of the buildings will need to be collected and disposed of off site as this will be similar to the collected manure. The collection tanks should be fitted with level indicators to identify when they need emptying. The SuDS proposes that the surface water is collected and taken to a swale prior to discharging to Sleaf brook approximately 250m from the site which in turn joins the River Roden at Wem. The swale will have both infiltration and attenuation capabilities and hold the surface water close to source, releasing it slowly over time to not exceed green field run off rate. Both the EA and the Council Drainage Engineer have advised that this method of dealing with surface water is acceptable in principle.

7.0 CONCLUSION

7.1 To conclude, there will inevitably be various impacts arising from a development of the scale currently proposed in a rural setting. It is the scale of these impacts which need to be considered and assessed against the presumption in favour of sustainable development as set out in the NPPF and the requirements of adopted Policies CS5, CS6 and CS13 of the Shropshire Core Strategy.

7.2 The potential impacts arising from the proposed development have been identified and considered within the main body of the report. These have been informed by the Environmental Statement submitted with the application and the responses of the consultation exercise undertaken. It is acknowledged that these developments are locally sensitive and there have been differing views and judgements provided in relation to the scale and significance of the various impacts. It is the role of members as the decision maker to assess these views, together with local and national planning policy and guidance, to make an informed but balanced judgement on whether the proposed development is acceptable or not.

7.3 It is officers advice that, on the basis of the information supplied with the application, and the assessments and judgements provided by relevant professionals, the proposed development will not result in significant harm. This would include the visual impact of the proposed development; the impact on the character of the local area; the impact on local residents and businesses in terms of noise, smell and air emissions; and the potential impact on users of the local highway network. Therefore officers recommendation is that the application be approved subject to the conditions as set out below.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

9.0 FINANCIAL IMPLICATIONS

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

Central Government Guidance:

National Planning Policy Framework - The relevant sections of the NPPF are sections :-

Section 1 - Building a strong, competitive economy

Section 3 - Supporting a prosperous rural economy

Section 11 - Conserving and enhancing the natural environment

Section 13 - Conserving and enhancing the historic environment

Shropshire and Telford and Wrekin Joint Structure Plan was adopted in November 2002 and contains the following relevant policy which GOWM has notified can be saved.

P16: Air Quality

Core Strategy:

Policy CS5: Countryside and Green Belt

Policy CS6: Sustainable Design and Development Principles

Policy CS7: Communications and Transport

Policy CS13: Economic Development, Enterprise and Employment

Policy CS17: Environmental Networks

Policy CS18: Sustainable Water Management



Habitat Regulation Assessment (HRA) Screening Matrix & *Appropriate Assessment Statement*

Application name and reference number:

Meadowland, Sleaf, Harmer Hill, Shrewsbury Shropshire SY4 3HE

15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.

15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.

15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site

Date of completion for the HRA screening matrix:

8th June 2015

HRA screening matrix completed by:

Nicola Stone
Assistant Biodiversity Officer
01743-252556

Table 1: Details of project or plan

Name of plan or project	<p>Meadowland, Sleaf, Harmer Hill, Shrewsbury</p> <p>15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site</p>
Name and description of Natura 2000 site	<p>In 10km: Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2 (949.2ha) together form an outstanding example of lowland raised mire. The site as a</p>

whole supports a wide range of characteristic acid peat bog vegetation.

Annex I Habitats that are a primary reason for selection of site:

Active raised bog.

Annex I Habitats present as a qualifying feature but not a primary reason for selection of site:

Degraded raised bogs still capable of natural regeneration

Clarepool Moss Midland Meres & Mosses Ramsar Phase 1 and West Midland Mosses (184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs.

Annex I Habitats that are a primary reason for selection of site:

Natural dystrophic lakes and ponds

Transition mires and quaking bogs

Fenemere Midland meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water.

Fenemere is also important for its rich aquatic invertebrate fauna. It is designated for its open water, swamp, fen, wet pasture and Carr habitats with the species *Cicuta virosa* and *Thelypteris palustris*

White Mere Midland Meres and Mosses Ramsar Phase 1 (31.97ha) is one of the richest of the North Shropshire meres for aquatic plants. Designated for its open water and carr habitats with the plant species *Carex elongata* and *Eleocharis acicularis*

Brownheath Moss Midland Meres and Mosses Ramsar Phase 2 (31.32ha) differs from the other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. It is designated for its fen and carr habitats with the species *Carex elongata*.

Cole Mere Midland Meres and Mosses Ramsar Phase 2 is one of the largest of the Shropshire meres, with an almost complete fringe of woodland. There is a comparatively rich flora of aquatic macrophytes and the aquatic invertebrate fauna of Cole Mere is particularly diverse and is designated for its Open water, Wet pasture and Carr habitats with the species *Carex elongata*

Most of Hencott Pool Midland Meres and Mosses Ramsar Phase 2 (11.5ha) is swamp carr on very wet peat dominated by alder *Alnus glutinosa* and common sallow *Salix cinerea* with frequent crack willow *Salix fragilis*. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen plants. It is designated for its Carr habitat and the species *Carex elongata* and *Cicuta virosa*

Sweat Mere and Crose Mere Midland Meres and Mosses Ramsar Phase 2 (38.58ha) are two dissimilar meres constituting a site of

	<p>exceptional importance. The meres and their surrounds form a complex of open water, reedswamp, fen and woodland habitats unrivalled in Shropshire for the variety of natural features of special scientific interest. It is designated for its Open water, Swamp, Fen, Wet pasture and Carr habitats with the species <i>Carex elongata</i> and <i>Thelypteris palustris</i></p> <p>In 5km: Ruewood Pastures SSSI Grinshill Quarries SSSI</p> <p>In 2km: Ruewood Pastures Reserve Local Wildlife Site Ruewood Pools Local Wildlife Site</p>
Description of the plan or project	<p>15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site</p> <p>(Site total, with current approved 2012 schemes, 300,000 broiler places).</p>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	<p>No</p> <p>Environment Agency confirm in the emissions modelling carried out for Environmental Permit reference EPR/SP3737FF/A001 (based on 350,000 broiler places) that all European Designated Sites can be screened out as no likely significant effect except for Brownheath Moss Midland meres and Mosses Ramsar Phase 2 where there is a process contribution of 4.2% of the critical level for ammonia. However there are no other permitted intensive farming units within 10km of the European Designated site at Brownheath Moss Midland meres and Mosses Ramsar Phase 2 and the process contribution is below the 20% threshold used by Environment Agency and Natural England.</p>

Appropriate Assessment Statement

The current application is for 3 broiler units. Meadowland's currently has permission for 150,000 broiler places. The site total will reach 300,000 broiler places.

The Environmental permit reference EPR/SP3737FF/A001 covers a total of 350,000 birds on the site.

Brownheath Moss Midland meres and Mosses Ramsar Phase 2 is the closest European Designated Site at 4.8km. Brownheath Moss has a Critical Level for ammonia of $1\mu\text{g}/\text{m}^3$ since lichen interest is deemed to be an important interest feature of the site. The process contribution for ammonia from the permitted activities is 4.2% of the Critical Level according to modelling carried out by Environment Agency in 2012. This is above the threshold used by Environment Agency as an assessment of significance (for European Sites 4%) and so further detailed consideration was required.

Shropshire Council has not identified any other new permitted intensive farming units within 10km of Brownheath Moss Midland meres and Mosses Ramsar Phase 2 since applications reference; 12/04574/EIA, 12/04580/EIA, 12/04581/EIA had been granted permission. In-line with Natural England's and the Environment Agencies comments for the previous applications the process contribution will still be below 20%. Shropshire Council has therefore concluded that there is no likely significant effect and no likely effect on the integrity of the European Designated site at Brownheath Moss Midland meres and Mosses Ramsar Phase 2.

All the other European Designated Sites within 10km are at a greater distance from the installation and many have a Critical Level of $3\mu\text{g}/\text{m}^3$. Environment Agency had concluded no likely significant effect on any of the other European Designated Sites within 10km on this basis.

There are 2 SSSI's within 5km: Grinshill Quarries SSSI and Ruewood Pastures SSSI. Environment Agency modelling shows that the process contribution at these sites was below 20% and so there is no likely significant effect.

There are 2 Local Wildlife Sites within 2km of the proposed installation: Ruewood Pools Local Wildlife Site and Ruewood Pastures Local Wildlife Sites. Environment Agency modelling shows that the process contribution at these sites was below 50% and so there is no likely significant effect.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 65 of the Habitats Regulations in completing this Habitat Regulation Assessment and Appropriate Assessment. This is based on the agencies comments from the 2012 planning applications and the assumption that no further intensive poultry applications have been granted permits during this time lapse.

The Significance test

There is no likely significant effect alone, or in-combination, from development proposed under planning application references 15/01937/EIA, 15/01938/EIA, 15/01921/EIA for a total of 150,000 broiler bird places in 3 units at meadowlands, Sleep, Harmer Hill on any European Designated Site. (This will increase the total broiler places at the site to 300,000).

The Integrity test

There is no likely effect on the integrity of any European Designated Site from planning application references 15/01937/EIA, 15/01938/EIA, 5/01921/EIA for a total of 150,000 for

a total of 150,000 broiler bird places in 3 units at meadowlands, Sleep, Harmer Hill. (This will increase the total broiler places at the site to 300,000).

Conclusions

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.
EA's and NE's comments should be received and taken into consideration before planning permission is granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

RELEVANT PLANNING HISTORY:

12/04574/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 1 of a 5 Phase development) GRANT 7th March 2013

12/04580/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 2 of a 5 Phase development) GRANT 7th March 2013

12/04581/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 3 of a 5 Phase development) GRANT 7th March 2013

12/04582/FUL Construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) GRANT 7th March 2013

13/04582/VAR Variation of Condition No. 2 attached to Planning Permission

12/04582/FUL for the construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) to relocate the building to house the biomass boilers to a more central position GRANT 14th February 2014

14/03641/FUL Erection of a farm managers dwelling and residential garage/annex GRANT 12th 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)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 - Conditions

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APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. The external materials shall match in colour, form and texture those of the existing buildings.

Reason: To ensure that the works harmonise with the existing development.

4. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Star Ecology (10th June 2015) attached as an appendix to this planning permission.

Reason: To ensure the protection of wildlife.

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to the commencement of development on site a scheme of landscaping shall be submitted to and approved by Shropshire Council. The scheme shall include:
 - a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Minor artefacts and structures (e.g. lighting)
 - d) Planting plans, including wildlife habitat and features (e.g. bird/bat box)
 - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties).
 - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works

h) Implementation timetables

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

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

7. A minimum of 4 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

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

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

9. A minimum of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

10. The proposed surface water drainage scheme shall be installed in accordance with the approved drainage details prior to the first use of the building hereby approved.

Reason: To ensure that the surface water drainage system is adequate and to minimise flood risk.

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

11. All manure moved off site will be done so in covered and sealed trailers.

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

-



<u>Committee and Date</u>
North Planning Committee
4 th August 2015

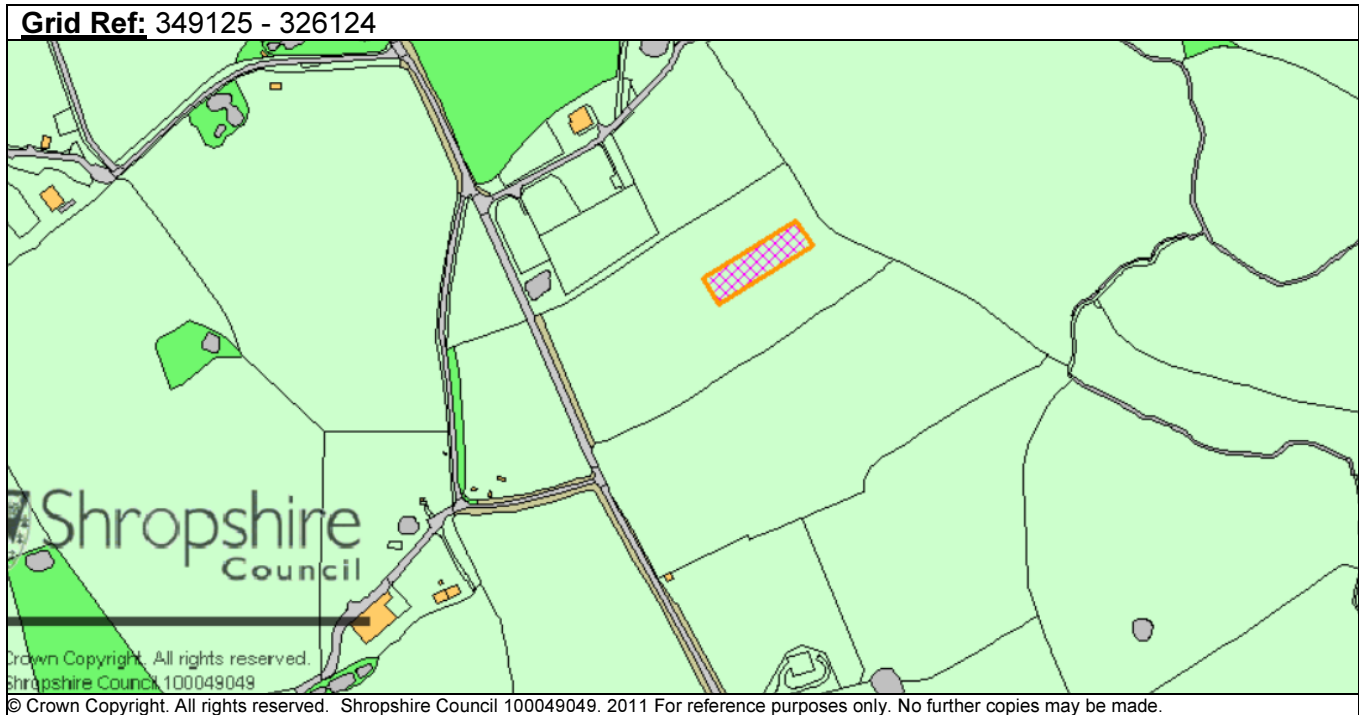
<u>Item</u>
11
Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 15/01937/EIA	<u>Parish:</u>	Myddle And Broughton
<u>Proposal:</u> Erection of a poultry building, an expansion of the existing poultry business on site.		
<u>Site Address:</u> Meadowland Sleaf Harmer Hill Shrewsbury Shropshire		
<u>Applicant:</u> Mr D Grocott		
<u>Case Officer:</u> Karen Townend		<u>email:</u> planningdmne@shropshire.gov.uk



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is one of three applications for new poultry sheds at Meadowlands, Sleaf, as an extension to the three previously approved poultry sheds adjacent to the application site. Each of the three poultry sheds now proposed will be the same as the approved buildings, and will measure 108m x 24.7m. Eaves heights are 2.76m and with a low pitched roof the ridge height is 4.9m. The design and access statement submitted with the application advises that the buildings will be constructed of a steel frame, the roofs and side walls will be clad with box profile polyester coated steel sheet with high level double glazed windows to provide natural light to match the existing buildings. The three sheds are intended for a maximum of 150,000 broiler chickens at any one time, which would increase the capacity at the site as a whole to 300,000.
- 1.2 In addition the scheme proposes the erection of six feed bins which are proposed to be 7.5m high with a diameter of 2.8m and 30 tonne capacity. The previous applications on the site also included the erection of a control room, biomass boiler building and agricultural workers dwelling. However, the boiler building has not been erected and instead each poultry shed has a small boiler and wood chip store room at the end, off the hard surfaced access road. The new buildings will also connect to the existing services and facilities including the drainage system.
- 1.3 The scheme has been submitted in three separate applications by the agent and on this occasion this method of applying for permission appear to be acceptable. However, to ensure that the development is considered as a whole all three applications need to be considered alongside each other. The separating of the composite parts can allow the authority to grant parts and refuse parts if not all of the overall scheme is acceptable and as such each application will also need to be considered on its own merits.
- 1.4 EIA requirements
The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 requires that for certain types of development an EIA must be undertaken. The proposed poultry development as a whole falls within the criteria in Schedule 1 of the Regulations (as it will accommodate in excess of 85,000 broiler chickens) and an EIA was therefore a mandatory requirement of the application submission.
- 1.5 The EIA procedure is a means of drawing together, in a systematic way, an assessment of a project's likely significant effects on the environment. The Regulations at Schedule 4, Parts 1 and 2, stipulate the information to be included in an Environmental Statement (ES). An ES should identify, describe and assess the likely significant impacts of the development on the environment.
- 1.6 The application has been submitted with an ES non-technical summary as required by the regulations and the contents of this document will be considered in the relevant sections of the report below.

2.0 SITE LOCATION/ DESCRIPTION

- 2.1 The site is located at Meadowlands, a 46 acres (18.6 hectares) farm which currently contains three modern poultry buildings. The applicant is purchasing the adjacent 21.9 acres in order to expand the business. The three existing buildings

have been in place since October 2014 the agent has advised that the buildings have operated three cycles of birds. Prior to the construction of the modern buildings the site was used for poultry farming and housed two free range sheds which were used most recently to provide shelter and housing for sheep grazed on the surrounding land. The site sits in an area of countryside for planning purposes as it is outside any of the development boundaries set within the saved North Shropshire Local Plan or the SAMDev. Sleaf is located to the south of Wem and is made up of sporadic houses and farms, the private airfield operated by Sleaf Aero Club and a small number of other businesses.

2.2 Access to the site is proposed to be via the minor road known as Burma Road which is accessed off the B5476 Shrewsbury to Wem road. Wem, Clive and Myddle are all approximately 3km from the site and Loppington is 3.75km away. There are a small number of houses and farms in Sleaf, it is not an identified settlement in the North Shropshire Local Plan but is recognisable on an OS map. The site is therefore considered to be countryside in planning terms with the main use being the airfield which is still in active use by small aircraft.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposed development is Schedule 1 development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 which under the Councils adopted scheme of delegation requires determination by Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Myddle and Broughton Parish Council** – Members have considered it in detail and visited the site and have raised no objections. They are content for the Planning Committee to make the decision.

4.1.2 Environment Agency – No objection.

Environmental Permitting Regulations:

Intensive pig and poultry sites are regulated by us under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. Farms that exceed capacity thresholds >40,000 birds require an Environmental Permit (EP) to operate. The site holds an intensive poultry permit issued by the Environment Agency in July 2012 for 350,000 bird places and associated biomass boilers. The site has three existing sheds (total of 150,000 bird places). To date, no complaints have been received by us and two inspections at the site have not revealed any non compliance with the permit.

The proposed development of three extra sheds would increase the overall operations on site to 300,000 birds, which is under the maximum bird places permitted. However there is an amendment to the location of the proposed sheds compared to the existing EP. The planning application details confirm that the three new sheds will be sited on land to the south east of the existing sheds rather than to the north of the existing sheds as detailed in the existing EP. I can confirm that the operators of the site have applied to vary the existing EP to reflect the revised location of the three proposed new sheds, which will site the development further away from the nearest residential properties and designated conservation

sites to the north. The EP installation boundary would be amended as part of the variation application to reflect the current proposals.

Under the EPR the EP and any future variations cover the following key areas of potential harm:

- Management – including general management, accident management, energy efficiency, efficient use of raw materials, waste recovery and security;
- Operations – including permitted activities and operating techniques (including the use of poultry feed, housing design and management, slurry spreading and manure management planning);
- Emissions – to water, air and land including to groundwater and diffuse emissions, transfers off site, odour, noise and vibration, monitoring; and
- Information – including records, reporting and notifications.

Development Proposals:

Key environmental issues that are covered in the EP include odour, noise, ammonia, bio-aerosols and dust. These relate to any emissions that are generated from within the EP installation boundary.

Based on our current position, we would not make detailed comments on these emissions as part of the planning application process.

As part of the EP application it is the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc.

Should the site operator fail to meet the conditions of an EP we will take action in-line with our published Enforcement and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the EP installation boundary. Your Council's Public Protection team may advise you further on these matters.

Water Management:

The Water Framework Directive (WFD) waterbody in closest proximity to the proposed development site is the 'Sleep Brook - source to confluence with unnamed tributary' (Waterbody Reference GB109054049170), which is currently 'not assessed'.

Clean surface water can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters. Dirty Water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces, as proposed. Any tanks proposed should comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present may result in the build up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and

enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via:
<http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

Flood Risk (Surface Water):

Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed site is located within Flood Zone 1 which comprises of land assessed as having a less than 1 in 1000 annual probability of river flooding (<0.1%). In considering surface water run-off, the Environmental Impact Assessment (EIA) includes a Section on flooding and surface water run-off (section 7.3 of the Environmental Statement). For applications subject to EIA we wish to provide 'strategic' surface water comments. We would recommend that your Flood and Water Management team are consulted on the detail of the surface water drainage proposals, as the Lead Local Flood Authority (LLFA). We acknowledge the proposals recommend SuDS (sustainable drainage systems) in the form of a swale prior to discharge to the Sleaf Brook, limited to greenfield run-off rate in line with the National Planning Practice Guidance for events up to a 1 in 100 year plus climate change (20% allowance) design standard.

For further information please refer to our LPA Process Note 'Operational Development (1ha) within Flood Zone 1'.

Manure Management (storage/spreading):

Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable.

The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. We can confirm that the proposed site (as shown on the site plan submitted) is located within a NVZ.

Pollution Prevention:

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

The construction phase in particular has the potential to cause pollution. Site

operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

4.1.3 **Natural England – No objection**

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the ‘Habitats Regulations’). The application site is in close proximity to the West Midlands Mosses Special Area of Conservation (SAC) which is a European site. The site is also in close proximity to a number of sites which are listed as parts of the Midlands Meres and Mosses Phase 1 and Midlands Meres and Mosses Phase 2 Ramsar sites. There are also a number of nationally designated Sites of Special Scientific Interest (SSSIs) that may be affected by the proposed development namely:

Clarepool Moss

Fenemere

Brown Moss

Sweat Mere & Crose Mere

Hencott Pool

Colemere

White Mere

Fenn’s, Whixall, Bettisfield, Cadney & Wem Mosses

Grinshill Quarry

Ruewood Pastures

Brownheath Moss.

Please see subsequent sections of this letter for Natural England’s comments on SSSI interest features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Habitats Regulations Assessment required

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England’s advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site,

proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

The effect pathways between the development and the international sites are likely to be through increased air pollution and the related deposition and through the water environment. We have not been provided any air pollution reports in support of the application but the Environmental Statement refers to a permit to operate from the Environment Agency. You may be able to undertake your HRA based on the details of this permit.

Nationally designated sites

As stated previously, this application is in close proximity to a number of Sites of Special Scientific Interest (SSSIs). The Environmental Statement report refers to an Environmental Permit for 350,000 broilers however the development only proposes increasing the numbers of birds from 150,000 to 300,000. We have not seen the permit or the modelling which informed it however it is reasonable to assume that the Environment Agency's assessment will demonstrate that the proposal will not lead to deposition on designated sites outside of the thresholds which they consider significant.

We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should you disagree or the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

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

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

Protected Species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed

development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted. If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk

Biodiversity enhancements

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

- 4.1.4 **Council Conservation Officer** – no comments to make on this application with respect to archaeological matters.
- 4.1.5 **Council Public Protection Officer** – odour is related under the EA permit. As the permit is already in place for the increased number of birds the controls specified are likely to be sufficient to control odour. All complaints regarding odour should have been directed to the EA as the regulating body.

Having looked at the distances involved does not consider it likely that there will be a significant detrimental impact on the amenity of the area through the proposals made.

- 4.1.6 **Council Highway Officer** – Whilst 3 separately submitted applications, they relate to three 50,000 bird individual poultry units but collectively, in effect, represent a development of 3 additional poultry sheds to the 3 which currently operate from the site. The site as a whole would therefore increase the bird production on the site from 150,000 to 300,000 birds per cycle. As I understand it whilst these 2 sites could operate separately in terms of the timing of the birds cycles, the intention is that they would operate under the same bird cycle. That however would ultimately be a matter for the operator/applicant.

As with the previous planning consent for the existing 3 active poultry units, the current proposal is supported by a highway report which sets out the level of HGV traffic generated. In reality however, there is likely to be a doubling of the HGV movements rather than any saved movements.

From the highway perspective, the highway authority have some concerns regarding the road infrastructure and in particular the impact of increased HGV movements on the approach road leading to the site from the Class II road. Some

localised improvements were carried out as part of the previous consent for the 3 existing poultry sheds. It is considered however that further improvements, funded by the applicant, should be sought in connection with the current application proposals having regard to the increased HGV movements.

The highway authority is satisfied that the above matter can be dealt with by way of planning condition and/or legal agreement.

- 4.1.7 **Council Rights of Way Officer** – There are no legally recorded public rights of way at any status which cross or abut the site identified.
- 4.1.8 **Council Ecologist** – Has read the above application and the supporting documents including the Environmental Statement provided by Peter Richards & Co Ltd (2015), Email from Kevin Heede (6th June 2015), Ecological Assessment conducted by Star Ecology (10th June 2015 & 2012). Recommends the conditions and informatives on the decision notice, that the Planning Officer includes the Habitat Regulation Assessment (HRA) matrix within their site report and that formal comments should be received from Natural England prior to a planning decision being granted.

Bats

5 mature trees have been identified as having bat roost potential. These trees are to be retained and protected during and post construction (as shown on the site plan). SC Tree team should be able to provide the planning case officer with appropriate planning conditions. To enhance the site for bats a condition is recommended to provide 2 bat boxes, a condition to require the details of the external lighting and an informative.

Great Crested Newts

Following on from gcn survey work conducted in 2012 water samples from four ponds within 250m of the proposed development have been analysed by the Fera eDNA testing service. The results of the eDNA analysis indicate that great crested newt are not present within the ponds (May 2015). Due to a gcn record within 500m and the lack of survey information from p5-21, all over 200m from the site, Star Ecology has proposed development risk avoidance measures for great crested newts and a condition and informative should be on the decision notice.

Nesting Wild Birds

There is potential for nesting wild birds on the site and as such recommends a condition requiring 4 artificial nests and an informative.

Badgers

No evidence of badger was recorded within 100m of the site. Star Ecology concludes that there is potential for badgers to traverse/forage on the site and has therefore provided Reasonable Avoidance Measures for Badgers. The method statement should be conditioned.

Landscape Planting

A suitable landscape plan condition should be on the decision notice.

Habitat Regulation Assessment

This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented. Natural England must be formally consulted on these 3 planning applications and their response should be taken into account prior to a decision being granted. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site.

- 4.1.9 **Council Drainage Engineer** – The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

The application form states that surface water drainage from the proposed development is to be disposed of via a sustainable drainage system (SuDS). The Environmental Statement suggests that surface water will enter the watercourse via a swale with attenuation. Full details, plan and calculations of the proposed SuDS and attenuation should be submitted for approval together with the treatment for dirty water. As part of the SuDS, the applicant should consider employing measures such as the following:

Surface water soakaways (Designed in accordance with BRE Digest 365)

Swales

Infiltration basins

Attenuation ponds

Water Butts

Rainwater harvesting system

Permeable paving on any new driveway/paved area

Attenuation

Greywater recycling system

Green roofs

Confirmation is required that the design has fulfilled the requirements of Shropshire Councils 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.

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

4.2 **Public Comments**

- 4.2.1 A site notice has been erected; press notice published and the 3 nearest neighbouring properties were directly consulted. 1 letter of representation has been received as a result raising the following concerns:

- Access road already over used
- Smell is dreadful

- Size already large enough and a negative impact
- Risk of other industrial uses if poultry meat market slumps

5.0 THE MAIN ISSUES

- Policy & principle of development
- Proposed operations
- Layout, scale and design of proposed structures
- Landscape and visual impact
- Impact on heritage assets
- Impact on residential amenities and local businesses
- Traffic and highway implications
- Trees and ecology
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 This proposal is for an expansion of a recently created agricultural enterprise for the production of poultry meat for human consumption which is a traditional agricultural function and whilst farming methods and intensity of production may have changed, its purpose has not. The Town and Country Planning Act contains a definition of agriculture, which includes the breeding and keeping of livestock, including any creature kept for the production of food. The proposed operation is therefore considered to be agricultural, although large scale, it can still be expected to be located in the countryside.

6.1.2 The nature of the current proposal and the methods used for meat production are likened by some to an industrial rather than an agricultural process. Were that argument to be accepted then the correct location for enterprises such as that proposed would be within commercial and industrial estates, usually within or on the edge of urban centres. Nationally this is not where such facilities are being located. They are generally being sited within the countryside in typically traditional agricultural locations, with a general agreement that this is acceptable in principle subject to all other material considerations.

6.1.3 On this application only one letter of representation has been received raising concern about the impact the proposal could have on their local environment and quality of life and using the existing, recently built, units as an example of the impact. The Local Planning Authority has a duty to remain objective and to ensure that the proposal is considered against the policies of the Development Plan, and that the proposal is determined in accordance with those policies unless other material planning considerations indicate otherwise. National and local policies require the LPA to use its judgement in determining whether a proposal is sufficiently harmful to interests of acknowledged importance to justify it being refused in the public interest. Of key importance in weighing the merits of a planning application and reaching that judgement are the views of statutory consultees who provide advice within their fields of expertise.

6.1.4 The National Planning Policy Framework has at its heart a presumption in favour

of sustainable development. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

6.1.5 Policy CS5 of the Shropshire Core Strategy states:-

New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Subject to the further controls over development that apply to the Green Belt, development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to inter alia:- Agricultural/ horticultural/ forestry/ mineral related development. Although proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts.

6.1.6 As such the principle of new agricultural development in this location is acceptable. The key issues are whether the proposed development would have an unacceptable adverse impact and these are considered below.

6.2 **Proposed operations**

6.2.1 The current three applications submitted propose a poultry installation with the capacity to house 150,000 birds per cycle, 50,000 birds per shed, and produce approximately 2,366 tonnes of poultry meat per annum. These three sheds would double the number of birds and production from the site from the current 150,000 birds to 300,000 birds per cycle. There will be a maximum of 7.6 cycles per year with 6 days clearing out in between each cycle. The site will operate 24 hours per day, 7 days per week. The chickens will be grown as “Standards”, i.e. they will be purchased as one day old chicks, the males are removed after 36 days and the females after 42 days. Mortalities are removed from the sheds each day and the numbers recorded, they are stored in freezers until they are removed by an approved contractor. After all the birds are removed the manure is loaded onto tractor and trailer and taken off site for spreading on farm land outside of the applicants control. The sheds are then cleaned with compressed air and water before drying and re-stocking. The wash down water will also be taken off site. The D&A advises that the applicant will not undertake this work on bank holidays.

6.2.2 Within the D&A the agent also details that the development will employ a further full time member of staff, two part time workers and additional short term employment during clearing out, cleaning and re-stocking which will be over and above the existing employment generated from the site. The previously approved agricultural workers dwelling provides a permanent member of staff on site and other staff employed as required for bird welfare and production to meet the standards set by the buyers. If bird welfare is not maintained and the birds become ill or dead sock is not removed this has the potential to affect the whole

flock and therefore it is not in the applicant's commercial interest to let this happen.

6.3 **Layout, scale and design of proposed structures**

- 6.3.1 Policy CS6 of the Shropshire Core Strategy requires all developments to be designed to a high quality using sustainable principles, respecting and enhancing local distinctiveness and to protect, restore, conserve and enhance natural, built and historic environments by being appropriate in scale, density, pattern and design. As detailed more in the following section the application site lies in an area classed as countryside for planning purposes as it is outside of any of the identified development boundaries. However, as previously noted agricultural developments are generally acceptable in principle in the countryside. The scale, density, pattern and design of the development still needs to be appropriate and reflect the local context.
- 6.3.2 The footprint of the whole of the proposed development, for which the current application seeks consent for part, covers approximately 9,998sqm (of a 3.291 hectare field). The application proposes to use the existing access off Burma Road which was modified under the previous application. The existing access track within the site leads between the new dwelling on the north and an area of paddocks on the south. An existing brick building, thought to be a military building, has been retained and used for storage, opposite this is the three recently completed poultry sheds and hard standing for vehicle manoeuvring and a turning area. The current application is one of three for three new sheds and six new feed bins to the south of the recently completed sheds. If approved these three new sheds would then be in line with the existing three with their gable ends and entrances facing onto an extended area of hard standing, parallel with each other and the biomass & brick buildings. The sheds are set back from Burma Road. The access track within the site will lead past the sheds and into the land being retained as grazing land where the previous consent also proposed additional planting and a replacement pond and swale.
- 6.3.3 As noted above the three sheds are to be identical in size measuring 108m x 24.7m. Eaves heights are 2.76m and with a low pitched roof the ridge height is 4.9m. The materials proposed for the buildings as detailed in the design and access statement suggest the use of Goosewing grey cladding, Goosewing grey profile sheeting to the roof and matching coloured doors. However, the existing sheds on site are not grey as officers advice to members previously was that the use of grey was not appropriate for this area where the buildings will sit within a wooded and hedgerow landscape. At the time of the previous applications a condition was imposed requiring details of the colour to be submitted and a green finish was approved. It is therefore recommended that a condition is imposed on this application and the other two to require the materials to match the existing buildings.
- 6.3.4 The feed bins will also be the same as the previously approved and erected feed bins in terms of design, size, colour, capacity and position in relation to the sheds. Each shed will have an attached control room, boiler room and store and water storage tanks. A new office and staff facility will also be provided within the footprint of the proposed buildings.

- 6.3.5 Reference is made by the agent and by the Environment Agency to an amendment to the EA Permit. The Environment Agency have confirmed that the applicant has a permit for 350,000 birds on site but that the permit is for additional buildings to the north. The agent has submitted the current three applications as it is considered that this southern site would be less visually intrusive, accessible from the existing track and also provide easier management of the site as the sheds would be all together in one group. These are relevant points and are all positive in favour of the application site. Furthermore the development of the southern site would take the new sheds further away from the nearest neighbouring property, which lies to the north, than the scheme shown in the EA Permit.
- 6.3.6 Overall officers consider that the proposed layout, scale and design are appropriate and meet the requirements of policy CS6. The layout of the development will provide three new poultry sheds in a layout and scale that are the same as the recently completed buildings. The issue of the impact on wider area is considered in the following section, however officers recommend that the proposed scheme is well designed.
- 6.4 **Landscape and visual impact**
- 6.4.1 The application proposes an expansion of an existing, recently developed, modern poultry farming business which is surrounded by existing native hedges interspersed with trees and is adjacent to mature woodland. As such the key issue to consider is whether the current proposal would result in landscape and visual impacts that are significantly greater and more harmful than the existing development. In addition to retaining and maintaining this existing landscaping the applicant has previously provided new landscaping to the rear of the proposed sheds and a buffer to the nearest neighbour, within the land retained for grazing. Officers consider that the existing landscaping and the position of the site in the wider area will minimise the visual impact of the development. Additional planting is proposed along the eastern boundary of the site, to the rear of the sheds which will help to screen the new buildings. This current proposal is also sited adjacent to the recently built buildings, but on the opposite side of the buildings from the nearest neighbour. As such the visual impact from the neighbouring property will not be significantly altered.
- 6.4.2 The Shropshire Landscape Typology for the application and surrounding area is Estate Farmland which is defined as mixed farming with clustered settlements, planned woodland character and gently rolling lowland. This landscape covers large areas of Shropshire and officers consider that the area surrounding the application site is a good example of Estate Farmland. However, this does not preclude development. What needs to be determined is whether the proposal would have a detrimental impact on the landscape and the wider area. In assessing this matter the case officer visited the application site, the immediate surrounding area and potential view points in the wider area. The conclusion of this was that the development will be visible from Burma Road but only near to the site and the neighbouring property. In the wider landscape the buildings will be viewed amongst other agricultural buildings and with the backdrop of the woodland and field hedges and trees.
- 6.4.3 There are no rights of way across the site with the nearest right of way identified

by the applicant being 460m from the site and also screened by the woodland. The Council Rights of Way Officer has advised that the development will not have an impact on any right of way. Overall officers consider that, although the buildings will be visible from the immediate surroundings, this is not resulting in an unacceptable harm to the landscape of the area and the provision of additional landscaping will further assist in reducing the visual impact of the development.

6.5 **Impact on heritage assets**

6.5.1 Sleaf airfield and the surrounding area was used by the military during the 2nd World War and there is still evidence of military uses and buildings in the area, including what remains of the airfield and the brick building within the application site. As such Sleaf could be considered to have some historic merit though this includes built form and has not been preserved in its historic form as other newer buildings have been developed on and around the airfield. In the wider area there are four listed buildings within 2km of the site. However, on considering the previous applications, for the recently built poultry sheds, the Conservation Officer confirmed that, in her opinion, the proposed development will not adversely affect the setting of any designated or non-designated heritage assets. As with the impact on the landscape the proposed buildings will be read amongst other agricultural developments and will be broken up by existing and proposed landscaping.

6.6 **Impact on residential amenities and local businesses**

6.6.1 Policy CS6 requires all developments to safeguard residential and local amenity and policy CS5, although supportive of agricultural developments requires large scale developments to ensure that they do not have an unacceptable detrimental impact on the environment. It is acknowledged that poultry sites can be an issue with the potential for noise, odour, dust, flies and vermin. One objection has been received raising these concerns and commenting that there have been problems from the recently completed sheds. These concerns are summarised in section 4.2 of the report.

6.6.2 The submitted Environmental Statement suggests that other than the dwelling proposed on the application site the nearest dwelling is New House Farm which is over 600m from the application site with Sleaf Gorse in between. The case officer noted on a site visit that the dwelling can be viewed from the agricultural land between the existing poultry sheds and visa versa. However, the current application proposes three new sheds on the opposite side of the recently completed sheds which themselves were considered to be acceptable and not harmful to the amenities of this neighbouring residential property. The issue is whether the current proposal would result in greater impact. It is acknowledged that the three applications currently being considered would double the number of birds at the site and therefore there is a risk of an increase in the impact and the odour, noise and other environmental harms.

6.6.3 The development would be required to operate under an Environmental Permit (EP) issued and monitored by the Environment Agency. As noted at 4.1.2 the permit has been granted for a larger scale development than that which was previously approved and built. Although the permit is for more sheds and a greater number of birds this does not pre-determine this current planning. The ES and EP both note that the site is proposed to be run in accordance with “Best

Available Techniques”. A formal definition of this is provided in a European Directive as “the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing the basis for emission limit values designed to prevent and, where that is not practicable, generally reduce emissions and the impact on the environment as a whole”.

- 6.6.4 The Environmental Statement (ES) submitted with the application has assessed all of the potential impacts on the surrounding area and the following section considers the information provided and the advice from the Environment Agency (EA) who have also considered the potential impacts in assessing the Environmental Permit (EP) application. It is worth noting at this stage that the EA have advised that they have not received any complaints about the existing three sheds on site and that during their visits to the premises no non-compliance was recorded.
- 6.6.5 Noise – mitigation measures have been implemented on the previous consent and could also be implemented for this application. These include regular maintenance; limiting hours for feed deliveries to normal working hours; and checks and repairs to plant and equipment. The ES has noted that there is existing background noise from traffic and from the aircraft at Sleaf, though acknowledges that this is mainly in the summer months and during daylight hours and as such has considered the impact of the proposed development on a typical rural area, discounting the existing noise sources. In conclusion the ES suggests that the traffic movements will not affect any properties there are not any directly facing Burma Road before the site entrance and noise from the birds and the fans will be minimised by the use of baffles.
- 6.6.6 The proposed baffles at the end of the building will direct odour in an upwards direction during operation. The main impact of odour and dust will be during the cleaning out process. Management processes are proposed within the EP to seek to reduce the impact of the cleaning out by keeping the cleaning period as short as possible; seeking to avoid weekends and bank holidays unless absolutely necessary; and loading waste onto trailers adjacent to the entrance to each shed.
- 6.6.7 The EA response advises that the approved EP includes conditions to control odour/noise through the requirements of the permit, including further assessment where required and for the operator to produce both an odour and noise management plan to recognise any potential sources and to have actions in place to prevent nuisance occurring. Records are required to be kept by the operator so that, through site inspections, the EA can check that the operation of the units is compliant with the EP. As such officers consider that the risk of unacceptable noise levels emitting from the operations of the site would be low and would not warrant refusal of the application.
- 6.6.8 Odour – The ES notes that the nearest neighbour is 600m from the proposed development and that there is no history of complaints relating to odour (or noise). As such the agent considers that a detailed assessment is not required. The Public Protection Officer has confirmed that no complaints have been made to the Council and furthermore it is noted that these matters are also dealt with by the EA through conditions on the Environmental Permit which would manage the

odour levels at the site and would not result in unacceptable harm. As noted previously the EP already covers more birds than are currently being proposed and as such the conditions and assessment of the EP have considered the potential impact of the scale of the development now proposed as not unacceptable.

- 6.6.9 Dust – The main sources of dust identified in the ES are the birds, feed and floor coverings. In order to reduce the effect of dust the development proposes the installation of dust baffles which will reduce the amount of dust which will leave the sheds and any dust which does pass through the baffles is likely to be small particles which will disperse in the atmosphere. Any larger particles will not travel the distance to the nearest neighbouring properties. As such officers consider that dust from the operation of the site is not expected to cause any major problems in the area.
- 6.6.10 Flies and Vermin – The ES has identified that flies can be attracted to storage of feed and manure. Providing the feed is stored appropriately and that the feed bins are regularly checked the storage of feed should not cause a fly infestation or attract vermin. The issue of manure storage is considered later in the report, however with regard to fly infestations the ES advises that the covering of manure heaps with appropriate material would raise the temperature of the manure sufficiently to kill off any flies or larvae and this can be done as the manure would be regularly inspected for evidence of flies.
- 6.6.11 Feed is proposed to be delivered direct to site and stored in the feed bins between the poultry sheds. Each delivery vehicle will fill one feed bin and as such there will be no need to move the vehicle between off-loading. Spillages will be cleared away immediately and regular checks will be made to deal with any damage or leaks to the storage bins.
- 6.6.12 As advised under the section on the operation of the site the applicant has acknowledged that there will be instances of dead birds as with any similar operation. The proposal is to store dead birds in freezers and that these will be collected by approved contractors. The overall management of the site in terms of dead birds and feed should also ensure that the potential for rodents and flies is minimised.
- 6.6.13 It is acknowledged that an increase in flies could result in an increase in feeding birds which has the potential to cause problems for the use of the airfield the potential for flies and vermin is, as with noise and odour, reduced at a well managed modern site. Flies are more associated with older sites with deep litter systems and greater moisture content in the manure. Furthermore any larvae which hatch inside the sheds are eaten by the birds and as the proposal is to transport the manure off site, as detailed in the next section, the potential for flies on stored manure is reduced.
- 6.6.14 Manure – The ES details the process undertaken at the end of each cycle to clean down the building and remove the manure. The ES advises that the manure is kept dry to prevent fly infestation and is collected from site on clear down and stored in field piles until such time as it is suitable to be applied as fertilizer. The proposal is to sell all of the manure for disposal on other farmers land and the ES

advises that this will be done in accordance with best practice to ensure that there is no increase risk of pollution. The application site is within a Nitrate Vulnerable Zone and as such Defra guidance sets out limits for the levels of nitrogen which can be applied to the land, sets distances from sensitive receptors such as watercourses and boreholes and guidance on land types and geography that it is not appropriate to spread manure on. It is likely that any farms which take the manure will also be within the NVZ and also have to comply with the guidance.

- 6.6.15 The details in the ES also advise of the processes to minimise the risk of flies and the farm waste management plan required for each farm taking manure from the site. Following the granting of the previous consent the ES also includes the requirement to remove manure in trailers covered with a tarpaulin sheet and this meets with the suggestion previously made by the EA. The final spreading of the manure on agricultural land does not require planning permission or approval through the EP regime as it is an agricultural process.
- 6.6.16 Waste water from washing down the buildings between cycles will be treated in the same way. Washed down to storage tanks on site and then tankered off site for spreading on fields. This will also be done under best practice and the vehicle movements for this have been included in the calculation of the overall end of cycle movements.
- 6.6.17 Lighting – The lighting of the site is proposed to be low wattage lights on the gable ends of the poultry sheds where the doors are located to match the lighting on the existing buildings. The lights will be directed downwards to not create any light spillage beyond the area immediately adjacent to the buildings. Low lighting is also required during cleaning out times. The proposal does not include any other lighting and as such officers consider that the lighting would not have an impact outside of the site.
- 6.6.18 It is considered that all of the potential impacts on the local amenity, including the operation of the airfield, have been assessed within the ES and the approved EP. The site will operate under the conditions imposed on the EP and to Best Available Techniques. As such the day to day operations of the site should not be noticeable beyond the application site and the nearest neighbouring residential property is approximately 600 metres away from the proposed poultry sheds. As such officers consider that the development will comply with the requirements of policy CS5 and not result in an unacceptable adverse environmental impact.
- 6.7 **Traffic and highway implications**
- 6.7.1 To support the application a Traffic and Highway Statement has been submitted. The assessment details the traffic movements as existing and proposed and the route proposed for the traffic to access the main road network. There is an existing access to the site off the Burma Road which leads to the B5476, Wem to Shrewsbury road which is being used to serve the existing business. This access was improved as part of the previous consent. In addition an extra passing place was provided on the Burma Road and, following a request by the Highway Officer during the consideration of the previous application, improvements were made to the junction of Burma Road with the B5476.
- 6.7.2 The report predicts traffic movements to be the same as the existing three sheds

as follows:

- Bedding – 2 HGVs per cycle
- Chick delivery – 6 HGVs per cycle
- Feed – 42 HGV's per cycle (maximum of 2 per day)
- Mortality collection – 8 HGV's per cycle
- LPG delivery – 2 HGV's per cycle
- Poultry collection – 44 HGV's per cycle (up to a maximum of 34 in one 24 hour period in the cycle)
- Manure collection – 34 HGV's per cycle (maximum 22 in one 24 hour period in the cycle)
- Vets, engineers, inspectors, cleaning and catching contractors – 10 small vehicles per cycle

As such this would double the vehicle movements from the existing movements. The report notes that the business will operate 24 hours a day but that deliveries will mainly be between 7am and 8pm and that bird collection occurs over night due to bird welfare and factory hours.

- 6.7.3 In order to assess the potential impact of the development traffic the Highway consultant for the applicant has assessed the current highway conditions, traffic conditions (through traffic counts) and accident records. The accident records show no personal injury accidents within the last 5 years for either Burma Road or the B5476. The traffic counts and observations show that the highway network operates well with peak traffic movements between 08:00 and 15:00 westbound and 11:00 and 17:00 eastbound and a significant drop in traffic levels between 20:00 and 06:00. The consultant has concluded that the cumulative impact of HGV and tractor and trailer movements on the Burma Road is not significant. On 44 out of 48 days of the cycle there will be, on average, less than one additional vehicle movement on the road and the majority of increase during collection and cleaning will be during the night when existing traffic levels are low.
- 6.7.4 The previous consent required improvements to the access to the site to widen the first 20m to 6m wide to enable two HGV's, or two tractor and trailers, to pass in the access. In addition a passing place has been provided on Burma Road which has improved the ability of two HGV's to pass on the Burma Road and works have been undertaken to the junction of Burma Road to the B road to widen the splay at the junction improving entrance and exit paths for large vehicles by reducing the angle of the corner to turn.
- 6.7.5 The proposal also includes a 14m wide concrete apron in front of the poultry sheds to provide a service area for delivery and collection of birds, delivery of feed and removal of manure. This will enable vehicles to enter and leave the site in a forward gear and also allow for the hard standings to be washed down after delivery, bird collection, manure collection and cleaning. It is recommended that the hard standing wash down also pass through an oil interceptor to ensure that any vehicle leakages do not enter the waste water, which is to be spread on fields.
- 6.7.6 The Council Highway Officer has assessed the information submitted, the proposed improvements and the predicted traffic movements and has not raised an objection to the principle of the development. However, the Highway Officer has advised that the proposed three units would increase HGV movements on the

approach road leading to the site from the class II road and that this would have an adverse impact. The Highway Officer has recommended that further improvements should be carried out to this road and that this can be dealt with by a condition or a legal agreement. The precise wording of the condition will be provided to members at the meeting, the condition would require the developer to construct the improvements to the road. If a legal agreement is to be used this would require the applicant to pay a financial contribution to the Council to undertake the improvement works. Either procedure will provide improvements which are considered to be required due to the impact of the increase in HGV movements.

6.8 **Trees and ecology**

- 6.8.1 Policy CS17 seeks to protect, enhance, expand and connect Shropshire's environmental assets which include landscape and ecology. The proposal is to retain the existing landscaping and the additional landscaping and ecology areas previously provided. Additional landscaping is also proposed on the eastern boundary of the site. As such the current proposal is not considered to have a negative impact on trees and will increase tree planting and enhance the existing landscaping.
- 6.8.2 An Ecological Assessment has been submitted with the application which advises that the current site is intensively managed arable land bounded by species poor hedgerows and mature trees. The ecologist has identified the potential for bats and nesting birds but no evidence of Great Crested Newts. However, the assessment does suggest mitigation for CGN, badgers and hedgehogs, in addition to bats and nesting birds, to deal with the potential that the site is used by these species.
- 6.8.3 The Council Ecologist's advice is provided in full under section 4 above. Overall the Ecologist has no objection to the proposal and has recommended conditions relating to bats, GCN, nesting birds, badgers and landscaping all of which are provided in the appendix below.
- 6.8.4 In assessing the permit the EA previously advised that they had also assessed the potential impact on the SSSI's in the wider area and predicted that the ammonia emissions at Brownheath Moss, the closest SSSI, would be just over 4% and that this would not have an adverse impact. The advice of Natural England is also provided in section 4 above and notes that the SSSI's are not constraints to the proposed development and as such, subject to the recommended conditions it is considered that the development meets the requirements of policy CS17 with respect to ecology.
- 6.8.5 This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations). A Habitat Regulation Assessment matrix is attached to this report for members observation and comment if considered necessary.
- ## 6.9 **Drainage**
- 6.9.1 The site for the proposed buildings is within flood zone 1 and as such is not at high risk of flooding. The application proposes the use of Sustainable Drainage

System (SuDS) for all of the surface water from the buildings. The water from the hard standings and washing out of the insides of the buildings will need to be collected and disposed of off site as this will be similar to the collected manure. The collection tanks should be fitted with level indicators to identify when they need emptying. The SuDS proposes that the surface water is collected and taken to a swale prior to discharging to Sleaf brook approximately 250m from the site which in turn joins the River Roden at Wem. The swale will have both infiltration and attenuation capabilities and hold the surface water close to source, releasing it slowly over time to not exceed green field run off rate. Both the EA and the Council Drainage Engineer have advised that this method of dealing with surface water is acceptable in principle.

7.0 CONCLUSION

7.1 To conclude, there will inevitably be various impacts arising from a development of the scale currently proposed in a rural setting. It is the scale of these impacts which need to be considered and assessed against the presumption in favour of sustainable development as set out in the NPPF and the requirements of adopted Policies CS5, CS6 and CS13 of the Shropshire Core Strategy.

7.2 The potential impacts arising from the proposed development have been identified and considered within the main body of the report. These have been informed by the Environmental Statement submitted with the application and the responses of the consultation exercise undertaken. It is acknowledged that these developments are locally sensitive and there have been differing views and judgements provided in relation to the scale and significance of the various impacts. It is the role of members as the decision maker to assess these views, together with local and national planning policy and guidance, to make an informed but balanced judgement on whether the proposed development is acceptable or not.

7.3 It is officers advice that, on the basis of the information supplied with the application, and the assessments and judgements provided by relevant professionals, the proposed development will not result in significant harm. This would include the visual impact of the proposed development; the impact on the character of the local area; the impact on local residents and businesses in terms of noise, smell and air emissions; and the potential impact on users of the local highway network. Therefore officers recommendation is that the application be approved subject to the conditions as set out below.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

9.0 FINANCIAL IMPLICATIONS

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

Central Government Guidance:

National Planning Policy Framework - The relevant sections of the NPPF are sections :-

Section 1 - Building a strong, competitive economy

Section 3 - Supporting a prosperous rural economy

Section 11 - Conserving and enhancing the natural environment

Section 13 - Conserving and enhancing the historic environment

Shropshire and Telford and Wrekin Joint Structure Plan was adopted in November 2002 and contains the following relevant policy which GOWM has notified can be saved.

P16: Air Quality

Core Strategy:

Policy CS5: Countryside and Green Belt

Policy CS6: Sustainable Design and Development Principles

Policy CS7: Communications and Transport

Policy CS13: Economic Development, Enterprise and Employment

Policy CS17: Environmental Networks

Policy CS18: Sustainable Water Management



Habitat Regulation Assessment (HRA) Screening Matrix & *Appropriate Assessment Statement*

Application name and reference number:

Meadowland, Sleaf, Harmer Hill, Shrewsbury Shropshire SY4 3HE

15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.

15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.

15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site

Date of completion for the HRA screening matrix:

8th June 2015

HRA screening matrix completed by:

Nicola Stone
Assistant Biodiversity Officer
01743-252556

Table 1: Details of project or plan

Name of plan or project	<p>Meadowland, Sleaf, Harmer Hill, Shrewsbury</p> <p>15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site</p>
Name and description of Natura 2000 site	<p>In 10km: Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2 (949.2ha) together form an outstanding example of lowland raised mire. The site as a</p>

whole supports a wide range of characteristic acid peat bog vegetation.

Annex I Habitats that are a primary reason for selection of site:

Active raised bog.

Annex I Habitats present as a qualifying feature but not a primary reason for selection of site:

Degraded raised bogs still capable of natural regeneration

Clarepool Moss Midland Meres & Mosses Ramsar Phase 1 and West Midland Mosses (184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs.

Annex I Habitats that are a primary reason for selection of site:

Natural dystrophic lakes and ponds

Transition mires and quaking bogs

Fenemere Midland meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water.

Fenemere is also important for its rich aquatic invertebrate fauna. It is designated for its open water, swamp, fen, wet pasture and Carr habitats with the species *Cicuta virosa* and *Thelypteris palustris*

White Mere Midland Meres and Mosses Ramsar Phase 1 (31.97ha) is one of the richest of the North Shropshire meres for aquatic plants. Designated for its open water and carr habitats with the plant species *Carex elongata* and *Eleocharis acicularis*

Brownheath Moss Midland Meres and Mosses Ramsar Phase 2 (31.32ha) differs from the other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. It is designated for its fen and carr habitats with the species *Carex elongata*.

Cole Mere Midland Meres and Mosses Ramsar Phase 2 is one of the largest of the Shropshire meres, with an almost complete fringe of woodland. There is a comparatively rich flora of aquatic macrophytes and the aquatic invertebrate fauna of Cole Mere is particularly diverse and is designated for its Open water, Wet pasture and Carr habitats with the species *Carex elongata*

Most of Hencott Pool Midland Meres and Mosses Ramsar Phase 2 (11.5ha) is swamp carr on very wet peat dominated by alder *Alnus glutinosa* and common sallow *Salix cinerea* with frequent crack willow *Salix fragilis*. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen plants. It is designated for its Carr habitat and the species *Carex elongata* and *Cicuta virosa*

Sweat Mere and Crose Mere Midland Meres and Mosses Ramsar Phase 2 (38.58ha) are two dissimilar meres constituting a site of

	<p>exceptional importance. The meres and their surrounds form a complex of open water, reedswamp, fen and woodland habitats unrivalled in Shropshire for the variety of natural features of special scientific interest. It is designated for its Open water, Swamp, Fen, Wet pasture and Carr habitats with the species <i>Carex elongata</i> and <i>Thelypteris palustris</i></p> <p>In 5km: Ruewood Pastures SSSI Grinshill Quarries SSSI</p> <p>In 2km: Ruewood Pastures Reserve Local Wildlife Site Ruewood Pools Local Wildlife Site</p>
Description of the plan or project	<p>15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site</p> <p>(Site total, with current approved 2012 schemes, 300,000 broiler places).</p>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	<p>No</p> <p>Environment Agency confirm in the emissions modelling carried out for Environmental Permit reference EPR/SP3737FF/A001 (based on 350,000 broiler places) that all European Designated Sites can be screened out as no likely significant effect except for Brownheath Moss Midland meres and Mosses Ramsar Phase 2 where there is a process contribution of 4.2% of the critical level for ammonia. However there are no other permitted intensive farming units within 10km of the European Designated site at Brownheath Moss Midland meres and Mosses Ramsar Phase 2 and the process contribution is below the 20% threshold used by Environment Agency and Natural England.</p>

Appropriate Assessment Statement

The current application is for 3 broiler units. Meadowland's currently has permission for 150,000 broiler places. The site total will reach 300,000 broiler places.

The Environmental permit reference EPR/SP3737FF/A001 covers a total of 350,000 birds on the site.

Brownheath Moss Midland meres and Mosses Ramsar Phase 2 is the closest European Designated Site at 4.8km. Brownheath Moss has a Critical Level for ammonia of $1\mu\text{g}/\text{m}^3$ since lichen interest is deemed to be an important interest feature of the site. The process contribution for ammonia from the permitted activities is 4.2% of the Critical Level according to modelling carried out by Environment Agency in 2012. This is above the threshold used by Environment Agency as an assessment of significance (for European Sites 4%) and so further detailed consideration was required.

Shropshire Council has not identified any other new permitted intensive farming units within 10km of Brownheath Moss Midland meres and Mosses Ramsar Phase 2 since applications reference; 12/04574/EIA, 12/04580/EIA, 12/04581/EIA had been granted permission. In-line with Natural England's and the Environment Agencies comments for the previous applications the process contribution will still be below 20%. Shropshire Council has therefore concluded that there is no likely significant effect and no likely effect on the integrity of the European Designated site at Brownheath Moss Midland meres and Mosses Ramsar Phase 2.

All the other European Designated Sites within 10km are at a greater distance from the installation and many have a Critical Level of $3\mu\text{g}/\text{m}^3$. Environment Agency had concluded no likely significant effect on any of the other European Designated Sites within 10km on this basis.

There are 2 SSSI's within 5km: Grinshill Quarries SSSI and Ruewood Pastures SSSI. Environment Agency modelling shows that the process contribution at these sites was below 20% and so there is no likely significant effect.

There are 2 Local Wildlife Sites within 2km of the proposed installation: Ruewood Pools Local Wildlife Site and Ruewood Pastures Local Wildlife Sites. Environment Agency modelling shows that the process contribution at these sites was below 50% and so there is no likely significant effect.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 65 of the Habitats Regulations in completing this Habitat Regulation Assessment and Appropriate Assessment. This is based on the agencies comments from the 2012 planning applications and the assumption that no further intensive poultry applications have been granted permits during this time lapse.

The Significance test

There is no likely significant effect alone, or in-combination, from development proposed under planning application references 15/01937/EIA, 15/01938/EIA, 15/01921/EIA for a total of 150,000 broiler bird places in 3 units at meadowlands, Sleep, Harmer Hill on any European Designated Site. (This will increase the total broiler places at the site to 300,000).

The Integrity test

There is no likely effect on the integrity of any European Designated Site from planning application references 15/01937/EIA, 15/01938/EIA, 5/01921/EIA for a total of 150,000 for

a total of 150,000 broiler bird places in 3 units at meadowlands, Sleep, Harmer Hill. (This will increase the total broiler places at the site to 300,000).

Conclusions

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.
EA's and NE's comments should be received and taken into consideration before planning permission is granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

RELEVANT PLANNING HISTORY:

12/04574/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 1 of a 5 Phase development) GRANT 7th March 2013

12/04580/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 2 of a 5 Phase development) GRANT 7th March 2013

12/04581/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 3 of a 5 Phase development) GRANT 7th March 2013

12/04582/FUL Construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) GRANT 7th March 2013

13/04582/VAR Variation of Condition No. 2 attached to Planning Permission

12/04582/FUL for the construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) to relocate the building to house the biomass boilers to a more central position GRANT 14th February 2014

14/03641/FUL Erection of a farm managers dwelling and residential garage/annex GRANT 12th 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)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Brian Williams
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

3. The external materials shall match in colour, form and texture those of the existing buildings.

Reason: To ensure that the works harmonise with the existing development.

4. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Star Ecology (10th June 2015) attached as an appendix to this planning permission.

Reason: To ensure the protection of wildlife.

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to the commencement of development on site a scheme of landscaping shall be submitted to and approved by Shropshire Council. The scheme shall include:
 - a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Minor artefacts and structures (e.g. lighting)
 - d) Planting plans, including wildlife habitat and features (e.g. bird/bat box)
 - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties).
 - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works

h) Implementation timetables

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

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

7. A minimum of 4 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

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

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

9. A minimum of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

10. The proposed surface water drainage scheme shall be installed in accordance with the approved drainage details prior to the first use of the building hereby approved.

Reason: To ensure that the surface water drainage system is adequate and to minimise flood risk.

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

11. All manure moved off site will be done so in covered and sealed trailers.

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

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<u>Committee and Date</u>
North Planning Committee
4 th August 2015

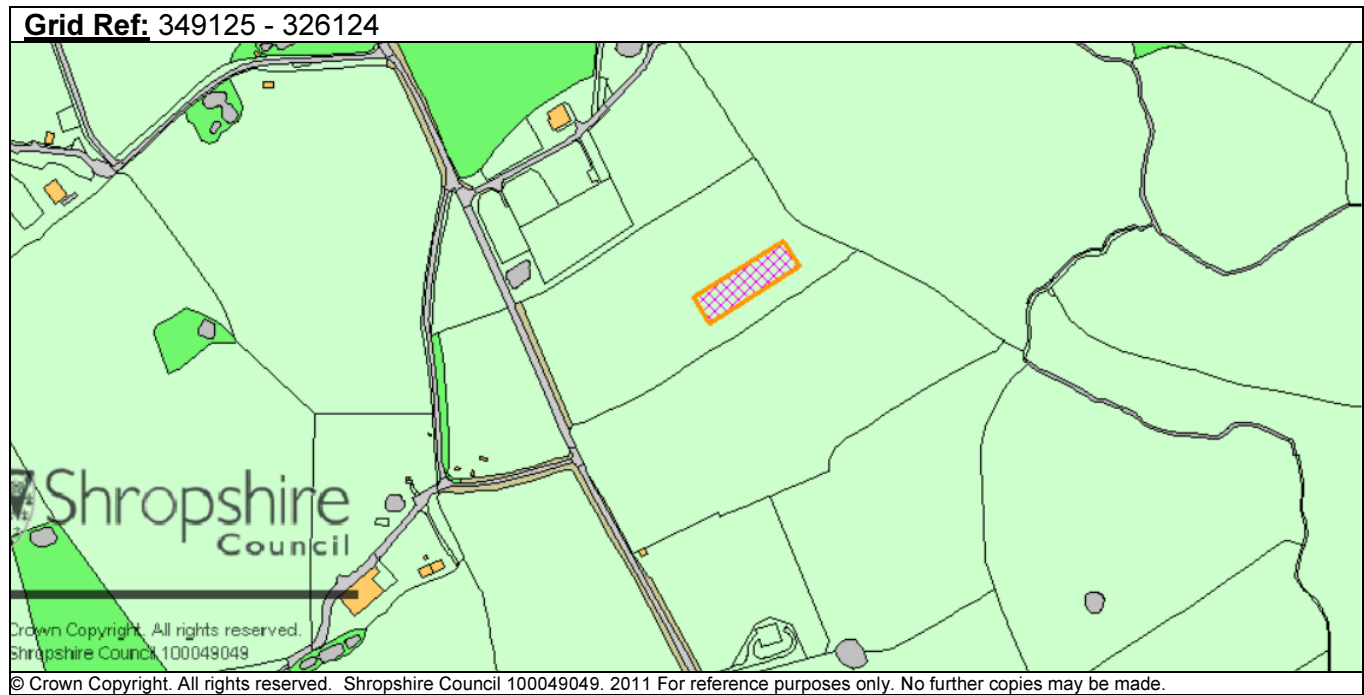
<u>Item</u>
12
Public

Development Management Report

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

Summary of Application

Application Number: 15/01938/EIA	Parish:	Myddle And Broughton
Proposal: Erection of a poultry building, an expansion of the existing poultry business on site.		
Site Address: Meadowland Sleaf Harmer Hill Shrewsbury Shropshire		
Applicant: Mr D Grocott		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is one of three applications for new poultry sheds at Meadowlands, Sleaf, as an extension to the three previously approved poultry sheds adjacent to the application site. Each of the three poultry sheds now proposed will be the same as the approved buildings, and will measure 108m x 24.7m. Eaves heights are 2.76m and with a low pitched roof the ridge height is 4.9m. The design and access statement submitted with the application advises that the buildings will be constructed of a steel frame, the roofs and side walls will be clad with box profile polyester coated steel sheet with high level double glazed windows to provide natural light to match the existing buildings. The three sheds are intended for a maximum of 150,000 broiler chickens at any one time, which would increase the capacity at the site as a whole to 300,000.
- 1.2 In addition the scheme proposes the erection of six feed bins which are proposed to be 7.5m high with a diameter of 2.8m and 30 tonne capacity. The previous applications on the site also included the erection of a control room, biomass boiler building and agricultural workers dwelling. However, the boiler building has not been erected and instead each poultry shed has a small boiler and wood chip store room at the end, off the hard surfaced access road. The new buildings will also connect to the existing services and facilities including the drainage system.
- 1.3 The scheme has been submitted in three separate applications by the agent and on this occasion this method of applying for permission appear to be acceptable. However, to ensure that the development is considered as a whole all three applications need to be considered alongside each other. The separating of the composite parts can allow the authority to grant parts and refuse parts if not all of the overall scheme is acceptable and as such each application will also need to be considered on its own merits.
- 1.4 EIA requirements
The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 requires that for certain types of development an EIA must be undertaken. The proposed poultry development as a whole falls within the criteria in Schedule 1 of the Regulations (as it will accommodate in excess of 85,000 broiler chickens) and an EIA was therefore a mandatory requirement of the application submission.
- 1.5 The EIA procedure is a means of drawing together, in a systematic way, an assessment of a project's likely significant effects on the environment. The Regulations at Schedule 4, Parts 1 and 2, stipulate the information to be included in an Environmental Statement (ES). An ES should identify, describe and assess the likely significant impacts of the development on the environment.
- 1.6 The application has been submitted with an ES non-technical summary as required by the regulations and the contents of this document will be considered in the relevant sections of the report below.

2.0 SITE LOCATION/ DESCRIPTION

- 2.1 The site is located at Meadowlands, a 46 acres (18.6 hectares) farm which currently contains three modern poultry buildings. The applicant is purchasing the adjacent 21.9 acres in order to expand the business. The three existing buildings

have been in place since October 2014 the agent has advised that the buildings have operated three cycles of birds. Prior to the construction of the modern buildings the site was used for poultry farming and housed two free range sheds which were used most recently to provide shelter and housing for sheep grazed on the surrounding land. The site sits in an area of countryside for planning purposes as it is outside any of the development boundaries set within the saved North Shropshire Local Plan or the SAMDev. Sleaf is located to the south of Wem and is made up of sporadic houses and farms, the private airfield operated by Sleaf Aero Club and a small number of other businesses.

- 2.2 Access to the site is proposed to be via the minor road known as Burma Road which is accessed off the B5476 Shrewsbury to Wem road. Wem, Clive and Myddle are all approximately 3km from the site and Loppington is 3.75km away. There are a small number of houses and farms in Sleaf, it is not an identified settlement in the North Shropshire Local Plan but is recognisable on an OS map. The site is therefore considered to be countryside in planning terms with the main use being the airfield which is still in active use by small aircraft.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposed development is Schedule 1 development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 which under the Council's adopted scheme of delegation requires determination by Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Myddle and Broughton Parish Council** – Members have considered it in detail and visited the site and have raised no objections. They are content for the Planning Committee to make the decision.

4.1.2 **Environment Agency – No objection.**

Environmental Permitting Regulations:

Intensive pig and poultry sites are regulated by us under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. Farms that exceed capacity thresholds >40,000 birds require an Environmental Permit (EP) to operate. The site holds an intensive poultry permit issued by the Environment Agency in July 2012 for 350,000 bird places and associated biomass boilers. The site has three existing sheds (total of 150,000 bird places). To date, no complaints have been received by us and two inspections at the site have not revealed any non compliance with the permit.

The proposed development of three extra sheds would increase the overall operations on site to 300,000 birds, which is under the maximum bird places permitted. However there is an amendment to the location of the proposed sheds compared to the existing EP. The planning application details confirm that the three new sheds will be sited on land to the south east of the existing sheds rather than to the north of the existing sheds as detailed in the existing EP. I can confirm that the operators of the site have applied to vary the existing EP to reflect the revised location of the three proposed new sheds, which will site the development further away from the nearest residential properties and designated conservation

sites to the north. The EP installation boundary would be amended as part of the variation application to reflect the current proposals.

Under the EPR the EP and any future variations cover the following key areas of potential harm:

- Management – including general management, accident management, energy efficiency, efficient use of raw materials, waste recovery and security;
- Operations – including permitted activities and operating techniques (including the use of poultry feed, housing design and management, slurry spreading and manure management planning);
- Emissions – to water, air and land including to groundwater and diffuse emissions, transfers off site, odour, noise and vibration, monitoring; and
- Information – including records, reporting and notifications.

Development Proposals:

Key environmental issues that are covered in the EP include odour, noise, ammonia, bio-aerosols and dust. These relate to any emissions that are generated from within the EP installation boundary.

Based on our current position, we would not make detailed comments on these emissions as part of the planning application process.

As part of the EP application it is the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc.

Should the site operator fail to meet the conditions of an EP we will take action in-line with our published Enforcement and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the EP installation boundary. Your Council's Public Protection team may advise you further on these matters.

Water Management:

The Water Framework Directive (WFD) waterbody in closest proximity to the proposed development site is the 'Sleep Brook - source to confluence with unnamed tributary' (Waterbody Reference GB109054049170), which is currently 'not assessed'.

Clean surface water can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters. Dirty Water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces, as proposed. Any tanks proposed should comply with the Water Resources (control of pollution, silage, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present may result in the build up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and

enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via:
<http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

Flood Risk (Surface Water):

Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed site is located within Flood Zone 1 which comprises of land assessed as having a less than 1 in 1000 annual probability of river flooding (<0.1%). In considering surface water run-off, the Environmental Impact Assessment (EIA) includes a Section on flooding and surface water run-off (section 7.3 of the Environmental Statement). For applications subject to EIA we wish to provide 'strategic' surface water comments. We would recommend that your Flood and Water Management team are consulted on the detail of the surface water drainage proposals, as the Lead Local Flood Authority (LLFA). We acknowledge the proposals recommend SuDS (sustainable drainage systems) in the form of a swale prior to discharge to the Sleaf Brook, limited to greenfield run-off rate in line with the National Planning Practice Guidance for events up to a 1 in 100 year plus climate change (20% allowance) design standard.

For further information please refer to our LPA Process Note 'Operational Development (1ha) within Flood Zone 1'.

Manure Management (storage/spreading):

Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable.

The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. We can confirm that the proposed site (as shown on the site plan submitted) is located within a NVZ.

Pollution Prevention:

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

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

The construction phase in particular has the potential to cause pollution. Site

operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

4.1.3 **Natural England – No objection**

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the ‘Habitats Regulations’). The application site is in close proximity to the West Midlands Mosses Special Area of Conservation (SAC) which is a European site. The site is also in close proximity to a number of sites which are listed as parts of the Midlands Meres and Mosses Phase 1 and Midlands Meres and Mosses Phase 2 Ramsar sites. There are also a number of nationally designated Sites of Special Scientific Interest (SSSIs) that may be affected by the proposed development namely:

Clarepool Moss

Fenemere

Brown Moss

Sweat Mere & Crose Mere

Hencott Pool

Colemere

White Mere

Fenn’s, Whixall, Bettisfield, Cadney & Wem Mosses

Grinshill Quarry

Ruewood Pastures

Brownheath Moss.

Please see subsequent sections of this letter for Natural England’s comments on SSSI interest features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Habitats Regulations Assessment required

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England’s advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site,

proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

The effect pathways between the development and the international sites are likely to be through increased air pollution and the related deposition and through the water environment. We have not been provided any air pollution reports in support of the application but the Environmental Statement refers to a permit to operate from the Environment Agency. You may be able to undertake your HRA based on the details of this permit.

Nationally designated sites

As stated previously, this application is in close proximity to a number of Sites of Special Scientific Interest (SSSIs). The Environmental Statement report refers to an Environmental Permit for 350,000 broilers however the development only proposes increasing the numbers of birds from 150,000 to 300,000. We have not seen the permit or the modelling which informed it however it is reasonable to assume that the Environment Agency's assessment will demonstrate that the proposal will not lead to deposition on designated sites outside of the thresholds which they consider significant.

We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should you disagree or the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

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

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

Protected Species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed

development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted. If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk

Biodiversity enhancements

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

- 4.1.4 **Council Conservation Officer** – no comments to make on this application with respect to archaeological matters.
- 4.1.5 **Council Public Protection Officer** – odour is related under the EA permit. As the permit is already in place for the increased number of birds the controls specified are likely to be sufficient to control odour. All complaints regarding odour should have been directed to the EA as the regulating body.

Having looked at the distances involved does not consider it likely that there will be a significant detrimental impact on the amenity of the area through the proposals made.

- 4.1.6 **Council Highway Officer** – Whilst 3 separately submitted applications, they relate to three 50,000 bird individual poultry units but collectively, in effect, represent a development of 3 additional poultry sheds to the 3 which currently operate from the site. The site as a whole would therefore increase the bird production on the site from 150,000 to 300,000 birds per cycle. As I understand it whilst these 2 sites could operate separately in terms of the timing of the birds cycles, the intention is that they would operate under the same bird cycle. That however would ultimately be a matter for the operator/applicant.

As with the previous planning consent for the existing 3 active poultry units, the current proposal is supported by a highway report which sets out the level of HGV traffic generated. In reality however, there is likely to be a doubling of the HGV movements rather than any saved movements.

From the highway perspective, the highway authority have some concerns regarding the road infrastructure and in particular the impact of increased HGV movements on the approach road leading to the site from the Class II road. Some

localised improvements were carried out as part of the previous consent for the 3 existing poultry sheds. It is considered however that further improvements, funded by the applicant, should be sought in connection with the current application proposals having regard to the increased HGV movements.

The highway authority is satisfied that the above matter can be dealt with by way of planning condition and/or legal agreement.

- 4.1.7 **Council Rights of Way Officer** – There are no legally recorded public rights of way at any status which cross or abut the site identified.
- 4.1.8 **Council Ecologist** – Has read the above application and the supporting documents including the Environmental Statement provided by Peter Richards & Co Ltd (2015), Email from Kevin Heede (6th June 2015), Ecological Assessment conducted by Star Ecology (10th June 2015 & 2012). Recommends the conditions and informatives on the decision notice, that the Planning Officer includes the Habitat Regulation Assessment (HRA) matrix within their site report and that formal comments should be received from Natural England prior to a planning decision being granted.

Bats

5 mature trees have been identified as having bat roost potential. These trees are to be retained and protected during and post construction (as shown on the site plan). SC Tree team should be able to provide the planning case officer with appropriate planning conditions. To enhance the site for bats a condition is recommended to provide 2 bat boxes, a condition to require the details of the external lighting and an informative.

Great Crested Newts

Following on from gcn survey work conducted in 2012 water samples from four ponds within 250m of the proposed development have been analysed by the Fera eDNA testing service. The results of the eDNA analysis indicate that great crested newt are not present within the ponds (May 2015). Due to a gcn record within 500m and the lack of survey information from p5-21, all over 200m from the site, Star Ecology has proposed development risk avoidance measures for great crested newts and a condition and informative should be on the decision notice.

Nesting Wild Birds

There is potential for nesting wild birds on the site and as such recommends a condition requiring 4 artificial nests and an informative.

Badgers

No evidence of badger was recorded within 100m of the site. Star Ecology concludes that there is potential for badgers to traverse/forage on the site and has therefore provided Reasonable Avoidance Measures for Badgers. The method statement should be conditioned.

Landscape Planting

A suitable landscape plan condition should be on the decision notice.

Habitat Regulation Assessment

This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented. Natural England must be formally consulted on these 3 planning applications and their response should be taken into account prior to a decision being granted. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site.

- 4.1.9 **Council Drainage Engineer** – The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

The application form states that surface water drainage from the proposed development is to be disposed of via a sustainable drainage system (SuDS). The Environmental Statement suggests that surface water will enter the watercourse via a swale with attenuation. Full details, plan and calculations of the proposed SuDS and attenuation should be submitted for approval together with the treatment for dirty water. As part of the SuDS, the applicant should consider employing measures such as the following:

Surface water soakaways (Designed in accordance with BRE Digest 365)

Swales

Infiltration basins

Attenuation ponds

Water Butts

Rainwater harvesting system

Permeable paving on any new driveway/paved area

Attenuation

Greywater recycling system

Green roofs

Confirmation is required that the design has fulfilled the requirements of Shropshire Councils 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.

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

4.2 **Public Comments**

- 4.2.1 A site notice has been erected; press notice published and the 3 nearest neighbouring properties were directly consulted. 1 letter of representation has been received as a result raising the following concerns:

- Access road already over used
- Smell is dreadful

- Size already large enough and a negative impact
- Risk of other industrial uses if poultry meat market slumps

5.0 THE MAIN ISSUES

- Policy & principle of development
- Proposed operations
- Layout, scale and design of proposed structures
- Landscape and visual impact
- Impact on heritage assets
- Impact on residential amenities and local businesses
- Traffic and highway implications
- Trees and ecology
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 This proposal is for an expansion of a recently created agricultural enterprise for the production of poultry meat for human consumption which is a traditional agricultural function and whilst farming methods and intensity of production may have changed, its purpose has not. The Town and Country Planning Act contains a definition of agriculture, which includes the breeding and keeping of livestock, including any creature kept for the production of food. The proposed operation is therefore considered to be agricultural, although large scale, it can still be expected to be located in the countryside.

6.1.2 The nature of the current proposal and the methods used for meat production are likened by some to an industrial rather than an agricultural process. Were that argument to be accepted then the correct location for enterprises such as that proposed would be within commercial and industrial estates, usually within or on the edge of urban centres. Nationally this is not where such facilities are being located. They are generally being sited within the countryside in typically traditional agricultural locations, with a general agreement that this is acceptable in principle subject to all other material considerations.

6.1.3 On this application only one letter of representation has been received raising concern about the impact the proposal could have on their local environment and quality of life and using the existing, recently built, units as an example of the impact. The Local Planning Authority has a duty to remain objective and to ensure that the proposal is considered against the policies of the Development Plan, and that the proposal is determined in accordance with those policies unless other material planning considerations indicate otherwise. National and local policies require the LPA to use its judgement in determining whether a proposal is sufficiently harmful to interests of acknowledged importance to justify it being refused in the public interest. Of key importance in weighing the merits of a planning application and reaching that judgement are the views of statutory consultees who provide advice within their fields of expertise.

6.1.4 The National Planning Policy Framework has at its heart a presumption in favour

of sustainable development. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

- 6.1.5 Policy CS5 of the Shropshire Core Strategy states:-
New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Subject to the further controls over development that apply to the Green Belt, development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to inter alia:- Agricultural/ horticultural/ forestry/ mineral related development. Although proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts.
- 6.1.6 As such the principle of new agricultural development in this location is acceptable. The key issues are whether the proposed development would have an unacceptable adverse impact and these are considered below.
- 6.2 **Proposed operations**
- 6.2.1 The current three applications submitted propose a poultry installation with the capacity to house 150,000 birds per cycle, 50,000 birds per shed, and produce approximately 2,366 tonnes of poultry meat per annum. These three sheds would double the number of birds and production from the site from the current 150,000 birds to 300,000 birds per cycle. There will be a maximum of 7.6 cycles per year with 6 days clearing out in between each cycle. The site will operate 24 hours per day, 7 days per week. The chickens will be grown as “Standards”, i.e. they will be purchased as one day old chicks, the males are removed after 36 days and the females after 42 days. Mortalities are removed from the sheds each day and the numbers recorded, they are stored in freezers until they are removed by an approved contractor. After all the birds are removed the manure is loaded onto tractor and trailer and taken off site for spreading on farm land outside of the applicants control. The sheds are then cleaned with compressed air and water before drying and re-stocking. The wash down water will also be taken off site. The D&A advises that the applicant will not undertake this work on bank holidays.
- 6.2.2 Within the D&A the agent also details that the development will employ a further full time member of staff, two part time workers and additional short term employment during clearing out, cleaning and re-stocking which will be over and above the existing employment generated from the site. The previously approved agricultural workers dwelling provides a permanent member of staff on site and other staff employed as required for bird welfare and production to meet the standards set by the buyers. If bird welfare is not maintained and the birds become ill or dead sock is not removed this has the potential to affect the whole

flock and therefore it is not in the applicant's commercial interest to let this happen.

6.3 **Layout, scale and design of proposed structures**

- 6.3.1 Policy CS6 of the Shropshire Core Strategy requires all developments to be designed to a high quality using sustainable principles, respecting and enhancing local distinctiveness and to protect, restore, conserve and enhance natural, built and historic environments by being appropriate in scale, density, pattern and design. As detailed more in the following section the application site lies in an area classed as countryside for planning purposes as it is outside of any of the identified development boundaries. However, as previously noted agricultural developments are generally acceptable in principle in the countryside. The scale, density, pattern and design of the development still needs to be appropriate and reflect the local context.
- 6.3.2 The footprint of the whole of the proposed development, for which the current application seeks consent for part, covers approximately 9,998sqm (of a 3.291 hectare field). The application proposes to use the existing access off Burma Road which was modified under the previous application. The existing access track within the site leads between the new dwelling on the north and an area of paddocks on the south. An existing brick building, thought to be a military building, has been retained and used for storage, opposite this is the three recently completed poultry sheds and hard standing for vehicle manoeuvring and a turning area. The current application is one of three for three new sheds and six new feed bins to the south of the recently completed sheds. If approved these three new sheds would then be in line with the existing three with their gable ends and entrances facing onto an extended area of hard standing, parallel with each other and the biomass & brick buildings. The sheds are set back from Burma Road. The access track within the site will lead past the sheds and into the land being retained as grazing land where the previous consent also proposed additional planting and a replacement pond and swale.
- 6.3.3 As noted above the three sheds are to be identical in size measuring 108m x 24.7m. Eaves heights are 2.76m and with a low pitched roof the ridge height is 4.9m. The materials proposed for the buildings as detailed in the design and access statement suggest the use of Goosewing grey cladding, Goosewing grey profile sheeting to the roof and matching coloured doors. However, the existing sheds on site are not grey as officers advice to members previously was that the use of grey was not appropriate for this area where the buildings will sit within a wooded and hedgerow landscape. At the time of the previous applications a condition was imposed requiring details of the colour to be submitted and a green finish was approved. It is therefore recommended that a condition is imposed on this application and the other two to require the materials to match the existing buildings.
- 6.3.4 The feed bins will also be the same as the previously approved and erected feed bins in terms of design, size, colour, capacity and position in relation to the sheds. Each shed will have an attached control room, boiler room and store and water storage tanks. A new office and staff facility will also be provided within the footprint of the proposed buildings.

- 6.3.5 Reference is made by the agent and by the Environment Agency to an amendment to the EA Permit. The Environment Agency have confirmed that the applicant has a permit for 350,000 birds on site but that the permit is for additional buildings to the north. The agent has submitted the current three applications as it is considered that this southern site would be less visually intrusive, accessible from the existing track and also provide easier management of the site as the sheds would be all together in one group. These are relevant points and are all positive in favour of the application site. Furthermore the development of the southern site would take the new sheds further away from the nearest neighbouring property, which lies to the north, than the scheme shown in the EA Permit.
- 6.3.6 Overall officers consider that the proposed layout, scale and design are appropriate and meet the requirements of policy CS6. The layout of the development will provide three new poultry sheds in a layout and scale that are the same as the recently completed buildings. The issue of the impact on wider area is considered in the following section, however officers recommend that the proposed scheme is well designed.
- 6.4 **Landscape and visual impact**
- 6.4.1 The application proposes an expansion of an existing, recently developed, modern poultry farming business which is surrounded by existing native hedges interspersed with trees and is adjacent to mature woodland. As such the key issue to consider is whether the current proposal would result in landscape and visual impacts that are significantly greater and more harmful than the existing development. In addition to retaining and maintaining this existing landscaping the applicant has previously provided new landscaping to the rear of the proposed sheds and a buffer to the nearest neighbour, within the land retained for grazing. Officers consider that the existing landscaping and the position of the site in the wider area will minimise the visual impact of the development. Additional planting is proposed along the eastern boundary of the site, to the rear of the sheds which will help to screen the new buildings. This current proposal is also sited adjacent to the recently built buildings, but on the opposite side of the buildings from the nearest neighbour. As such the visual impact from the neighbouring property will not be significantly altered.
- 6.4.2 The Shropshire Landscape Typology for the application and surrounding area is Estate Farmland which is defined as mixed farming with clustered settlements, planned woodland character and gently rolling lowland. This landscape covers large areas of Shropshire and officers consider that the area surrounding the application site is a good example of Estate Farmland. However, this does not preclude development. What needs to be determined is whether the proposal would have a detrimental impact on the landscape and the wider area. In assessing this matter the case officer visited the application site, the immediate surrounding area and potential view points in the wider area. The conclusion of this was that the development will be visible from Burma Road but only near to the site and the neighbouring property. In the wider landscape the buildings will be viewed amongst other agricultural buildings and with the backdrop of the woodland and field hedges and trees.
- 6.4.3 There are no rights of way across the site with the nearest right of way identified

by the applicant being 460m from the site and also screened by the woodland. The Council Rights of Way Officer has advised that the development will not have an impact on any right of way. Overall officers consider that, although the buildings will be visible from the immediate surroundings, this is not resulting in an unacceptable harm to the landscape of the area and the provision of additional landscaping will further assist in reducing the visual impact of the development.

6.5 **Impact on heritage assets**

6.5.1 Sleaf airfield and the surrounding area was used by the military during the 2nd World War and there is still evidence of military uses and buildings in the area, including what remains of the airfield and the brick building within the application site. As such Sleaf could be considered to have some historic merit though this includes built form and has not been preserved in its historic form as other newer buildings have been developed on and around the airfield. In the wider area there are four listed buildings within 2km of the site. However, on considering the previous applications, for the recently built poultry sheds, the Conservation Officer confirmed that, in her opinion, the proposed development will not adversely affect the setting of any designated or non-designated heritage assets. As with the impact on the landscape the proposed buildings will be read amongst other agricultural developments and will be broken up by existing and proposed landscaping.

6.6 **Impact on residential amenities and local businesses**

6.6.1 Policy CS6 requires all developments to safeguard residential and local amenity and policy CS5, although supportive of agricultural developments requires large scale developments to ensure that they do not have an unacceptable detrimental impact on the environment. It is acknowledged that poultry sites can be an issue with the potential for noise, odour, dust, flies and vermin. One objection has been received raising these concerns and commenting that there have been problems from the recently completed sheds. These concerns are summarised in section 4.2 of the report.

6.6.2 The submitted Environmental Statement suggests that other than the dwelling proposed on the application site the nearest dwelling is New House Farm which is over 600m from the application site with Sleaf Gorse in between. The case officer noted on a site visit that the dwelling can be viewed from the agricultural land between the existing poultry sheds and visa versa. However, the current application proposes three new sheds on the opposite side of the recently completed sheds which themselves were considered to be acceptable and not harmful to the amenities of this neighbouring residential property. The issue is whether the current proposal would result in greater impact. It is acknowledged that the three applications currently being considered would double the number of birds at the site and therefore there is a risk of an increase in the impact and the odour, noise and other environmental harms.

6.6.3 The development would be required to operate under an Environmental Permit (EP) issued and monitored by the Environment Agency. As noted at 4.1.2 the permit has been granted for a larger scale development than that which was previously approved and built. Although the permit is for more sheds and a greater number of birds this does not pre-determine this current planning. The ES and EP both note that the site is proposed to be run in accordance with “Best

Available Techniques”. A formal definition of this is provided in a European Directive as “the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing the basis for emission limit values designed to prevent and, where that is not practicable, generally reduce emissions and the impact on the environment as a whole”.

- 6.6.4 The Environmental Statement (ES) submitted with the application has assessed all of the potential impacts on the surrounding area and the following section considers the information provided and the advice from the Environment Agency (EA) who have also considered the potential impacts in assessing the Environmental Permit (EP) application. It is worth noting at this stage that the EA have advised that they have not received any complaints about the existing three sheds on site and that during their visits to the premises no non-compliance was recorded.
- 6.6.5 Noise – mitigation measures have been implemented on the previous consent and could also be implemented for this application. These include regular maintenance; limiting hours for feed deliveries to normal working hours; and checks and repairs to plant and equipment. The ES has noted that there is existing background noise from traffic and from the aircraft at Sleaf, though acknowledges that this is mainly in the summer months and during daylight hours and as such has considered the impact of the proposed development on a typical rural area, discounting the existing noise sources. In conclusion the ES suggests that the traffic movements will not affect any properties there are not any directly facing Burma Road before the site entrance and noise from the birds and the fans will be minimised by the use of baffles.
- 6.6.6 The proposed baffles at the end of the building will direct odour in an upwards direction during operation. The main impact of odour and dust will be during the cleaning out process. Management processes are proposed within the EP to seek to reduce the impact of the cleaning out by keeping the cleaning period as short as possible; seeking to avoid weekends and bank holidays unless absolutely necessary; and loading waste onto trailers adjacent to the entrance to each shed.
- 6.6.7 The EA response advises that the approved EP includes conditions to control odour/noise through the requirements of the permit, including further assessment where required and for the operator to produce both an odour and noise management plan to recognise any potential sources and to have actions in place to prevent nuisance occurring. Records are required to be kept by the operator so that, through site inspections, the EA can check that the operation of the units is compliant with the EP. As such officers consider that the risk of unacceptable noise levels emitting from the operations of the site would be low and would not warrant refusal of the application.
- 6.6.8 Odour – The ES notes that the nearest neighbour is 600m from the proposed development and that there is no history of complaints relating to odour (or noise). As such the agent considers that a detailed assessment is not required. The Public Protection Officer has confirmed that no complaints have been made to the Council and furthermore it is noted that these matters are also dealt with by the EA through conditions on the Environmental Permit which would manage the

odour levels at the site and would not result in unacceptable harm. As noted previously the EP already covers more birds than are currently being proposed and as such the conditions and assessment of the EP have considered the potential impact of the scale of the development now proposed as not unacceptable.

- 6.6.9 Dust – The main sources of dust identified in the ES are the birds, feed and floor coverings. In order to reduce the effect of dust the development proposes the installation of dust baffles which will reduce the amount of dust which will leave the sheds and any dust which does pass through the baffles is likely to be small particles which will disperse in the atmosphere. Any larger particles will not travel the distance to the nearest neighbouring properties. As such officers consider that dust from the operation of the site is not expected to cause any major problems in the area.
- 6.6.10 Flies and Vermin – The ES has identified that flies can be attracted to storage of feed and manure. Providing the feed is stored appropriately and that the feed bins are regularly checked the storage of feed should not cause a fly infestation or attract vermin. The issue of manure storage is considered later in the report, however with regard to fly infestations the ES advises that the covering of manure heaps with appropriate material would raise the temperature of the manure sufficiently to kill off any flies or larvae and this can be done as the manure would be regularly inspected for evidence of flies.
- 6.6.11 Feed is proposed to be delivered direct to site and stored in the feed bins between the poultry sheds. Each delivery vehicle will fill one feed bin and as such there will be no need to move the vehicle between off-loading. Spillages will be cleared away immediately and regular checks will be made to deal with any damage or leaks to the storage bins.
- 6.6.12 As advised under the section on the operation of the site the applicant has acknowledged that there will be instances of dead birds as with any similar operation. The proposal is to store dead birds in freezers and that these will be collected by approved contractors. The overall management of the site in terms of dead birds and feed should also ensure that the potential for rodents and flies is minimised.
- 6.6.13 It is acknowledged that an increase in flies could result in an increase in feeding birds which has the potential to cause problems for the use of the airfield the potential for flies and vermin is, as with noise and odour, reduced at a well managed modern site. Flies are more associated with older sites with deep litter systems and greater moisture content in the manure. Furthermore any larvae which hatch inside the sheds are eaten by the birds and as the proposal is to transport the manure off site, as detailed in the next section, the potential for flies on stored manure is reduced.
- 6.6.14 Manure – The ES details the process undertaken at the end of each cycle to clean down the building and remove the manure. The ES advises that the manure is kept dry to prevent fly infestation and is collected from site on clear down and stored in field piles until such time as it is suitable to be applied as fertilizer. The proposal is to sell all of the manure for disposal on other farmers land and the ES

advises that this will be done in accordance with best practice to ensure that there is no increase risk of pollution. The application site is within a Nitrate Vulnerable Zone and as such Defra guidance sets out limits for the levels of nitrogen which can be applied to the land, sets distances from sensitive receptors such as watercourses and boreholes and guidance on land types and geography that it is not appropriate to spread manure on. It is likely that any farms which take the manure will also be within the NVZ and also have to comply with the guidance.

6.6.15 The details in the ES also advise of the processes to minimise the risk of flies and the farm waste management plan required for each farm taking manure from the site. Following the granting of the previous consent the ES also includes the requirement to remove manure in trailers covered with a tarpaulin sheet and this meets with the suggestion previously made by the EA. The final spreading of the manure on agricultural land does not require planning permission or approval through the EP regime as it is an agricultural process.

6.6.16 Waste water from washing down the buildings between cycles will be treated in the same way. Washed down to storage tanks on site and then tankered off site for spreading on fields. This will also be done under best practice and the vehicle movements for this have been included in the calculation of the overall end of cycle movements.

6.6.17 Lighting – The lighting of the site is proposed to be low wattage lights on the gable ends of the poultry sheds where the doors are located to match the lighting on the existing buildings. The lights will be directed downwards to not create any light spillage beyond the area immediately adjacent to the buildings. Low lighting is also required during cleaning out times. The proposal does not include any other lighting and as such officers consider that the lighting would not have an impact outside of the site.

6.6.18 It is considered that all of the potential impacts on the local amenity, including the operation of the airfield, have been assessed within the ES and the approved EP. The site will operate under the conditions imposed on the EP and to Best Available Techniques. As such the day to day operations of the site should not be noticeable beyond the application site and the nearest neighbouring residential property is approximately 600 metres away from the proposed poultry sheds. As such officers consider that the development will comply with the requirements of policy CS5 and not result in an unacceptable adverse environmental impact.

6.7 **Traffic and highway implications**

6.7.1 To support the application a Traffic and Highway Statement has been submitted. The assessment details the traffic movements as existing and proposed and the route proposed for the traffic to access the main road network. There is an existing access to the site off the Burma Road which leads to the B5476, Wem to Shrewsbury road which is being used to serve the existing business. This access was improved as part of the previous consent. In addition an extra passing place was provided on the Burma Road and, following a request by the Highway Officer during the consideration of the previous application, improvements were made to the junction of Burma Road with the B5476.

6.7.2 The report predicts traffic movements to be the same as the existing three sheds

as follows:

- Bedding – 2 HGVs per cycle
- Chick delivery – 6 HGVs per cycle
- Feed – 42 HGV's per cycle (maximum of 2 per day)
- Mortality collection – 8 HGV's per cycle
- LPG delivery – 2 HGV's per cycle
- Poultry collection – 44 HGV's per cycle (up to a maximum of 34 in one 24 hour period in the cycle)
- Manure collection – 34 HGV's per cycle (maximum 22 in one 24 hour period in the cycle)
- Vets, engineers, inspectors, cleaning and catching contractors – 10 small vehicles per cycle

As such this would double the vehicle movements from the existing movements. The report notes that the business will operate 24 hours a day but that deliveries will mainly be between 7am and 8pm and that bird collection occurs over night due to bird welfare and factory hours.

- 6.7.3 In order to assess the potential impact of the development traffic the Highway consultant for the applicant has assessed the current highway conditions, traffic conditions (through traffic counts) and accident records. The accident records show no personal injury accidents within the last 5 years for either Burma Road or the B5476. The traffic counts and observations show that the highway network operates well with peak traffic movements between 08:00 and 15:00 westbound and 11:00 and 17:00 eastbound and a significant drop in traffic levels between 20:00 and 06:00. The consultant has concluded that the cumulative impact of HGV and tractor and trailer movements on the Burma Road is not significant. On 44 out of 48 days of the cycle there will be, on average, less than one additional vehicle movement on the road and the majority of increase during collection and cleaning will be during the night when existing traffic levels are low.
- 6.7.4 The previous consent required improvements to the access to the site to widen the first 20m to 6m wide to enable two HGV's, or two tractor and trailers, to pass in the access. In addition a passing place has been provided on Burma Road which has improved the ability of two HGV's to pass on the Burma Road and works have been undertaken to the junction of Burma Road to the B road to widen the splay at the junction improving entrance and exit paths for large vehicles by reducing the angle of the corner to turn.
- 6.7.5 The proposal also includes a 14m wide concrete apron in front of the poultry sheds to provide a service area for delivery and collection of birds, delivery of feed and removal of manure. This will enable vehicles to enter and leave the site in a forward gear and also allow for the hard standings to be washed down after delivery, bird collection, manure collection and cleaning. It is recommended that the hard standing wash down also pass through an oil interceptor to ensure that any vehicle leakages do not enter the waste water, which is to be spread on fields.
- 6.7.6 The Council Highway Officer has assessed the information submitted, the proposed improvements and the predicted traffic movements and has not raised an objection to the principle of the development. However, the Highway Officer has advised that the proposed three units would increase HGV movements on the

approach road leading to the site from the class II road and that this would have an adverse impact. The Highway Officer has recommended that further improvements should be carried out to this road and that this can be dealt with by a condition or a legal agreement. The precise wording of the condition will be provided to members at the meeting, the condition would require the developer to construct the improvements to the road. If a legal agreement is to be used this would require the applicant to pay a financial contribution to the Council to undertake the improvement works. Either procedure will provide improvements which are considered to be required due to the impact of the increase in HGV movements.

6.8 **Trees and ecology**

- 6.8.1 Policy CS17 seeks to protect, enhance, expand and connect Shropshire's environmental assets which include landscape and ecology. The proposal is to retain the existing landscaping and the additional landscaping and ecology areas previously provided. Additional landscaping is also proposed on the eastern boundary of the site. As such the current proposal is not considered to have a negative impact on trees and will increase tree planting and enhance the existing landscaping.
- 6.8.2 An Ecological Assessment has been submitted with the application which advises that the current site is intensively managed arable land bounded by species poor hedgerows and mature trees. The ecologist has identified the potential for bats and nesting birds but no evidence of Great Crested Newts. However, the assessment does suggest mitigation for CGN, badgers and hedgehogs, in addition to bats and nesting birds, to deal with the potential that the site is used by these species.
- 6.8.3 The Council Ecologist's advice is provided in full under section 4 above. Overall the Ecologist has no objection to the proposal and has recommended conditions relating to bats, GCN, nesting birds, badgers and landscaping all of which are provided in the appendix below.
- 6.8.4 In assessing the permit the EA previously advised that they had also assessed the potential impact on the SSSI's in the wider area and predicted that the ammonia emissions at Brownheath Moss, the closest SSSI, would be just over 4% and that this would not have an adverse impact. The advice of Natural England is also provided in section 4 above and notes that the SSSI's are not constraints to the proposed development and as such, subject to the recommended conditions it is considered that the development meets the requirements of policy CS17 with respect to ecology.
- 6.8.5 This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations). A Habitat Regulation Assessment matrix is attached to this report for members observation and comment if considered necessary.
- ## 6.9 **Drainage**
- 6.9.1 The site for the proposed buildings is within flood zone 1 and as such is not at high risk of flooding. The application proposes the use of Sustainable Drainage

System (SuDS) for all of the surface water from the buildings. The water from the hard standings and washing out of the insides of the buildings will need to be collected and disposed of off site as this will be similar to the collected manure. The collection tanks should be fitted with level indicators to identify when they need emptying. The SuDS proposes that the surface water is collected and taken to a swale prior to discharging to Sleaf brook approximately 250m from the site which in turn joins the River Roden at Wem. The swale will have both infiltration and attenuation capabilities and hold the surface water close to source, releasing it slowly over time to not exceed green field run off rate. Both the EA and the Council Drainage Engineer have advised that this method of dealing with surface water is acceptable in principle.

7.0 CONCLUSION

7.1 To conclude, there will inevitably be various impacts arising from a development of the scale currently proposed in a rural setting. It is the scale of these impacts which need to be considered and assessed against the presumption in favour of sustainable development as set out in the NPPF and the requirements of adopted Policies CS5, CS6 and CS13 of the Shropshire Core Strategy.

7.2 The potential impacts arising from the proposed development have been identified and considered within the main body of the report. These have been informed by the Environmental Statement submitted with the application and the responses of the consultation exercise undertaken. It is acknowledged that these developments are locally sensitive and there have been differing views and judgements provided in relation to the scale and significance of the various impacts. It is the role of members as the decision maker to assess these views, together with local and national planning policy and guidance, to make an informed but balanced judgement on whether the proposed development is acceptable or not.

7.3 It is officers advice that, on the basis of the information supplied with the application, and the assessments and judgements provided by relevant professionals, the proposed development will not result in significant harm. This would include the visual impact of the proposed development; the impact on the character of the local area; the impact on local residents and businesses in terms of noise, smell and air emissions; and the potential impact on users of the local highway network. Therefore officers recommendation is that the application be approved subject to the conditions as set out below.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

9.0 FINANCIAL IMPLICATIONS

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

Central Government Guidance:

National Planning Policy Framework - The relevant sections of the NPPF are sections :-

Section 1 - Building a strong, competitive economy

Section 3 - Supporting a prosperous rural economy

Section 11 - Conserving and enhancing the natural environment

Section 13 - Conserving and enhancing the historic environment

Shropshire and Telford and Wrekin Joint Structure Plan was adopted in November 2002 and contains the following relevant policy which GOWM has notified can be saved.

P16: Air Quality

Core Strategy:

Policy CS5: Countryside and Green Belt

Policy CS6: Sustainable Design and Development Principles
Policy CS7: Communications and Transport
Policy CS13: Economic Development, Enterprise and Employment
Policy CS17: Environmental Networks
Policy CS18: Sustainable Water Management



Habitat Regulation Assessment (HRA) Screening Matrix & *Appropriate Assessment Statement*

Application name and reference number:

Meadowland, Sleap, Harmer Hill, Shrewsbury Shropshire SY4 3HE

15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.

15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.

15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site

Date of completion for the HRA screening matrix:

8th June 2015

HRA screening matrix completed by:

Nicola Stone
Assistant Biodiversity Officer
01743-252556

Table 1: Details of project or plan

Name of plan or project	<p>Meadowland, Sleap, Harmer Hill, Shrewsbury</p> <p>15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site</p>
Name and description of Natura 2000 site	<p>In 10km: Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2 (949.2ha) together form an outstanding example of lowland raised mire. The site as a</p>

whole supports a wide range of characteristic acid peat bog vegetation.
 Annex I Habitats that are a primary reason for selection of site:
 Active raised bog.
 Annex I Habitats present as a qualifying feature but not a primary reason for selection of site:
 Degraded raised bogs still capable of natural regeneration

Clarepool Moss Midland Meres & Mosses Ramsar Phase 1 and West Midland Mosses (184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs.

Annex I Habitats that are a primary reason for selection of site:
 Natural dystrophic lakes and ponds
 Transition mires and quaking bogs

Fenemere Midland meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water. Fenemere is also important for its rich aquatic invertebrate fauna. It is designated for its open water, swamp, fen, wet pasture and Carr habitats with the species *Cicuta virosa* and *Thelypteris palustris*

White Mere Midland Meres and Mosses Ramsar Phase 1 (31.97ha) is one of the richest of the North Shropshire meres for aquatic plants. Designated for its open water and carr habitats with the plant species *Carex elongata* and *Eleocharis acicularis*

Brownheath Moss Midland Meres and Mosses Ramsar Phase 2 (31.32ha) differs from the other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. It is designated for its fen and carr habitats with the species *Carex elongata*.

Cole Mere Midland Meres and Mosses Ramsar Phase 2 is one of the largest of the Shropshire meres, with an almost complete fringe of woodland. There is a comparatively rich flora of aquatic macrophytes and the aquatic invertebrate fauna of Cole Mere is particularly diverse and is designated for its Open water, Wet pasture and Carr habitats with the species *Carex elongata*

Most of Hencott Pool Midland Meres and Mosses Ramsar Phase 2 (11.5ha) is swamp carr on very wet peat dominated by alder *Alnus glutinosa* and common sallow *Salix cinerea* with frequent crack willow *Salix fragilis*. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen plants. It is designated for its Carr habitat and the species *Carex elongata* and *Cicuta virosa*

Sweat Mere and Crose Mere Midland Meres and Mosses Ramsar Phase 2 (38.58ha) are two dissimilar meres constituting a site of

	<p>exceptional importance. The meres and their surrounds form a complex of open water, reedswamp, fen and woodland habitats unrivalled in Shropshire for the variety of natural features of special scientific interest. It is designated for its Open water, Swamp, Fen, Wet pasture and Carr habitats with the species <i>Carex elongata</i> and <i>Thelypteris palustris</i></p> <p>In 5km: Ruewood Pastures SSSI Grinshill Quarries SSSI</p> <p>In 2km: Ruewood Pastures Reserve Local Wildlife Site Ruewood Pools Local Wildlife Site</p>
Description of the plan or project	<p>15/01937/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01938/EIA - Erection of a poultry building, an expansion of the existing poultry business on site.</p> <p>15/01921/EIA - Erection of a poultry building, an expansion of the existing poultry business on site</p> <p>(Site total, with current approved 2012 schemes, 300,000 broiler places).</p>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	<p>No</p> <p>Environment Agency confirm in the emissions modelling carried out for Environmental Permit reference EPR/SP3737FF/A001 (based on 350,000 broiler places) that all European Designated Sites can be screened out as no likely significant effect except for Brownheath Moss Midland meres and Mosses Ramsar Phase 2 where there is a process contribution of 4.2% of the critical level for ammonia. However there are no other permitted intensive farming units within 10km of the European Designated site at Brownheath Moss Midland meres and Mosses Ramsar Phase 2 and the process contribution is below the 20% threshold used by Environment Agency and Natural England.</p>

Appropriate Assessment Statement

The current application is for 3 broiler units. Meadowland's currently has permission for 150,000 broiler places. The site total will reach 300,000 broiler places.

The Environmental permit reference EPR/SP3737FF/A001 covers a total of 350,000 birds on the site.

Brownheath Moss Midland meres and Mosses Ramsar Phase 2 is the closest European Designated Site at 4.8km. Brownheath Moss has a Critical Level for ammonia of $1\mu\text{g}/\text{m}^3$ since lichen interest is deemed to be an important interest feature of the site. The process contribution for ammonia from the permitted activities is 4.2% of the Critical Level according to modelling carried out by Environment Agency in 2012. This is above the threshold used by Environment Agency as an assessment of significance (for European Sites 4%) and so further detailed consideration was required.

Shropshire Council has not identified any other new permitted intensive farming units within 10km of Brownheath Moss Midland meres and Mosses Ramsar Phase 2 since applications reference; 12/04574/EIA, 12/04580/EIA, 12/04581/EIA had been granted permission. In-line with Natural England's and the Environment Agencies comments for the previous applications the process contribution will still be below 20%. Shropshire Council has therefore concluded that there is no likely significant effect and no likely effect on the integrity of the European Designated site at Brownheath Moss Midland meres and Mosses Ramsar Phase 2.

All the other European Designated Sites within 10km are at a greater distance from the installation and many have a Critical Level of $3\mu\text{g}/\text{m}^3$. Environment Agency had concluded no likely significant effect on any of the other European Designated Sites within 10km on this basis.

There are 2 SSSI's within 5km: Grinshill Quarries SSSI and Ruewood Pastures SSSI. Environment Agency modelling shows that the process contribution at these sites was below 20% and so there is no likely significant effect.

There are 2 Local Wildlife Sites within 2km of the proposed installation: Ruewood Pools Local Wildlife Site and Ruewood Pastures Local Wildlife Sites. Environment Agency modelling shows that the process contribution at these sites was below 50% and so there is no likely significant effect.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 65 of the Habitats Regulations in completing this Habitat Regulation Assessment and Appropriate Assessment. This is based on the agencies comments from the 2012 planning applications and the assumption that no further intensive poultry applications have been granted permits during this time lapse.

The Significance test

There is no likely significant effect alone, or in-combination, from development proposed under planning application references 15/01937/EIA, 15/01938/EIA, 15/01921/EIA for a total of 150,000 broiler bird places in 3 units at meadowlands, Sleep, Harmer Hill on any European Designated Site. (This will increase the total broiler places at the site to 300,000).

The Integrity test

There is no likely effect on the integrity of any European Designated Site from planning application references 15/01937/EIA, 15/01938/EIA, 5/01921/EIA for a total of 150,000 for

a total of 150,000 broiler bird places in 3 units at meadowlands, Sleep, Harmer Hill. (This will increase the total broiler places at the site to 300,000).

Conclusions

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.
EA's and NE's comments should be received and taken into consideration before planning permission is granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

RELEVANT PLANNING HISTORY:

12/04574/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 1 of a 5 Phase development) GRANT 7th March 2013

12/04580/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 2 of a 5 Phase development) GRANT 7th March 2013

12/04581/EIA Construction of a broiler chicken building to house 50,000 birds (Phase 3 of a 5 Phase development) GRANT 7th March 2013

12/04582/FUL Construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) GRANT 7th March 2013

13/04582/VAR Variation of Condition No. 2 attached to Planning Permission 12/04582/FUL for the construction of a building to house a biomass boiler and fuel store associated with a 150,000 broiler chicken unit (phase 4 of a 5 phase development) to relocate the building to house the biomass boilers to a more central position GRANT 14th February 2014

14/03641/FUL Erection of a farm managers dwelling and residential garage/annex GRANT 12th 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)

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. The external materials shall match in colour, form and texture those of the existing buildings.

Reason: To ensure that the works harmonise with the existing development.

4. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Star Ecology (10th June 2015) attached as an appendix to this planning permission.

Reason: To ensure the protection of wildlife.

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to the commencement of development on site a scheme of landscaping shall be submitted to and approved by Shropshire Council. The scheme shall include:
 - a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Minor artefacts and structures (e.g. lighting)
 - d) Planting plans, including wildlife habitat and features (e.g. bird/bat box)
 - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties).
 - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works

h) Implementation timetables

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

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

7. A minimum of 4 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

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

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

9. A minimum of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

10. The proposed surface water drainage scheme shall be installed in accordance with the approved drainage details prior to the first use of the building hereby approved.

Reason: To ensure that the surface water drainage system is adequate and to minimise flood risk.

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

11. All manure moved off site will be done so in covered and sealed trailers.

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



<u>Committee and Date</u>
North Planning Committee
4 th August 2015

<u>Item</u>
13
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 4th August 2015

Appeals Lodged

LPA reference	14/05743/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs J Lycett
Proposal	Outline application for residential development to include new access
Location	Proposed Residential Development To The West Of Little Ness Road Ruyton Xi Towns Shropshire
Date of appeal	17.07.2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03176/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr G Richards
Proposal	Outline application for the erection of 10 no. dwellings (all matters reserved)
Location	SW of Gilrhos, St Martins
Date of appeal	17.07.2015
Appeal method	Written reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/05220/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Roger Pinches
Proposal	Conversion of outbuildings to 3 dwellings
Location	Hazels Road Stanton upon Hine Heath
Date of appeal	22 nd July 2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/05017/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr W Hilton
Proposal	Outline application (access for approval) for the erection of one dwelling
Location	Land to the rear of Magnadene, Ash Magna, Whitchurch
Date of appeal	22.07.2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	14/04781/FUL
Appeal against	Non determination
Committee or Del. Decision	
Appellant	Mr and Mrs I Ward
Proposal	Proposed erection of a dwelling and improvements to vehicular access
Location	Heatherdale, Dudleston Heath, Ellesmere
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	No
Appeal decision	Allowed

LPA reference	14/02482/OUT
Appeal against	Non determination
Committee or Del. Decision	
Appellant	Ma Anne Taylor
Proposal	A single open market dwelling
Location	Moreton Grange, Moreton, Press, Whitchurch
Date of appeal	11.02.2015
Appeal method	Written reps
Date site visit	25.06.2015
Date of appeal decision	13.07.2015
Costs awarded	No
Appeal decision	Allowed

LPA reference	14/02498/FUL
Appeal against	Refusal of planning permission
Committee or Del. Decision	Committee
Appellant	Mr Trevor Mennell
Proposal	Erection of 2 no. one bedroom retirement bungalows
Location	Land Adjacent To, 10 Sungrove, Wem, Shropshire
Date of appeal	11.02.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	15.07.15
Costs awarded	
Appeal decision	Allowed

LPA reference	14/04101/OUT
Appeal against	Non Determination
Committee or Del. Decision	
Appellant	Mr & Mrs R Hancocks
Proposal	Outline application for the erection of 4no. holiday lets site with associated parking.
Location	Land NW Of Walnut House, Little Ness Road Ruyton Xi Towns
Date of appeal	23.03.2015
Appeal method	Written reps
Date site visit	01.06.2015
Date of appeal decision	12.06.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01018/FUL
Appeal against	Condition
Committee or Del. Decision	
Appellant	Mr Ajmer Rai
Proposal	Change of use of agricultural land to domestic garden land
Location	Ashford Hall , Knockin
Date of appeal	26.08.2014
Appeal method	Written reps
Date site visit	21.03.2015
Date of appeal decision	12.06.2015
Costs awarded	
Appeal decision	Allowed

LPA reference	14/00790/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	JRT developments Ltd
Proposal	Outline application for the erection of fourteen dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access)
Location	Land Off Bearstone Road Norton In Hales Market Drayton
Date of appeal	08.01.2015
Appeal method	Written
Date site visit	
Date of appeal decision	05.06.15
Costs awarded	
Appeal decision	Allowed

LPA reference	14/01121/OUT
Appeal against	Non determination
Committee or Del. Decision	Was Due to go to Committee 22.01.15
Appellant	Mrs W Andrews
Proposal	Outline application (all matters reserved) for residential development of up to twelve dwellings
Location	Land East Of Beswicks Lane Norton In Hales Market Drayton
Date of appeal	17.07.14
Appeal method	Written
Date site visit	
Date of appeal decision	05.06.15
Costs awarded	
Appeal decision	Allowed

LPA reference	14/04559/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Corbett
Proposal	Outline application (layout, scale and access not reserved) for 40 dwellings. including 8 bungalows with open space and access to A49 (Amended description)
Location	Land off A49, Hadnall
Date of appeal	15.04.2015
Appeal method	Written reps
Date site visit	29.06.2015
Date of appeal decision	21.07.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/02251/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Eccleston
Proposal	Two Dwelling with garages and creation of new vehicular access
Location	North West of the Last Inn, Hengoed
Date of appeal	17.04.2015
Appeal method	Written reps
Date site visit	15.06.2015
Date of appeal decision	23.07.2015
Costs awarded	
Appeal decision	Dismissed

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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/15/3005350
Heatherdale, Dudleston Heath, Ellesmere, SY12 9LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Ian Ward against Shropshire Council.
 - The application Ref 14/04781/FUL is dated 22 October 2014.
 - The development proposed is erection of a dwelling and improvements to vehicular access.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a dwelling and improvements to vehicular access at Heatherdale, Dudleston Heath, Ellesmere, SY12 9LD in accordance with application ref 14/04781/FUL, dated 22 October 2014, and the following conditions:
 - 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: 14-13A101B, 14-13A301D and 14-13A102D.
 - 3) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
 - 4) The parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan 14-13 A101 Rev B prior to the dwelling being occupied. The approved parking and turning areas shall thereafter maintained at all times for that purpose.
 - 5) The visibility splays shown on the block plan 14-13 A101 rev B shall be provided at the access point in both directions along the highway. All growths and structures in front of these lines shall be lowered to and thereafter maintained at a height not exceeding 0.9 metre above the level of the adjoining highway carriageway.

Main Issue

2. The Council have confirmed that they consider the proposal to be in a sustainable location in terms of the availability of services, facilities and public transport. The Council also consider the proposal to raise no issues in relation

to highway safety and neighbouring amenity, and to be visually appropriate in its context. The only issue of dispute between the parties is whether a S106 contribution towards affordable housing would be necessary and reasonable to make the development acceptable in planning terms.

3. Accordingly, I consider the main issue for the appeal to be whether the proposal would make appropriate provision towards affordable housing.

Reasons

4. The Local Plan is the Shropshire *Local Development Framework: Adopted Core Strategy* (Core Strategy), which was adopted in March 2011. Policy CS11 seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing. In the case of developments of less than 5 dwellings provision can be made in the form of equivalent contributions and in line with policy CS11 a financial contribution, secured through a S106 agreement, is sought by the Council as part of the development.
5. Recent changes to National Planning Practice Guidance¹ in relation to small scale and self-build development state that affordable housing contributions should not be sought from developments of 10 or less dwellings, or 5 or less dwellings in designated rural areas. This is a significant material consideration, to which I must have regard.
6. The proposal relates to a single dwelling, and falls below the threshold identified in the Ministerial Statement. Notwithstanding Policy CS11 of the Core Strategy, to require that a contribution is made in this case would run contrary to more recently expressed Planning Policy Guidance, intended to reduce the construction cost of small-scale new build housing in order to help increase housing supply.
7. The Council have drawn my attention to the scale of local housing need in the County, and to the large proportion of development in Shropshire which occurs on small sites. It would therefore appear that on the basis of past trends the change in Planning Policy Guidance would remove a significant previous source of funding for affordable housing. Nevertheless, 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 and cannot therefore be considered to be appropriate in this case.

Conclusion and Conditions

8. I therefore conclude that a S106 contribution towards the provision of affordable housing is not a necessary requirement to make the development acceptable in planning terms and for the reasons set out above the appeal is allowed.
9. A number of conditions have been suggested by the Council, and I have assessed these in line with the guidance contained within Planning Practice Guidance. In addition to the standard time condition, and a condition requiring the development be carried out in accordance with the approved plans, I also consider it reasonable and necessary to require that details of

¹ Ministerial Statement of November 2014 setting out national policy on Section 106 which should be read alongside the National Planning Policy Framework.

drainage are submitted for approval by the Council. In order to ensure adequate parking and access arrangements, including visibility splays, it is reasonable and necessary to impose conditions requiring these works be implemented and retained as part of the development. Lastly, as a permeable surface for the parking area is proposed in the application, I do not consider it necessary for the matter to also be covered by a condition.

Anne Jordan

INSPECTOR

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Appeal Decision

Site visit made on 25 June 2015

by Mr A Thickett BA(Hons) BTP MRTPI DipRSA

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

Decision date: 13 July 2015

Appeal Ref: APP/L3245/W/15/3002657

Moreton Grange, Moreton Street, Prees, Shropshire, SY13 2EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Ms Anne Taylor against Shropshire Council.
 - The application Ref 14/02482/OUT is dated 3 June 2014.
 - The development proposed is a single open market dwelling. The application is in outline with all matters reserved.
-

Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the Schedule at the end of this decision.

Procedural Matter

2. An application for costs has been made by Ms Taylor against Shropshire Council. That application is the subject of a separate decision.

Main Issue

3. The appeal site comprises part of the garden to Moreton Grange which includes the vehicular access serving that property and a car port. The Council's statement submitted in relation to this appeal indicates that its only objection to the proposed development is the lack of any contribution to the provision of affordable housing. The main issue is; whether the proposed development should contribute to the provision of affordable housing.

Reasons

4. Policy CS11 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 seeks to ensure that all new open market housing development makes an appropriate contribution to the provision of local needs affordable housing. Developments under 5 dwellings are expected to make a financial contribution. The reasoned justification at paragraph 5.20 states that for developments of less than 5 units '*provision will be in the form of equivalent contributions towards provision elsewhere in the local area, unless the developers wish to make the provision on site*'.
5. The Council's 'Type and Affordability of Housing Supplementary Planning Document (SPD)' explains out how the Council will implement Policy CS11. Off site contributions are tariff based. The SPD at paragraph 4.21 states that; '*The financial contributions for off-site affordable housing will be pooled to be spent*

on facilitating the delivery of additional and/or supported housing in Shropshire'. This conflicts with the adopted Core Strategy which, as indicated above, states that off site contributions will be directed towards provision in the local area.

6. In order to be lawful planning obligations must meet the requirements set out in the Community Infrastructure Regulations 2010¹. Planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. I do not doubt that there is a need for affordable housing in Shropshire but I have read nothing to indicate that the contribution the Council seek in this case would lead to the provision of affordable housing in the local area. Nor have I seen anything to indicate a need for supported housing in this area.
7. Further, National Planning Policy Guidance (PPG) states that affordable housing contributions should not be sought from developments of 10 units or less². The Written Ministerial Statement (WMS) which introduced the 10 unit threshold states that the threshold is designed to lower the construction cost of small scale new build thereby helping to increase housing supply. The Council argues that Policy CS11 has not inhibited the delivery of new housing on small sites. I don't doubt that small sites continue to come forward but the National Planning Policy Framework (NPPF) at paragraph 47 seeks to significantly boost the supply of housing. I have seen no analysis to show that more housing would not have been built had Policy CS11 operated as envisaged by the PPG and WMS.
8. No evidence is submitted to counter the Council's argument that a 10 unit threshold will have a serious impact on the delivery of affordable housing in Shropshire. However, the PPG post dates the Core Strategy and sets out the most up to date national policy position in this regard and, insofar as they relate to sites of 10 dwellings or less, neither Policy CS11 nor the SPD accord with national planning policy guidance.
9. The Council draw my attention to its Site Allocation and Management of Development Plan which is nearing the end of its examination. At my request the Council indicated the policies and main modifications it considered are relevant to this appeal. Although material generally, in my view, none are relevant to this issue.
10. To conclude; nothing is submitted to indicate that the contribution sought by the Council would meet a need in the local area and, consequently, I do not consider that the planning obligation sought by the Council satisfies the requirements of the Community Infrastructure Levy Regulations. That conflict alone would be sufficient to outweigh the requirements of Policy CS11. That Policy CS11 and the SPD do not accord with national policy insofar as they relate to 10 units or less adds weight to my conclusion that the failure to contribute to the provision of affordable housing should not prevent planning permission being granted for the proposed development.

¹ Regulation 122

² Ref ID: 23b-012-20150326

Conditions

11. I have considered the conditions suggested by the Council in light of the advice in the National Planning Policy Framework and the PPG. The site plan was amended at the suggestion of the Council prior to the appeal being made. The amendments relate to a change to the red line to secure the provision of vehicular access and it is necessary, in the interests of highway safety, to ensure that the development accords with the details shown on this plan. However, given that the appeal application is in outline with all matters reserved, I see no need to impose further conditions relating to access, visibility or parking. Nor do I consider it necessary to state that the layout shown on the submitted plans is not approved by this permission.
12. I am not persuaded that it is necessary to place a limit on the height of any building. To do so may stifle good design and as appearance is a reserved matter the Council can resist a building of an inappropriate height or design. I have seen nothing to indicate why foul drainage cannot be left to Building Regulations but will, in order to prevent flooding, require details of surface water drainage. The Council's ecologist is satisfied that a bat survey is not required and given that conclusion the requirement for a lighting plan appears to me to be unduly onerous.
13. In 2013 the Council granted planning permission for the conversion of Moreton Grange to a residential care home and the appeal site was to provide car parking to serve that use. A planning condition cannot be used to revoke a planning permission. However, it seems to me that if the planning permission I hereby grant is implemented then the permission for the residential home cannot be implemented in accordance with the approved plans, leaving the appellant with a choice of which development to pursue.

Conclusions

14. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.

Anthony Thickett

Inspector

Schedule

APP/L3245/W/15/3002657

15. The appeal is allowed and outline planning permission is granted for a single open market dwelling at Moreton Grange, Moreton Street, Prees, Shropshire, SY13 2EF in accordance with the terms of the application, 14/02482/OUT dated 3 June 2014, dated, and the plans submitted with it, subject to the following conditions:
- 1) Details of the access, appearance, landscaping, layout, and scale, (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.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) This permission relates to the site as denoted by the red line on Drawing No. MG003 Rev A.
 - 5) No development shall take place until details of a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. Development shall take place in accordance with the approved details.



Costs Decision

Site visit made on 25 June 2015

by Mr A Thickett BA(Hons) BTP MRTPI DipRSA

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

Decision date: 13 July 2015

Costs application in relation to Appeal Ref: APP/L3245/W/15/3002657 Moreton Grange, Moreton Street, Prees, Shropshire, SY13 2EF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Anne Taylor for a full award of costs against Shropshire Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for the erection of one open market dwelling.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. National Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG goes on to say that; *'If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period'*. And: *'If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether'*¹.
4. The appeal application was registered by the Council on 5 June 2014. No contact was made within the 8 week determination period and no explanation given as to why no decision had been made until 1 October. The Council's problems with regard to staffing levels and increased work loads due to the failure to maintain an up to date development plan are largely of its own making. I also consider that the Council should have done better with regard to keeping the appellant informed of the issues affecting the progress of the application and I appreciate the appellant's frustration at the long delays.

¹ Ref ID: 16-048-20140306

5. Nevertheless, from what I have read, it seems to me that the planning officer responsible for this case was seeking to resolve the problems and issues raised by the Highway Authority and the Council's ecologist. Had the application been determined within the relevant period the concerns of the Highway Authority and ecologist may have led to a refusal to grant outline planning permission. The issue of the Written Ministerial Statement and change to the PPG's guidance regarding planning obligations and its impact on the Council's policies for affordable housing also raised issues that needed to be resolved.
6. These matters should have been resolved quicker. However, for the above reasons, I am satisfied that the Council does have a substantive reason for not determining the application within the relevant period. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Anthony Thickett

Inspector

Appeal Decision

Site visit made on 25 June 2015

by Mr A Thickett BA(Hons) BTP MRTPI DipRSA

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

Decision date: 15 July 2015

Appeal Ref: APP/L3245/W/15/3003296

Land adjacent to No. 10 Sungrove, Wem, Shropshire, SY4 5HH

- 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 Trevor Mennell against the decision of Shropshire Council.
 - The application Ref 14/02498/FUL, dated 3 June 2014, was refused by notice dated 1 October 2014.
 - The development proposed is a pair of semi detached one bedroom retirement bungalows.
-

Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the Schedule at the end of this decision.

Main Issues

2. The main issues are: the impact of the proposed development on the character and appearance of the area, whether the proposed development would provide satisfactory living conditions for prospective residents and whether the proposed development should contribute to the provision of affordable housing in the area.

Reasons

Character and appearance

3. The appeal site comprises a rectangular piece of overgrown grassland with a long frontage to Sungrove. The site backs on to the River Roden and has a pumping station and bungalow on either side. The site lies within an estate of detached bungalows and the proposed building would be in keeping with its surroundings in terms of its size and design. The existing bungalows are set back from the road. Due to the restricted depth of the site and the river behind, the proposed bungalows would abut the footpath and so would be different in this regard.
4. However, Sungrove at this point is enclosed by a 1.8m tall, thick privet hedge opposite the site and by tall hedges on the approach to the site which create a sense of enclosure. Consequently, I do not consider that the proposed development would have an unacceptable impact on the street scene or the character and appearance of the area.

Living conditions

5. Private amenity space would be provided by a small area of decking between the bungalows and the river and by gardens to either side. Although small the private amenity areas would be large enough for relaxation and the more mundane activities such as hanging out washing. The front lounge windows would be adjacent to the street and Sungrove is on a bus route. However, the site lies in a quiet residential area, I observed little passing vehicular or pedestrian traffic and consider that prospective residents would enjoy acceptable living standards. I conclude, therefore that, with regard to the first two main issues, the proposed development complies with Policy CS6 of Shropshire Local Development Framework: Core Strategy 2011.

Affordable Housing

6. Policy CS11 of the Core Strategy seeks to ensure that all new open market housing development makes an appropriate contribution to the provision of local needs affordable housing. Developments under 5 dwellings are expected to make a financial contribution. The reasoned justification at paragraph 5.20 states that for developments of less than 5 units '*provision will be in the form of equivalent contributions towards provision elsewhere in the local area, unless the developers wish to make the provision on site*'.
7. The Council's 'Type and Affordability of Housing Supplementary Planning Document (SPD)' explains how the Council will implement Policy CS11. Off site contributions are tariff based. The SPD at paragraph 4.21 states that; '*The financial contributions for off-site affordable housing will be pooled to be spent on facilitating the delivery of additional and/or supported housing in Shropshire*'. This is reiterated by the Council in a statement submitted to support its case in this appeal and conflicts with the adopted Core Strategy which, as indicated above, states that off site contributions will be directed towards provision in the local area.
8. In order to be lawful planning obligations must meet the requirements set out in the Community Infrastructure Regulations 2010¹. Planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. I do not doubt that there is a need for affordable housing in Shropshire but I have read nothing to indicate that the contribution the Council seeks would lead to the provision of affordable housing in the local area. Nor have I seen anything to indicate a need for supported housing in this area.
9. Further, National Planning Policy Guidance (PPG) states that affordable housing contributions should not be sought from developments of 10 units or less². The Written Ministerial Statement (WMS) which introduced the 10 unit threshold states that the threshold is designed to lower the construction cost of small scale new build thereby helping to increase housing supply.
10. The Council argues that Policy CS11 has not inhibited the delivery of new housing on small sites. However, the National Planning Policy Framework (NPPF) at paragraph 47 seeks to significantly boost the supply of housing and I

¹ Regulation 122

² Ref ID: 23b-012-20150326

have seen nothing to indicate that more housing would not have been built had Policy CS11 operated as envisaged by the PPG and WMS.

11. No evidence is submitted to counter the Council's argument that a 10 unit threshold will have a serious impact on the delivery of affordable housing in Shropshire. However, the PPG post dates the Core Strategy and sets out the most up to date national policy position in this regard and, insofar as they relate to sites of 10 dwellings or less, neither Policy CS11 nor the SPD accord with national planning policy guidance.
12. To conclude on this issue; nothing is submitted to indicate that the contribution sought by the Council would meet a need in the local area and, consequently, I do not consider that the planning obligation sought by the Council satisfies the requirements of the Community Infrastructure Levy Regulations. That conflict alone would be sufficient to outweigh the requirements of Policy CS11. That Policy CS11 and the SPD do not accord with national policy insofar as they relate to 10 units or less adds weight to my conclusion that the failure to contribute to the provision of affordable housing should not prevent planning permission being granted for the proposed development.

Other matters

13. I have seen no technical evidence to support allegations that the proposed development would threaten the stability of the river bank or be threatened by any erosion of the river bank. A certain level of nuisance from construction traffic is probably inevitable in such a tight knit area but the development is small and any disturbance would be short lived.

Conditions

14. I have considered the conditions suggested by the Council in light of the advice in the National Planning Policy Framework and the PPG. I agree that it is necessary, in the interests of highway safety, the visual amenity of the area and to prevent flooding, to impose conditions relating to parking, materials, drainage and levels. In order to ensure that the river bank may be maintained it is necessary to control any further building on the site (insofar as it relates to site coverage) but I consider that restricting permitted development rights will suffice.
15. Given the modest scale of development I see no need to limit when construction work may take place. The ecological report supporting the application records that the site is of 'low ecological interest' and whilst I note that otters were spotted 330m away in 2012 and a water vole 1.4km away in 2007, I see no need to require the measures set out in the Reasonable Avoidance Measures Method Statement or to restrict external lighting. Further, planting a hedge and erecting a fence in the position suggested would conflict with the requirement to keep the river bank free of obstruction to facilitate maintenance.

Conclusions

16. For the reasons give above and having regard to all matters raised, I conclude that the appeal should be allowed.

A Thickett

Inspector

Schedule

APP/L3245/W/15/3003296

The appeal is allowed and planning permission is granted for a pair of semi detached one bedroom retirement bungalows at land adjacent to No. 10 Sungrove, Wem, Shropshire, SY4 5HH in accordance with the terms of the application, 14/02498/FUL, dated 3 June 2014 and subject to the following conditions:

- 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: 1:500 plan entitled Land at Sungrove, Wem and the 1:100 plan entitled General Arrangement Plans – Dwelling Floor Plans/Site Plan.
- 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 details of a scheme for the disposal of surface water has been submitted to and agreed in writing by the local planning authority. Development shall take place in accordance with the approved details.
- 5) The finished floor level of the building hereby permitted shall be set no lower than 76.68 AOD.
- 6) The car parking spaces marked P1 and P2 to Plots 1 and 2 on the plan entitled General Arrangement Plans – Dwelling Floor Plans/Site Plan shall be constructed before the dwelling to which they relate is occupied and kept available for the parking of motor vehicles for so long as the development hereby permitted remains in existence.
- 7) Notwithstanding the provisions of Classes A, D, E and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no enlargements, improvements, additions or alterations shall take place, nor any buildings, enclosure or container used for domestic heating purposes for the storage of oil or liquid petroleum gas shall be erected, nor shall any hardstandings be laid (other than those expressly authorised by this permission).
- 8) Notwithstanding the provisions Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no fences, gates or other means of enclosure shall be erected (other than those expressly authorised by this permission).

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: 12th June 2015

Appeal Ref: APP/L3245/W/15/3006494

Land NW of Walnut House, Ruyton XI Towns, Shrewsbury, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr and Mrs R Hancocks against Shropshire Council.
 - The application Ref 14/04101/OUT, is dated 8 September 2014.
 - The development proposed is the erection of 4 no. holiday lets with associated parking.
-

Decision

1. The appeal is dismissed and planning permission is refused for the erection of 4 no. holiday lets with associated parking at Land NW of Walnut House, Ruyton XI Towns, Shrewsbury, Shropshire.

Procedural Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on this basis, treating the plans which show the layout and elevations as indicative.

Main Issue

3. The main issue in the appeal is whether or not the proposal would represent a suitable site for tourism development having regard to the principles of sustainable development.

Reasons

4. The appeal site forms part of a field located in open countryside just over 1km from the centre of Ruyton. Policy CS5 of the *Shropshire Core Strategy (adopted March 2011)* (SCS) restricts new development in the open countryside to appropriate sites which maintain and enhance the character and vitality of the countryside, and where they improve the sustainability of rural communities by bringing local economic and community benefits. However, the policy indicates that sustainable rural tourism which requires a countryside location, and which accords with Policies CS16 and CS17 of the SCS may be appropriate. Policy CS16 states that visitor accommodation should be situated in accessible locations, served by a range of services and facilities. In rural areas it should be of an appropriate scale and character for its surroundings and be close to, or within, settlements or an established tourism enterprise. Policy CS17 seeks to ensure that new development protects and enhances the area's natural and historic environment.

5. Whilst recognising the intrinsic character and beauty of the countryside, the National Planning Policy Framework (the Framework) supports sustainable rural tourism that benefits businesses in rural areas, communities and visitors, and which respects the character of the countryside. This includes the provisions of tourist and visitor facilities in appropriate locations, where identified needs are not met by existing facilities in rural service centres.
6. Ruyton XI Towns has a limited range of services and facilities including some shops and public houses/ restaurants which could be utilised by visitors. Although lightly trafficked the road between the site and this village is narrow, and has no pavement or street lighting until the edge of the village is reached. As such it would not be an attractive pedestrian route, particularly when dark. Whilst the village can also be accessed by public footpaths, visitors are less likely to be familiar with such routes, and again, these would not be attractive at night.
7. The evidence indicates that other local villages also contain a variety of shops and eating places, but these are not within walking distance of the site. In addition, whilst it would be possible to go on walks in the surrounding countryside from the site, none of the tourist destinations highlighted in the design and access statement, are in close proximity to the site. Consequently, visitors would largely be dependent on the private car to access the nearby services that they require, and local tourist attractions. As a result, the proposed development would not represent the accessible type of location envisaged by Policy CS16. Furthermore, in that, when outlining the social role of the planning system in securing sustainable development, the Framework refers to accessible local services, the proposal would also be contrary to this.
8. There is no evidence to suggest that the proposal is required as part of an established tourism enterprise. Moreover, the field is not part of an agricultural unit, and so the development is not assisting in the diversification of an existing rural business. Whilst the appellant has highlighted the limited amount of tourist accommodation within the area, I have not been made aware that there is any identified need for visitor accommodation, or that it could not be accommodated within recognised service centres.
9. The construction of the accommodation would contribute to local economic activity, and it is suggested that the development would provide some employment for cleaners and gardeners. In addition, visitor spend would be likely to benefit local business and tourist facilities. Nevertheless, because of the small scale nature of the development, the economic and community benefit of this would be limited.
10. The surrounding area is largely agricultural in nature with scattered farmsteads and dwellings. In comparison to this, the provision of four units of accommodation on the site would not reflect the prevailing character of residential properties in the area.
11. Although all matters of detail are reserved, to minimise the visual impact, the plans indicate that the development would utilise the slope of the land to set the accommodation into the hillside. Whilst this would minimise the visual impact of the development, to achieve this, substantial excavation and remodelling of the land would be required. Notwithstanding this, the proposal would still be clearly visible from the adjacent bridleway. Furthermore, the plans show the units set at an angle to the road, whereas other properties in

the area generally face the road. Overall, I am not satisfied that a scheme can be accommodated on the site without being detrimental to the character and appearance of the open countryside.

12. It is stated that the development would have a highly insulated shell, and would utilise ground source heating and solar passive gain, to make the units close to zero carbon in their energy use, which the appellant suggests helps to make it truly innovative. Whilst these measures are greater than are currently required by national or local policies or regulations, in general terms the delivery of a house with such features is no longer innovative in itself and there is no indication that the way these features are incorporated into the design of the development are exceptional either. In any event, using renewable energy technology would not outweigh the environmental harm caused by the erection of the development itself.
13. The extended Phase One Habitat Survey that accompanied the application indicated that as the pond in the rear garden of Walnut House was fenced and contained waterfowl it would be unsuitable for use as a breeding ground for Great Crested Newts. Whilst I note the Council's concern that the fence and the waterfowl cannot be seen on aerial photographs, I was able to observe them from the adjacent bridleway. In this respect I consider that the proposal would not be detrimental to the natural environment.
14. The Framework emphasises that there are three dimensions to sustainable development: economic, social and environmental. The proposal would make a limited contribution to the economic dimension, but inconsistent with respect to the social and environment dimension. Additionally, it would be contrary to Policy CS16 and CS5 of the SCS in that it is not an accessible location, and Policy CS17 as it would not protect the character of the countryside. Consequently, having regard to the principles of sustainable development, this would not represent a suitable site for tourism development.

Other Matters

15. My attention has been drawn to another application in the area which included 12 holiday lets, and which was approved despite being in a more remote location. However, the Council have indicated that this was part of an existing enterprise, and also ensured the preservation of listed buildings. Accordingly, the circumstances are not directly comparable with those which apply in this appeal. I have in any case reached my own conclusion on the appeal proposal on the basis of the evidence before me.
16. It has been suggested that the appeal has overwhelming local support. However, I have letters both in support and objecting to the scheme from local people which indicates that local opinion is divided.

Conclusion

17. 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 31 March 2015

by C Sproule BSc MSc MSc MRTPI MIEnvSc CEnv

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

Decision date: 12 June 2015

Appeal Ref: APP/L3245/A/14/2223748

Ashford Hall, Knockin, Oswestry SY10 8HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Ajmer Rai against the decision of Shropshire Council.
 - The application Ref 14/01018/FUL, dated 5 March 2014, was approved on 13 May 2014 and planning permission was granted subject to conditions.
 - The development permitted is change of use of agricultural land to domestic garden land.
 - The condition in dispute is No 3 which states that: Except for the development hereby approved, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Class E & F or Schedule 2 Part 2 Class shall be erected, constructed or carried out within the area of domestic curtilage identified by this application.
 - The reason given for the condition is: To maintain the scale, appearance and character of the development and to safeguard the amenities of the locality.
-

Decision

1. The planning permission is varied as set out in the formal decision below.
2. The appeal is allowed and the planning permission Ref 14/01018/FUL for a change of use of agricultural land to domestic garden land at Ashford Hall, Knockin, Oswestry SY10 8HL granted on 13 May 2014 by Shropshire Council, is varied by deleting condition 3 and substituting for it the following conditions:
 - 3a) Notwithstanding the provisions of Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or a container used for domestic heating purposes for the storage of oil or liquid petroleum gas, shall be erected within the domestic curtilage and enclosure hereby permitted.
 - 3b) Notwithstanding the provisions of Schedule 2 Part 1 Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no hard surface shall be provided for any purpose incidental to the enjoyment of the dwellinghouse as such; or the replacement in whole or in part of such a surface.

- 3c) Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected or constructed within the domestic curtilage and enclosure hereby permitted.

Procedural Matter

3. The Grounds of Appeal indicate that the appeal is made under section 73A of the Town and Country Planning Act 1990 ('the Act'). Section 73A addresses a breach of a condition before an application is made in regard to it. The appeal was made on 12 August 2014 within three months of the granting of planning permission ref: 14/01018/FUL and the Grounds of Appeal clearly indicate the appeal to be in relation to condition 3 of this permission.
4. It is not apparent that a breach of the condition has occurred in this case, or that an application was made in regard to it. Consequently, this is not an appeal under section 73, or section 73A, of the Act. It is an appeal against the imposition of a condition on a planning permission, for which the right to appeal is provided for by section 78(1)(a) of the Act.

Main Issues

5. These are: a) whether condition 3 is reasonable and necessary to maintain the scale, appearance and character of the development and to safeguard the amenities of the locality; and b), the effect of the proposal on the setting of the Knockin Conservation Area ('the Conservation Area').

Reasons

Character, appearance and scale of development

6. Ashford Hall was constructed approximately 15 years ago. The appellant's Planning Statement sets out the history behind the subsequent application, referred to above, which enabled the garden at Ashford Hall to be extended into adjoining agricultural land to the east and southeast of the dwelling. It also notes: the railings around the garden land to be set on a shallow course of brickwork and to 'maintain a transparent view'; enclosure is also to be provided by a mixed native hedge of seven woody species planted around the boundary of the garden; and, it is intended to create a landscaped garden that reflects the scale of Ashford Hall.
7. A previous appeal (ref: APP/L3245/A/13/2205490)¹ concerned the retention of an enclosure of walling and railings, with elements 2.5m or more in height. In that case the Inspector found: the proposed wall and piers to appear intrusive and out of place in this rural landscape; proposed deciduous landscaping (which would reflect characteristic vegetation in the vicinity of the site) would not be sufficient to mitigate the impact of the walled enclosure; and, the walled enclosure would harm the landscape and rural character of the area, and have an adverse effect on the setting of the Conservation Area.

¹ In relation to planning application ref: 13/01915/FUL

8. The Conservation Area bounds the developed core of Knockin, which has the appeal site on the central southern edge, and extends eastwards from it to include a site indicated to be a Motte and Bailey and the open countryside around it, along with roadside development to the east of this.
9. Development within the designated area includes village centre land uses, dwellings, other buildings and the open space spaces between. These form layouts that communicate the historic rural and agricultural context of Knockin. Characteristic architecture and materials within the settlement reinforce this. These factors contribute to the significance of this heritage asset (that is, the Conservation Area).²
10. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy – March 2011 (CS) states that new development will be strictly controlled in accordance with national planning policies to protect the countryside (and Green Belt). The policy is permissive of development proposals on appropriate sites that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits.
11. CS policy CS6 seeks to create sustainable places through development that is designed to a high quality using sustainable design principles to achieve an inclusive and accessible environment which respects and enhances local distinctiveness. Amongst other things, this policy requires all development to protect, restore, conserve and enhance the natural, built and historic environment. Shropshire Council has referred to policy MD2 of its Site Allocations and Management of Development (SAMDev) Plan which is noted to have been submitted for Examination, but the Council does not consider policy MD2 to have 'a significant impact on the appeal'. In any event, while the draft policy may attract limited weight, adopted CS policy CS6 (and CS17 addressed below) are referred to by draft policy MD2 and address matters that are the subject of representations in this case.
12. The National Planning Policy Framework ('the Framework') is clear that '*Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*'. It continues by stating, amongst other things, that '*Decisions should aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation*'.³ In relation to the character and appearance of the countryside, CS policies CS5 and CS6 are consistent with the overall thrust if these aims.
13. Paragraph 206 of the Framework is clear that planning conditions should only be imposed where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other aspects.
14. Ashford Hall and its rear garden area can be viewed from the road to the south. The viewing points in this location are from a rural highway. They provide aspects across open, and for the most part flat, fields to Ashford Hall and the Knockin Medical Centre, which stands between the dwelling and the road after

² Annex 2 of the Framework confirms 'significance' to be the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

³ Framework paragraphs 56 and 58.

- it has turned to enter the developed core area of the village. These views would clearly communicate the scale of any structures that would be of sufficient size to be perceptible above screening or through any gaps that develop in mature planting, or in the absence of summer foliage.
15. To the north of the appeal site, nearby development within Knockin on the B4396 includes buildings with habitable areas on three storeys (above ground level). In addition, a footpath that follows a roughly north/south direction is present in the field to the east of the extended garden and in close proximity to it that could provide close aspects through breaks in, or in the absence of, vegetation.
 16. The appellant's Landscape & Visual Impact Assessment includes aerial imagery and the Grounds of Appeal have taken it into consideration.⁴ Such imagery is increasingly available to everyone and accessible to use. In the absence of condition 3, aerial imagery would be expected to record and show permitted development within the garden at Ashford Hall. Consequently, aerial imagery reasonably can be expected to inform and contribute to future public perception of the character and appearance of the village.
 17. The planning application form indicates the rear garden area to be 0.70ha.⁵ Ashford Hall already has substantial paved areas around the dwelling that are edged by formal landscaping. In the absence of condition 3, there would be nothing to prevent the paving of the entire garden area, and while this may be unlikely in the current ownership, it could be done by a future occupier. Knockin Parish Council has no objection as to whether some or all of the garden is paved, but wish some of the controls provided by condition 3 to remain.
 18. As noted above, the effectiveness of vegetative screening can vary both seasonally and over the longer term as screening plants can be lost or reduced in size. The garden is of such scale that any future introduction of hard surfacing across most, or all, of it reasonably would be expected to be perceived beyond the site boundary and to harm the character and appearance of the area.
 19. In the absence of condition 3, permitted development at Ashford Hall could result in a range of structures of sufficient size and massing to significantly reduce the vegetated openness that contributes to the rural character of the village and its surroundings. Condition 3 addresses permitted development rights and restricts the scope of possible landscaping works within the garden. However in doing so, it does not prevent an application being made for a formally laid out garden, with associated structures, that meets the appellant's objectives for it.
 20. While the appellant may not intend to take full advantage of the permitted development rights that are the subject of condition 3, people can change their mind.⁶ Indeed, the Council highlights the nature of the garden referred to in a previous proposal for the site, which was to retain a rural feel and character through the nature of the planting within it.⁷ In any event, in future years other occupiers of the dwelling may have quite different intentions for the

⁴ LVIA paragraph 1.1 and Grounds of Appeal paragraph 3.6

⁵ Planning application ref: 14/01018/FUL

⁶ As recognised in paragraph 3.0 of the appellant's final comments

⁷ Planning application ref: 12/04951/COU

amenity space within the enclosure. Also, structures erected within the garden may last considerably longer than the completeness of the screening around it.

21. Therefore, it is apparent that in the absence of condition 3, the scale, appearance and character of development in this location, and the visual amenities of the locality, would not be maintained if certain forms of permitted development were to be implemented. In this respect, the objectives of CS policies CS5 and CS6, and the Framework, would not be met and a condition controlling permitted development rights is justified in this case.

Knockin Conservation Area

22. CS policy CS17 requires development to identify, protect, enhance, expand and connect Shropshire's environmental assets to create a multifunctional network of natural and historic resources. The manner in which the policy seeks to achieve this includes through the protection and enhancement of the diversity, high quality and local character of Shropshire's natural, built and historic environment, and by ensuring that all development does not adversely affect matters that include the visual, heritage values and functions of these assets, their immediate surroundings or their connecting corridors. In this instance, no relevant 'connecting corridor' has been identified in relation to the scope of condition 3, but the historic environment includes the Conservation Area.
23. CS policy CS17 is consistent with the overall thrust of the Framework in relation to the historic environment. Paragraph 131 of the Framework states that when planning proposals are determined, account should be taken of, amongst other things, the desirability of: sustaining and enhancing the significance of heritage assets; and, new development making a positive contribution to local character and distinctiveness. Planning Practice Guidance indicates that heritage assets may be affected by direct physical change or by change in their setting.⁸ In this regard, Framework paragraph 137 highlights that planning should look for opportunities for new development within Conservation Areas, or the setting of heritage assets, to enhance or better reveal the their significance.
24. The appeal site is adjacent and in close proximity to the Conservation Area. At present the openness within the appeal site contributes to the immediate setting of the adjacent open areas within the Conservation Area, which include the recreation ground at Knockin Assembly Rooms.
25. Paragraph 132 of the Framework highlights that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In the absence of condition 3, permitted development on the appeal site could result in a range of structures of sufficient size and massing: to erode the setting of the Conservation Area in this location; and, fail to enhance or better reveal the significance of the heritage asset. This reasonably would be expected to be less than substantial harm to the significance of the Conservation Area.
26. It is suggested that the absence of an 'Article 4 direction' in relation to gardens in the Conservation Area supports the appeal proposal. However, the garden permitted at Ashford Hall is very large and there is no evidence that it is similar in scale to other domestic gardens in the locality. It is the potential scale of

⁸ Ref: ID 18a-009-20140306

permitted development that could include hard surfacing and other structures, which sets the garden at Ashford Hall apart from the amenity spaces within the adjoining Conservation Area. In addition, it is located on the periphery of the developed area in this part of the settlement which has a considerable level of openness that would highlight the effect of built structures on local character.

27. In the absence of condition 3, the use of the agricultural land next to Ashford Hall as garden land could conflict with CS policy CS17, and the associated objectives of the Framework.

Other matters

28. A certain degree of economic benefit would be expected from construction and landscaping works associated with permitted development in the garden of Ashford Hall. Such works would be expected to be of social benefit to users of the amenity space, and there could be as yet unconfirmed environmental benefits from landscaping and related structures.

Conclusion

29. Ashford Hall is a recently constructed house of considerable scale that occupied a confined plot. Planning permission ref: 14/01018/FUL provided an enclosed garden to reflect the scale of the dwelling. Houses and grounds of this size will often have evolved with, and responded to, the growth of an adjoining settlement. However, that is not the case here.
30. Ashford Hall and its grounds are relatively new additions to an established village with characteristics that cause it, and nearby land and buildings, to be designated as a heritage asset. The context of the appeal site and the evidence in this case confirms there to be exceptional circumstances in relation to the garden provided for Ashford Hall that justify the control of permitted development rights.
31. Final comments from Shropshire Council included a suggested alternative condition which took into consideration matters within representations from the Parish Council that Shropshire Council agreed with. These representations have informed the consideration of whether condition 3 is sufficiently precise to be reasonable and necessary.
32. A condition controlling permitted development rights does not nullify the benefit of the permission. The 0.70ha area can still be used as a garden, but with restrictions that have been shown to be justified by the context of the site.
33. Due to the size of the plot at Ashford Hall and its circumstances, the scope of possible permitted development would fail to meet the objectives of CS policies CS5, CS6 and CS17, and the Framework.
34. However, the wording of condition 3 includes matters that it is not necessary to control, such as, means of access to the highway and the exterior painting of any building or work. There already is an established access to Ashford Hall, and condition 3 prevents any further buildings (or similar work) within the application area until permission is granted for it. In these respects, condition 3 fails to meet the test of necessity within Framework paragraph 206.
35. If condition 3 were to be removed, the potential policy conflict and harm to the character and appearance and visual amenity of the locality, and the setting

and significance of the designated heritage asset, would significantly and demonstrably outweigh any resulting economic, social and environmental benefits. In the absence of condition 3, or replacement conditions that address the necessary elements of the condition, it would not be a form of sustainable development.

36. Comments were received in relation to three circulated possible replacement conditions for condition 3. The appellant suggested additional wording that would have enabled some forms of development. However, the Council raised concerns regarding the scope of development that could take place under the proposed wording in regard to the height, scale and design of structures. These concerns are well founded not just in relation to potential visibility, but also for example, the wording proposed for condition 3b would not limit the number and consequently the overall extent of 2m wide footpaths. In addition, the appellant's proposed wording for condition 3c only seeks to limit one dimension of the structures that it would enable. Therefore, the appellant's suggested wordings would not ensure that possible conditions would be sufficiently precise and meet the identified necessity for them.
37. Accordingly, considerations in this case indicate the appeal should be allowed, but with new conditions imposed to address matters that are necessary to protect the character and appearance of the locality and the significance of Knockin Conservation Area.

Clive Sproule

INSPECTOR

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Appeal Decision

Site visit made on 10 March 2015

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 5 June 2015

Appeal Ref: APP/L3245/A/14/2229145

Land off Bearstone Road, Norton-in-Hales, Market Drayton TF9 4AP

- 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 JRT Developments Ltd against the decision of Shropshire Council.
 - The application Ref 14/00790/OUT, dated 21 February 2014, was refused by notice dated 23 October 2014.
 - The development proposed was originally described as “the erection of 14 dwellings (incorporating two affordable units); formation of vehicular and pedestrian access; and provision of surface water drainage pond”.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 14 dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access) on land off Bearstone Road, Norton-in-Hales, Market Drayton TF9 4AP in accordance with the terms of the application, Ref 14/00790/OUT, dated 21 February 2014, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development set out in the header above is taken from the planning application form. However, the decision notice and appeal form both refer to an outline application for the erection of 14 dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access). It is clear from various documents that outline permission is sought with all matters, other than access, reserved for subsequent approval. The submitted layout plan¹ was treated by both main parties as being for illustrative purposes only, other than with respect of access arrangements.
3. A live/work unit indicated on adjoining land in the control of the appellant is clearly outside the application site and does not form part of the current proposal.
4. A Design and Access Statement was not included as part of the planning application, but was submitted in December 2014 during the course of the

¹ Plan ref AL(0)010-D.

appeal. I am satisfied that no third party interests have been prejudiced by the late provision of this document.

5. The planning application that led to this appeal was recommended for approval by officers in 2014. As it is entitled to do, a committee of the Council decided to refuse planning permission contrary to officer advice. Planning permission was also refused in 2014 for residential development on two other sites on the western side of the village; both of these schemes are the subject of current appeals². I am also aware that the Council resolved in 2014 to grant planning permission, subject to the completion of a planning obligation, for the development of 14 dwellings adjacent to Norton Farm on the southern edge of the village³.
6. Whilst I have considered this appeal on its own merits, I have had regard to these other three proposals in the village and the potential cumulative effect that could occur if all of the sites were to be developed.
7. On 27 February 2015, the Government published 2012-based household projections for England 2012-2037. The appellant and Council were given the opportunity to comment on whether these latest projections have implications for the current proposal. I have taken account of the responses received.

Main Issues

- 8 The main issues are:
 - the effect that the proposal would have on the character and appearance of the Norton-in-Hales Conservation Area; and
 - whether the site is in a suitable location for residential development having regard to the cumulative effect on community cohesion and national and local planning policies relating to new housing in rural areas.

Reasons

9. Norton-in-Hales is an attractive, historic village of around 150 dwellings varying in age, layout and design. The original core, around the church, village green and public house, along with some areas of greenspace and mainly older properties, are designated as a Conservation Area. A number of modest-sized residential developments have taken place on the edges of the Conservation Area in the last few decades. The compact village retains a strong sense of identity and environmental quality and benefits from an attractive rural setting.
10. The appeal relates to a greenfield site located on the eastern edge of the village. The main part of the site comprises rough grassland which is at a slightly higher level than Bearstone Road and which falls to the eastern corner. The part of the site fronting the road is an area of mown grass adjacent to Beckside Cottage, the last property on this side of the village. To the north, on the opposite side of Bearstone Road, and to the south and east is open countryside. Mature trees, a hedgerow and brook run along the north east boundary, a post and wire fence with an intermitment hedgerow form the south

² Appeal refs APP/L3245/W/14/2221627 (Beswick Lane) and APP/L3245/W/15/3004618 (south of Chapel Lane)

³ Planning permission ref 14/00260/FUL.

east boundary, and to the south west is a late 20th century housing development.

11. The proposed vehicular access would be to Bearstone Road which would be widened with a footway provided in front of Becksides Cottage and the adjoining house, Owl's Nest, to link to the existing footway that runs alongside the road to the village centre. The indicative layout shows that a pedestrian link would also be provided to this footway via an existing track that runs to the side of Owl's Nest and forms part of the south west side of the site.

Character and Appearance

12. In considering this issue I am mindful of the statutory duty which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas⁴ and national policy which advises that great weight should be given to this objective⁵.
13. As described above, the Norton-in-Hales Conservation Area is centred on the older core of the village but does include some of the more recently built surrounding development including Becksides Cottage and Owl's Nest. Its positive qualities stem mainly from the traditional buildings which are informally arranged along and off Main Road, the generally low density of the layout, and areas of open space. Parts of the Conservation Area adjoin more recent housing developments, but much of it borders agricultural fields which make a positive contribution to its setting by providing a reminder of the village's historical rural context as well as allowing, from certain perspectives, views into the village from the adjoining countryside and vice versa.
14. Other than the access track to the side of Owl's Nest; the narrow strip of land in front of that and the adjoining property; and a small part of the grassed area to the side of Becksides Cottage, none of the site is within the Conservation Area. Whilst layout is a reserved matter, it is clear from the nature and position of those parts of the site, and from the indicative layout plan, that they need not be developed other than to provide appropriately surfaced pedestrian routes and potentially an initial part of the access road. These small parts of the site could therefore remain essentially open, and provided they were appropriately landscaped, the proposal would not be likely to materially harm land or buildings in the Conservation Area in any way. That said, it is also necessary to consider the effect on the wider landscape and the setting of the Conservation Area.
15. The site is largely enclosed by mature hedgerows and trees to the south east and north east; by the existing 20th century housing estate to the west; and partially by the two properties on Bearstone Road to the north. Provided that the design, layout and landscaping were appropriate, something that could be ensured when reserved matters are considered, the proposal would not represent a prominent encroachment into the countryside or materially detract from the wider landscape surrounding the village.
16. This does not mean, though, that the development of one of the agricultural fields that adjoin the village would not have some effect on the rural setting of

⁴ Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

⁵ The National Planning Policy Framework ("NPPF") paragraph 132.

the Conservation Area. However, the two houses adjoining the site that are within the Conservation Area are relatively modern and make no significant positive contribution to it. Development on the site laid out in a manner similar to that shown on the indicative plans would not obstruct, or materially detract from, views into the Conservation Area from Bearstone Road to the east, or out of the Conservation Area other than from a limited number of the nearby properties. The addition of another small collection of dwellings between the Conservation Area and the wider open countryside would be in character with the way the village has grown in recent decades.

17. For these reasons, the proposal would be likely to have only a minor impact on the rural setting of the Conservation Area.
18. I conclude on this issue that the proposal would have a minor adverse impact on the character and appearance of the Norton-in-Hales Conservation Area due to the change that would be caused to its setting. This would be contrary to the objectives of national policy which seeks to ensure that the character and appearance of heritage assets are preserved or enhanced⁶.

Suitable Location?

19. The NPPF aims to boost significantly the supply of housing and makes it clear that local planning authorities should be able to demonstrate a five year supply of deliverable housing sites⁷. The question of site availability and deliverability will be thoroughly and properly tested at the ongoing examination into the Site Allocations and Management of Development Plan ("SAMDev"). I find the evidence submitted in relation to this appeal to be inconclusive, but even if I were to assume a five year supply exists, this does not necessarily mean that further housing developments should be prevented provided that they are suitably located.
20. The site lies outside the development boundary defined in the North Shropshire Local Plan (2005), and is therefore in a location where residential development would not normally be allowed by local plan policy H6, policies CS4 and CS5 of the Shropshire Core Strategy (2011), and policy MD7a of the emerging SAMDev, although the weight that can be attached to the latter policy is limited as there are outstanding objections and the examination is ongoing. The purpose of these policies is to ensure that new housing contributes towards creating a sustainable pattern of development and the countryside is protected, objectives that are consistent with the NPPF.
21. I have already found that the proposal would not materially harm the countryside or landscape around the village.
22. Whilst there is no shop or medical service, there are a limited number of local facilities within easy walking distance in the village, and a wider range of services and job opportunities exist in Market Drayton which is only a short car journey away. Thus, whilst future residents would be dependent on the use of a car for travelling beyond the village, journeys need not be long. Overall, I consider the site to be in a reasonably accessible location for a rural area.

⁶ NPPF paragraph 17, 10th bullet point, and section 12.

⁷ NPPF paragraph 47.

23. I am advised by local residents that the village has grown in size by around 35% in the last 15 years, although this has not been corroborated by evidence or confirmed by the Council. The extant planning permission for residential development on the site at the other end of the village is for 14 dwellings meaning that, if this appeal were to be allowed, an additional 28 dwellings could be built, potentially in the near future. In addition, if both the other two current appeals in the village were to be allowed a further 31 dwellings could follow giving an overall total of 59.
24. This level of growth would certainly not be insignificant, representing an increase of over one third compared to the current number of households. However, the sites are located in three different parts of the village, and even if all were to be developed Norton-in-Hales would still remain a modest-sized rural settlement and there is little to suggest that there would be such a large influx of additional people and activity that it would be likely to undermine community cohesion or the existing quiet rural nature of the village. No information has been provided to indicate that the residents of similar-sized housing developments in the past have failed to assimilate and fit in successfully with village life.
25. There is no substantive evidence before me to indicate that existing infrastructure and facilities in the village could not cope with additional households. Indeed, the Council has stated that the village school has significant spare capacity. The NPPF advises that new housing in rural areas should be located where it will enhance or maintain the vitality of rural communities, and additional support for local services in Norton-in-Hales would be likely to help to achieve that aim.
26. I conclude on this issue that whilst the location of the site outside the village development boundary means that the proposal would be contrary to existing and emerging development plan policies, the harm that would be caused to the objectives of those policies would be limited. Furthermore, the proposal, even in combination with other residential development recently permitted or proposed in the village, would not lead to an unacceptable increase in the size of the village such that it would materially harm community cohesion. The proposal would, therefore, be consistent with the objectives of national policy relating to the promotion of healthy communities⁸ and the location of new housing in rural areas.

Other Matters

27. A signed planning obligation has been submitted at the appeal stage which would ensure the provision of on-site affordable housing and a financial contribution towards the provision of affordable housing elsewhere in accordance with Council guidance⁹. This would mean that the proposal would help to meet identified housing needs in the area in accordance with core strategy policy CS11. On this basis I am satisfied that it would meet the relevant legal and national policy tests and I will take it into account in coming to my decision¹⁰.

⁸ NPPF paragraph 17, last bullet point, and section 8.

⁹ Supplementary Planning Document on the Type and Affordability of Housing (adopted 2012).

¹⁰ NPPF paragraph 204.

28. The proposal would lead to social and economic benefits through the provision of 14 new homes, two of which would be affordable, as well as by making a contribution towards providing affordable housing elsewhere. Given the relatively limited scale of the proposal in relation to overall housing needs, I attach moderate weight to these benefits.
29. The NPPF advises that development should only be refused on transport grounds where the residual cumulative impacts are severe¹¹. Nothing that I have read or seen leads me to conclude that Bearstone Road or Main Road are anything other than lightly trafficked, at least for most of the time, and I note that a 30 miles per hour speed limit applies in the village. The road could be widened in front of the site, and a footway and visibility splays to normal standards provided. The only accident in the local area that I have been made aware of is a collision between a tractor and a car in March 2014. Even if the other three current schemes for residential development were to take place I am not persuaded that the amount of additional traffic and pedestrians using local roads would be so great that it would lead to congestion or safety problems, not least as the sites are located in three different parts of the village. Highway officers and the Council are satisfied that, subject to conditions, the proposal would not lead to highway safety problems and I am not persuaded to reach a different view.
30. A number of other concerns have been raised by local residents but, subject to satisfactory details at reserved matters, there is nothing to suggest that the site could not be adequately drained or that the living conditions of existing residents would be unduly affected. There are no other matters that alter my findings on the main issues or affect my overall conclusion.

Overall Assessment and Conclusion

31. The proposal would be contrary to local planning policies relating to new housing outside the development boundary of Norton-in-Hales.
32. I have found that the proposal would cause some harm to the setting of the Conservation Area. However, whilst I attach considerable importance to this harm, the adverse impact would be no more than minor.
33. On the other hand, the proposal would deliver social and economic benefits by providing additional market and affordable homes in accordance with national planning policy relating to new housing in rural areas and healthy communities.
34. On balance, I am satisfied that the minor harm that would be caused to the Conservation Area would be outweighed by the public benefits that the proposal would deliver.
35. Accordingly, material considerations indicate to me that the proposal should be allowed contrary to existing and emerging development plan policies.

Conclusion

36. For the reasons given above, I conclude on balance that the appeal should be allowed.

¹¹ NPPF paragraph 32.

Conditions

37. I have considered the eight conditions suggested by the Council and agree that most are necessary, subject to some alterations to improve clarity and ensure consistency with national policy and guidance¹².
38. In addition to the standard conditions relating to submission of details of the reserved matters and the timing of development, I agree that it is necessary to ensure that drainage details are provided to prevent pollution and flooding. However, details of the number of units, means of enclosure, access for disabled people, site levels and finished floor levels can all be required as part of the reserved matters and there is no particular reason that I have been made aware of for these to be referred to in a separate condition.
39. Whilst access to Bearstone Road is approved it is necessary, in the interests of highway safety, for details of the access, visibility splays, internal road, and footway along Bearstone Road to be provided and for these to be implemented as approved before any dwellings are occupied. It is not clear to me exactly how far the footway scheme would need to extend along Bearstone Road, but this is a matter that can be adequately dealt with when the details are provided.
40. As further access details are to be provided, and all other matters are reserved, it is not appropriate to attach a condition requiring compliance with the approved plans, the layout plan submitted with the planning application being indicative only.
41. Rather than the two conditions suggested by the Council relating to ecology, this matter can be dealt with by a single condition requiring an appropriate scheme (which could be based on the Ecological Survey submitted with the planning application) to be approved and implemented. This is necessary to safeguard the biodiversity of the area.

William Fieldhouse

INSPECTOR

¹² NPPF paragraphs 203 and 206, and Planning Practice Guidance ID-21a.

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Development shall not begin until a scheme showing the means of access, visibility splays, junction, internal road layout, and a footway along Bearstone Road has been submitted to, and approved in writing by, the local planning authority. None of the dwellings hereby approved shall be first occupied until the approved access, visibility splays, junction, internal road, and footway have been fully implemented in accordance with the approved scheme.
- 5) Development shall not begin until details of the proposed means of foul and surface water disposal, along with an implementation programme, have been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with the approved programme.
- 6) Development shall not begin until a scheme to safeguard the ecology of the site, along with an implementation programme, has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with the approved programme.



Appeal Decision

Site visit made on 10 March 2015

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 5 June 2015

Appeal Ref: APP/L3245/A/14/2221627

Land at Chapel Lane and Beswick Lane, Norton-in-Hales, Market Drayton, Shropshire TF9 4QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mrs Wendy Andrews against the decision of Shropshire Council.
 - The application Ref 14/01121/OUT was dated 13 March 2014.
 - The proposal is described as residential development of up to 12 dwellings including up to 4 affordable dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 12 dwellings including up to 4 affordable dwellings on land at Chapel Lane and Beswick Lane, Norton-in-Hales, Market Drayton, Shropshire TF9 4QZ in accordance with the terms of the application, Ref 14/01121/OUT, dated 13 March 2014, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. This appeal is against the failure of the Council to determine an application that sought outline planning permission with all matters reserved in the prescribed time period. Whilst I have not been referred to a formal decision of the Council about how it would have determined the planning application if it had been in a position to do so, the Council's appeal statement states that it considers the proposal to be contrary to current and emerging development plan policies and that it has concerns about the effect that the proposal, in combination with other proposed development in the village, would have on highway safety.
3. The Council resolved in 2014 to grant planning permission, subject to the completion of a planning obligation, for the development of 14 dwellings adjacent to Norton Farm on the southern edge of the village¹.
4. A planning application for 14 dwellings off Bearstone Lane on the north east edge of the village was refused in October 2014. Planning permission was

¹ Planning permission ref 14/00260/FUL.

also refused last year for the erection of 19 dwellings opposite the current site on the south side of Chapel Lane on the grounds that the site was outside the settlement boundary, and due to the harmful cumulative effect on highway safety. Both of those proposals are subject of current appeals².

5. Whilst I have considered this appeal on its own merits, I have had regard to the permitted scheme and the other two proposals and the potential cumulative effect that could occur if all of the sites were to be developed.
6. On 27 February 2015, the Government published 2012-based household projections for England 2012-2037. The appellant and Council were given the opportunity to comment on whether these latest projections have implications for the current proposal. I have taken account of the responses received.

Main Issues

7. The main issues are:
 - the effect that the proposal would have on highway safety; and
 - whether the site is in a suitable location for residential development having regard to national and local planning policies relating to new housing in rural areas.

Reasons

8. Norton-in-Hales is an attractive, historic village of around 150 dwellings. The original core, around the church, village green and public house, along with some areas of greenspace and mainly older properties, are designated as a Conservation Area. A number of modest-sized residential developments have taken place on the edges of the Conservation Area in the last few decades. The village primary school is located a short distance to the south west of the village centre on Main Road not far from the junction with Chapel Lane.
9. The appeal relates to an essentially flat agricultural field on the western side of the village. To the north west runs Beswick Lane with open countryside beyond; to the north east are dwellings along Bellaport Road; to the south east Chapel House and dwellings on Griffin Close; and to the south west Chapel Lane to the other side of which are three detached dwellings and a field which is the site of one of the other appeal proposals in the village. A public footpath runs along the south east side of the site connecting Bellaport Road to Chapel Lane.

Highway Safety

10. Whilst all matters are reserved, the appellant has indicated that vehicular access would be provided to Beswick Lane, although it is possible that access could be also be provided to Chapel Lane.
11. The Council advises that most journeys to and from the village are likely to be towards Market Drayton meaning that most of the traffic associated with the proposal would use the south west part of Beswick Lane and Chapel Lane to reach Main Road and exit the village. Nothing that I have read or seen leads

² Appeal refs APP/L3245/A/14/2229145 and APP/L3245/W/15/3004618.

me to a different conclusion. However, people wishing to travel to or from destinations to the north of the village may chose to use the north east part of Bewick Lane and Bellaport Road.

12. Whilst layout is a reserved matter, there is no reason to believe that pedestrian access would not be provided using the existing public footpath on the site meaning that journeys on foot would also be likely in both directions. The shortest walk to the village school would be via Chapel Lane, whereas people walking to the church, public house, or recreation ground on the northern edge of the village would be likely to go via Bellaport Road.
13. This issue therefore depends on consideration of each of those vehicular and pedestrian routes, bearing in mind also the likely use of them that could arise from the other three potential residential developments in the village. In carrying out my assessment, I have taken account of all of the information provided to me including the survey by local residents³.
14. The appellant's transport report⁴ indicates that existing total traffic flows on Main Road over a 24 hour 7 day period are 332 in a northerly direction and 306 in a southerly direction. This equates to an average of 4 cars per hour, although no doubt certain times are busier than others. Average speeds are under 30 miles per hour. Only one accident has been recorded in the village, and this was some distance from the site on Naperly Road and categorised as being "slight". The appellant estimates that the current proposal would be likely to generate fewer than 6 vehicle movements per hour.
15. Whilst I have no good reason to doubt this analysis, the amount of additional traffic would be likely to be more than double that estimated by the appellant if the site on the other side of Chapel Lane were also developed. Further traffic would also be generated if the other two sites in the village were to be developed, although that would be unlikely to use Chapel Lane or Beswick Lane on a frequent basis due to their locations in other parts of the village.
16. I am advised that Beswick Lane is used by large vehicles associated with a nearby industrial firm and farm. However, whilst it is of somewhat limited width in places, lined with hedgerows, and has no footways it is wide enough for two vehicles to pass on parts of its length and reasonably straight. Subject to appropriate junction design and visibility splays, and potentially other improvements, all of which could be secured at the reserved matters stage, it could adequately cater for the limited amount of additional traffic that would be likely to be generated by the current proposal and the other appeal scheme nearby.
17. Visibility at the junction of Beswick Lane and Bellaport Road is restricted by a hedge to the left and wall and embankment to the right. However, as most journeys by additional residents living in this part of the village would be unlikely to use this junction, I am not persuaded that the increased risk of an accident occurring would be anything other than limited.
18. Chapel Lane, which would be used by most vehicles and pedestrians going to and from the potential 31 additional dwellings on the two sites, bends sharply

³ Norton-in-Hales Parish Action Plan Action Group Highway Survey (August 2014).

⁴ Mott MacDonald Technical Note (4 September 2014).

to the right at Chapel House meaning that forward visibility is limited. The southern part of the lane, between the bend and Main Road, is without footways and of insufficient width to allow two vehicles to pass. However, the limited lengths of the sections of the lane between Beswick Lane, Chapel House and Main Road, and its alignment, are likely to mean that vehicle speeds are low and that care would be taken by drivers, the majority of whom would be likely to be local residents. Given this, and the limited number of vehicle and pedestrian movements that would occur, the risk of an accident would remain low.

19. Visibility at the junction with Main Road is somewhat restricted to the left by a hedge. However, as Main Road is essentially straight and average speeds are below 30 miles per hour, collisions between emerging vehicles and those travelling through the village are unlikely. Whilst the footways are narrow, the school and village centre are only a short distance away, and there is no reason why they could not be safely reached by people walking from the site.
20. The National Planning Policy Framework ("NPPF") advises that safe and suitable access should be provided for all people, and policy CS6 of the Shropshire Core Strategy (2011) includes a similar objective. However, this has to be understood in the context of the clear advice in the NPPF that development should only be refused on transport grounds where the residual cumulative impacts are severe⁵.
21. In this case, whilst the design and layout of the roads and footways that would be used by additional traffic associated with the current appeal and other potential developments nearby may not meet current standards in all respects, they are not unlike many found in and around other rural villages. Given the lack of evidence of accidents in the village in the past, the existing level of use, and the limited scale of the proposed developments, I am not persuaded that the cumulative effect on users of the road network would be significant.
22. I conclude on this issue that the proposal would not be likely to materially harm highway safety and would be consistent with the objectives of national policy and core strategy policy CS6.

Suitable Location?

23. The NPPF aims to boost significantly the supply of housing and makes it clear that local planning authorities should be able to demonstrate a five year supply of deliverable housing sites⁶. The Council and appellant disagree over this issue in a number of respects including in terms of what the current five year requirement is, the implications of the latest household projections, and the deliverability of many sites. The question of site availability and deliverability will be thoroughly and properly tested at the ongoing examination into the Site Allocations and Management of Development Plan ("SAMDev"). I find the evidence submitted in relation to this appeal to be inconclusive, but even if I were to assume a five year supply exists, this does not necessarily mean that further housing developments should be prevented provided that they are suitably located.

⁵ NPPF paragraph 32.

⁶ NPPF paragraph 47.

24. The site lies outside the development boundary defined in the North Shropshire Local Plan (2005), and is therefore in a location where residential development would not normally be allowed by local plan policy H6, core strategy policies CS4 and CS5, and policy MD7a of the emerging SAMDev, although the weight that can be attached to the latter policy is limited as there are outstanding objections and the examination is ongoing. The purpose of these policies is to ensure that new housing contributes towards creating a sustainable pattern of development and the countryside is protected, objectives that are consistent with the NPPF.
25. The site is well located in relation to the existing built form of the village, with roads on two sides and existing residential development on the other two. The agricultural fields to the south west and north west are physically and visually quite divorced from the site by the existing roads and hedgerows. The proposal would not, therefore, encroach significantly into the open countryside or materially harm the rural setting of the village provided that the layout, design, scale and landscaping were appropriate all of which are reserved matters.
26. Whilst there is no shop or medical service, there are a limited number of local facilities within easy walking distance in the village, and a wider range of services and job opportunities exist in Market Drayton which is only a short car journey away. Thus, whilst future residents would be dependent on the use of a car for travelling beyond the village, journeys need not be long. Overall, I consider the site to be in a reasonably accessible location for a rural area.
27. There is no substantive evidence before me to indicate that existing infrastructure and facilities in the village could not cope with additional households. Indeed, the Council has stated that the village school has significant spare capacity. The NPPF advises that new housing in rural areas should be located where it will enhance or maintain the vitality of rural communities, and additional support for local services in Norton-in-Hales would be likely to help to achieve that aim.
28. I conclude on this issue that whilst the location of the site outside the village development boundary means that the proposal would be contrary to existing and emerging development plan policies, the harm that would be caused to the objectives of those policies would be limited. Furthermore, the proposal would be consistent with the objectives of national policy relating to new housing in rural areas.

Other Matters

29. A signed planning obligation has been submitted at the appeal stage which would ensure the provision of on-site affordable housing and a financial contribution towards the provision of affordable housing elsewhere in accordance with Council guidance⁷. This would mean that the proposal would help to meet identified housing needs in the area in accordance with core strategy policy CS11. On this basis I am satisfied that it would meet the

⁷ Supplementary Planning Document on the Type and Affordability of Housing (adopted 2012).

relevant legal and national policy tests and I will take it into account in coming to my decision⁸.

30. The provision of up to 12 homes, two of which would be affordable, and the contribution towards off site affordable housing would deliver economic and social benefits by helping to meet housing needs. Given the relatively limited scale of the proposal in relation to overall housing needs, I attach moderate weight to these benefits.
31. The site lies outside the Conservation Area, the setting of which is characterised by modest-sized, relatively modern housing developments as well as the surrounding rural landscape. The nearest properties within the Conservation Area are Chapel House to the south and a pair of semi detached houses to the east, both of which are to the other side of the public footpath that runs along the side of the site. There is no reason why an appropriately designed scheme should adversely affect the setting of those buildings or the wider Conservation Area in any way.
32. A number of other concerns have been raised by local residents but, subject to satisfactory details at the reserved matters stage, there is nothing to suggest that the site could not be adequately drained, or that the living conditions of existing residents would be unduly affected. I am satisfied that there is adequate information to allow me to properly assess the proposal, and there are no other matters that alter my findings on the main issues or affect my overall conclusion.

Overall Assessment and Conclusion

33. The proposal would be contrary to local planning policies relating to new housing outside the development boundary of Norton-in-Hales.
34. However, the current proposal, in combination with the other three residential schemes in the village to which I have referred, would not be likely to materially harm highway safety.
35. Subject to appropriate planning conditions, there are no other matters that weigh materially against the proposal.
36. On the other hand, I have found that the proposal would deliver social and economic benefits by providing additional market and affordable homes in accordance with the objectives of national planning policy relating to new housing in rural areas.
37. Accordingly, material considerations indicate to me that the proposal should be allowed despite it not being in accordance with existing and emerging development plan policies.

Conclusion

38. For the reasons given above, I conclude on balance that the appeal should be allowed and planning permission granted.

⁸ NPPF paragraph 204.

Conditions

39. I have considered the six conditions suggested by the Council and agree that most are necessary, subject to some alterations to improve clarity and ensure consistency with national policy and guidance⁹.
40. In addition to the standard conditions relating to submission of details of the reserved matters and the timing of development, I agree that it is necessary to ensure that drainage details are provided to prevent pollution and flooding. However, details of the number of units, means of enclosure, access for disabled people, site levels, finished floor levels and external materials can all be required as part of the reserved matters and there is no particular reason that I have been made aware of for these to be referred to in a separate condition.
41. A condition requiring details of external lighting reflects the recommendations of the Extended Phase 1 Habitat Survey and is necessary to minimise disturbance to bats and thereby safeguard the ecology of the area.

William Fieldhouse

INSPECTOR

⁹ NPPF paragraphs 203 and 206, and Planning Practice Guidance ID 21a.

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Development shall not begin until details of the proposed means of foul and surface water disposal, along with an implementation programme, have been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with the approved programme.
- 5) No external lighting shall be installed on the site until a lighting plan, which takes account of the advice set out in *Bats and Lighting in the UK* (Bat Conservation Trust), has been submitted to, and approved in writing by, the local planning authority. No external lighting shall be installed at any time other than in accordance with the approved lighting plan.



Appeal Decision

Site visit made on 29 June 2015

by Joanne Jones BSc(Hons) MA MRTPI

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

Decision date: 21 July 2015

Appeal Ref: APP/L3245/W/15/3003781

Land off A49, Hadnall, Shropshire (grid ref 352207 319565)

- 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 Stuart Corbett against the decision of Shropshire Council.
 - The application Ref 14/04559/OUT, dated 12 November 2014, was refused by notice dated 21 January 2015.
 - The development proposed is an outline application (layout, appearance, scale and access not reserved) for up to 40 dwellings, including 8 retirement bungalows with access to A49.
-

Decision

1. The appeal is dismissed

Preliminary Matter

2. Following the submission of the appeal a signed and dated agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (S106), dated 26 June 2015, has been submitted. The S106 has been considered under the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

Background

3. The appellant refers to the Council's inability to demonstrate an adequate supply of housing land, in the terms of the Framework, to meet the demonstrated need. In such circumstances the Framework advises at paragraph 49 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.
4. Following the submission of the appeal, a number of appeal decisions were issued that related to housing development in the Council area. Those Decisions related, to varying degrees, to housing land supply in the District, with the Inspectors coming to different views as to whether the Council could, or could not, demonstrate an appropriate supply¹. Furthermore, the Council points to its emerging 'Shropshire Site Allocations and Management of Development Plan (SAMDev), the main modifications of which are currently subject to public consultation, and the 'Shropshire Council: Five year supply

¹ APP/L3245/A/14/2228348; APP/L3245/W/14/3000672; APP/L3245/W/14/3001829; and APP/L3245/W/14/3001799

housing land update (June 2015). The Council considers that these demonstrate that Shropshire has a 5 year supply of deliverable housing sites, particularly as the examining Inspector has not sought additional sites as part of the modification process. However, the appellant states that the Council's calculations are flawed, the delivery unachievable and heavily based on the SAMDev allocations. In this respect the he points to an appeal decision² for a site in Cheshire East where the Inspector was not persuaded that an 18% reliance on strategic locations within 5 years was achievable.

5. I have not been provided with any unresolved objections to the site allocations, nor am I convinced that the housing targets are unrealistic or unachievable. The Council's evidence was balanced and reasonable, demonstrating a cautious approach to housing supply and an up to date knowledge of the allocated sites. Furthermore, given the advanced stage of the SAMDev I afford it considerable weight.
6. In the end some of these arguments turn on a matter of judgement, but I found no substantive evidence to say that the Council's housing land supply does not comply with advice at bullet point 2 of paragraph 47 of the Framework for a five year supply of specific deliverable sites. Therefore the provision in paragraph 49 of the Framework for considering relevant policies for the supply of housing as 'not up-to-date' does not apply.
7. In reaching this opinion I acknowledge the appellant's comment that sustainable development should not be restricted solely because a 5 year housing land supply target has been met and it is otherwise found acceptable. Sustainable development is a matter I will return to in due course.

Main Issues

8. Based on all that I have seen and read, I consider that the main issues in this case are:
 - whether or not the proposal would provide a suitable site for housing having regard to the character and appearance of the area; and
 - the principles of sustainable development.

Reasons

Planning Policy

9. The Framework explains, at paragraph 12, that its existence does not change the statutory status of the Development Plan as the starting point for decision making. 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 development plan comprises of the Shropshire Local development Framework Adopted Core Strategy 2011(Core Strategy) and certain policies of the North Shropshire District Council Local Plan (Local Plan) which have been saved following a Direction made by the Secretary of State.
10. The appeal site lies within open countryside, outside the Hadnall development boundary and not within a site allocated by Local Plan Policy H4 or suitable as a

² APP/R0660/A/13/2196044

site for housing development within settlement boundaries as set out in Local Plan Policy H5. The Council's reasons for refusal also refer to Core Strategy policies CS4, CS5 and CS6. However, I note that Hadnall has not been promoted as a Community Hub or Cluster in the emerging SAMDev and Policy CS4 of the Core Strategy does not therefore apply in this case.

11. Core Strategy Policy CS5 seeks to strictly control new development in accordance with national policy protecting the countryside and Green Belt. Core Strategy Policy CS5 is permissive of development proposals on appropriate sites that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly when these relate to the matters listed in the policy.
12. Core Strategy Policy CS6 seeks to create sustainable places, through development of high quality design using sustainable design principles, to achieve an inclusive and accessible environment that respects and enhances local distinctiveness and which mitigates and adapts to climate change. It seeks to ensure that all development, amongst other things: protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and features that contribute to local character; and, makes effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water.

Character and appearance

13. The appeal site consists of several agricultural fields with a total area of approximately 3.13 Ha, situated to the east of the A49 Shrewsbury Road and to the south of the existing dwellings off Astley Lane. The fields are relatively flat, currently set to grass and bounded by mature hedgerows and trees. To my mind the site reads clearly in the street scene as the beginning of the countryside beyond the southern perimeter of Hadnall village. The wider landscape to the south, east and west of the site, although not subject to any policy designation that reflects particular visual worth, is nonetheless attractive and resolutely rural in character.
14. The proposed dwellings would be set back from the A49 Shrewsbury Road and from the southern site boundary, with these areas becoming public open space. To the east the development would extend to the rear boundaries of the existing development on Old Farm Road.
15. Whilst I accept that the proposal would be adjacent to existing dwellings off Wedgefield Close and Old Farm Lane, the development of a residential estate outside the defined built up area of the village would inevitably and irrevocably change the character and appearance of the countryside, simply by extending the spread of built development, and that this in itself would be harmful to the rural sense of place.
16. This is particularly important as the appeal site and its immediate environment perform a transitional function between village and countryside, moving southward from the compact, domestic environment of Wedgefield Close and Old Farm Lane to a more rural landscape with little built form and an abundance of open fields interspersed with copses of trees and native hedgerows. Non-fulfilment of this role must, in my assessment, weigh heavily

against the proposal. In common with many settlements, Hadnall's highest density is at its centre, with building coverage dropping off as one heads towards the open countryside.

17. I also have reservations about the visual impact of the proposed access arrangements. Existing views on entering and leaving the village along the A49 Shrewsbury Road, are dominated by hedging and grassed verges, giving the road a very rural character. As shown on Plan No T0144-01 Rev B the arrangement for the main vehicular access and the emergency access would necessitate the removal of a significant length of hedgerow. Even if mitigation could be sought at reserved matters stage through the submission of a landscaping scheme, the gap created for the new road and the associated visibility splays and footpath would disrupt the continuity of the hedgerow, reducing its contribution to the rural character and appearance on this approach to the village.
18. The development proposed outside the defined settlement boundary for Hadnall would, I conclude, have a significant adverse effect on the open landscape character of the area and its intrinsic rural character and would undermine the Council's strategy for the location of housing.
19. There would be conflict, in this regard, with Local Plan Policies H4 and H5 which relate to allocated housing sites in rural areas and the development of groups of houses on suitable sites within development boundaries, as well as Core Strategy Policies CS5 and CS6 as described above. The proposal would also be at odds with the Framework which establishes, at paragraph 7, that contributing to protecting and enhancing our natural, built and historic environment is an aspect of sustainable development and, at paragraph 17, that planning should recognise the intrinsic character and beauty of the countryside.

Sustainable development

20. The Framework seeks to boost significantly the supply of housing and paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental – whilst Paragraph 12 sets out twelve core planning principles that should underpin planning decision taking. In combination, these two paragraphs provide the most useful context in which to examine sustainability.
21. The proposal would deliver additional homes, including the provision of affordable dwellings. This is a significant benefit in favour of the proposal. Furthermore, the proposal would make provision for a new footpath along the A49, to link the appeal site to the village facilities, which would be an additional benefit of the scheme. The construction of the houses would create jobs for contractors and future occupiers of the houses would support the local economy, thus maintaining the viability of the rural community.
22. Future occupiers would have convenient access to bus services to Whitchurch / Shrewsbury, as well as a primary school, post office, convenience store, village hall, and pub / restaurant, all within walking distance. Therefore, to my mind, the location of the site is broadly sustainable.

23. The proposal would therefore fulfil the social and economic roles of sustainable development as set out in paragraph 7 of the Framework. These considerations add weight in favour of the proposal. However, given my findings in relation to the first main issue the proposal would cause significant harm to the character and appearance of the area. Thereby failing to accord with the environmental dimension of sustainability.
24. Paragraph 8 of the Framework advises that the three roles of sustainable development should not be considered in isolation; all three must be satisfied. In this case, the benefits include providing a significant amount of additional housing in a sustainable location, and the provision of a public footpath. However, in this case the harm to the character and appearance of the area significantly and demonstrably outweighs the benefits and the proposal does not amount to sustainable development as envisaged by paragraph 7 of the Framework.
25. The appellant refers to paragraph 14 of the Framework which states that development proposals should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. However, I have found that the development plan is not absent, nor is it silent and the relevant policies are not out of date. Accordingly, paragraph 14 is not engaged.

S106 and the Community Infrastructure Levy

26. A signed and dated S106 agreement has been submitted which would secure contributions towards affordable housing. The appeal proposal would also represent chargeable development under the Council's Community Infrastructure Levy (CIL) which would help mitigate the impact of the scheme if permission were granted. However, given my conclusions on the appeal, there is no need for me to consider the matter further.

Conclusions

27. For the reasons set out above, the scheme conflicts with the development plan and other material considerations do not outweigh the harm I have found. On balance, therefore, the evidence in this case has led me to conclude that the appeal should be dismissed.

Joanne Jones

INSPECTOR

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Appeal Decision

Site visit made on 15 June 2015

by **I Radcliffe BSc(Hons) MCIEH DMS**

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

Decision date: 23 July 2015

Appeal Ref: APP/L3245/W/15/3005283

Land to the north west of the Last Inn, Hengoed, Shropshire SY10 7EU

- 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 P Eccleston against the decision of Shropshire Council.
 - The application Ref 14/02251/OUT, dated 19 May 2014, was refused by notice dated 25 September 2014.
 - The development proposed is two dwellings with garages and the creation of a new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
3. Following the passing of the deadline for the submission of its statement the Council submitted additional information. In relation to housing land supply, recent appeal decisions¹ issued in May 2015 were referred to in the Council's Five Year Housing Land Supply Update of June 2015. Regarding the Site Allocations and Management of Development (SAMDev) Plan the Council wrote to advise that the examining Inspector's schedule of main modifications was published on 1 June 2015. In relation to affordable housing provision, the Council provided its position statement published on 10 June 2015. These are material changes in circumstance that are directly relevant to the appeal. As a result, this information, and the comments of both parties that were received in relation to it, has been taken into account in the determination of this appeal.

Planning Policy

4. The appeal site is located close to the north western edge of Upper Hengoed which is a rural hamlet. The spatial strategy contained within policy H5 of the Oswestry Borough Local Plan focuses new development within the larger settlements within the Borough. Development within Upper Hengoed was not supported by policy H5 of the Local Plan. The spatial approach of the more recent Core Strategy is to focus housing development within Shrewsbury, market towns and key centres. Policy CS4 of the Core Strategy advises that in

¹ Appeal references APP/L3245/A/14/2228348, APP/L3245/W/14/3000672

- rural areas the remaining houses will be accommodated in Community Hubs and Community Clusters. Outside of these hubs and clusters within the open countryside policy CS5 of the Core Strategy strictly controls new development and open market housing is not supported.
5. The Site Allocations and Management of Development (SAMDev) Plan is at an advanced stage on the road to adoption. It identifies Hengoed along with Selattyn and Pant Glas as a Community Cluster. Policy S14.2(x) which relates to this cluster is not the subject of main modifications recommended by the Inspector. I therefore attach significant weight to this policy. A development boundary has not been identified for Hengoed by the SAMDev Plan. As a result, it is a matter of planning judgement as to where the settlement ends and the open countryside begins.
 6. The appeal site is located within the corner of an arable field on the northern side of a narrow minor rural road. No buildings associated with Upper Hengoed are to be found on the northern side of this road. The presence of a couple of small commercial buildings facing the appeal site on the southern side of the road adds to the clear perception in relation to the location of the site that the hamlet has petered out and the open countryside has begun. I therefore find that the appeal site is within the open countryside, rather than within the settlement of Upper Hengoed.
 7. As the proposed development would be new build and not an essential countryside worker's dwelling, or an affordable house, its location would therefore be contrary to policies CS4 and CS5 of the Core Strategy. It would also be contrary to policy MD7a of the emerging SAMDev Plan which seeks to strictly control new market housing within the open countryside. Although this policy is the subject of main modifications these alterations do not alter the general thrust of this policy. As a result, I attach a moderate amount of weight to this policy.

Main Issues

8. The main issues in this appeal are;
 - the effect of the proposed development on the character and appearance of the area; and,
 - whether the proposal would be a sustainable development and the extent of the housing land supply in the County.

Reasons

Location

Character and appearance

9. The National Planning Policy Framework ('the Framework') is an important material consideration. A core planning principle of the Framework is that the intrinsic character and beauty of the countryside should be recognised in decision taking. On the northern side of the minor rural road where the appeal site is located the landscape is characterised by gently undulating arable fields that rise to the west. Occasional mature trees feature within the hedgerows to the fields. The general openness and lack of development is a feature of the landscape and assists in conserving the beauty of this area of countryside. As the site is arable land and free of built development, its openness and greenness makes a positive contribution to the character and appearance of the area. The presence of hardstanding to the eastern side of the appeal site

- does not materially detract from the quality of the appeal site and the open countryside of which it forms a part.
10. The two proposed houses and garages would stand alone on the northern side of the road, encroaching into the countryside and resulting in its loss. The domestic paraphernalia that occupation would generate would add to the urbanising effect of the proposed development. As the application is in outline the appellant is not tied to the detail shown on the indicative site layout. However, good design at reserved matters stage and retention of the hedgerows to the field, other than to create the suitable vehicular access, would not prevent the loss of countryside to development and urbanisation of the site. The extension of Upper Hengoed into the surrounding countryside would be readily visible in public views from the road that passes in front of the site. It would also be visible in medium to long distance views from the higher ground to the west. As a result, I therefore find that the proposal would have a significant adverse effect on the character and appearance of the countryside.
 11. A planning application (ref 14/03665/OUT) has been made for houses opposite the appeal site. However, as the site in question lies on the southern side of the road it has a different relationship to the village and surrounding countryside. Given that it is previously developed land it also has different merits in its favour. If permission was granted for this development, it would not alter my assessment that the proposal in this appeal would be within the open countryside and would have a significant adverse effect upon it. As a result, this application has not altered my finding in relation to this issue.
 12. For all of these reasons, I therefore conclude that the proposed development would unacceptably harm the character and appearance of the countryside. This would be contrary to the objectives of policy CS5 of the Shropshire Core Strategy, the Framework and policy MD7a of the emerging SAMDev Plan. These policies, amongst other matters, seek to protect the character and appearance of the countryside.

Sustainable development

13. Sustainable development is at the heart of the Framework. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 55 of the Framework provides specific guidance in relation to the sustainable development of new housing in rural areas. It advises that new housing in such areas should be located where it can maintain or enhance the vitality of rural communities. Paragraph 55 of the Framework goes on to give an example of how maintaining or enhancing the vitality of rural communities could be achieved. It advises that where there are groups of smaller settlements development in one may support services in a village nearby.
14. Upper Hengoed itself has very limited facilities and services; a public house, post box, phone box, car servicing garage and a small business. However, there is no evidence that the services in the other settlements within the cluster are struggling. Even if they were, two dwellings would make a negligible contribution towards sustaining these services. For these reasons, I therefore find that the proposed development is not necessary to support services in nearby villages and would not make a material contribution towards doing so.

15. In terms of the environment, I have found that the proposed development is located within the open countryside and would unacceptably harm the character and appearance of the area. Oswestry, which is the nearest settlement that can provide a wide range of facilities and services, is approximately three miles away. Whilst the bus service to Oswestry is relatively frequent, access to the bus stop from the appeal site is along an unlit rural road with no footway. To my mind this would discourage use of the bus service and make it more likely that journeys would be made by private car. In order to access a wide range of services and facilities future residents of the proposed development would also be likely to travel significantly greater distances than those who live within the larger more sustainable types of settlements promoted by the Core Strategy. Taking all these matters into account, I therefore find that the appeal site is not ideally located in terms of sustainability.
16. Reference has been made to an appeal in Montford Bridge² where it was found that occupants of a proposed development could access a range of services and facilities by sustainable transport. It is a principle that each application is assessed on its merits. The Inspector in relation to that appeal exercised her judgement on the evidence in relation to that particular case. I must similarly use my judgement in respect of the evidence before me. For this reason, and based upon what I have read and seen, this decision has not altered my findings regarding the location of the appeal site.
17. Socially, a recent permission has been granted for thirteen dwellings in Upper Hengoed, eight of which would be affordable dwellings to meet local need. As a result, policy S14.2(x) of the SAMDev Plan seeks only a further five dwellings during the plan period within this Community Cluster. The location identified for this housing is Selattyn. No further housing development is sought in Upper Hengoed. The proposed development of market housing therefore would be of little benefit to the local community. At County level, the provision of two new homes would make a minimal contribution to addressing housing need and any financial contribution towards affordable housing would be negligible.
18. In relation to the economy, investment in construction of the two houses and their fitting out would generate some employment and would be of some benefit to the local economy. Post completion the increase in spending power in the locality as a result of two additional households would assist in a small way businesses in the wider area. The New Homes Bonus payable if the scheme went ahead could be spent on local services. If permission was granted the Community Infrastructure Levy payment would mitigate the effect of the proposed development on local infrastructure, rather than enhance it, and so is not a benefit of the scheme.
19. Taking all these matters into account, the positive aspects of the proposal would not overcome the unacceptable harm that would be caused to the character and appearance of the countryside and its less than ideal location. Both these negative features of the proposed development would continue long after the economic benefits of constructing the development have faded. I therefore conclude, based upon the overall balance of considerations, that the proposal would not be a sustainable development. It would therefore be contrary to the Framework and policy CS6 of the Core Strategy which requires

² Appeal reference APP/L3245/A/14/2225192

that new development is sustainable. It would also be contrary to emerging policy MD3 of the SAMDev Plan. This policy recognises that the housing guidelines in a Community Cluster is a significant consideration and only supports housing development above the guideline if, amongst other matters, it would be a sustainable development. Although this policy is the subject of main modifications the extracts of the policy to which I refer are not subject to proposed changes. I therefore attach a moderate amount of weight to this policy.

Housing land supply

20. Where a five year supply of deliverable housing sites cannot be demonstrated paragraph 49 of the Framework states relevant policies for the supply of housing should not be considered to be up to date. The Council states that it has a five year housing land supply. The appellant states that it does not. The Council has referred to three recent appeal decisions³ in support of its stance. These decisions postdate the submissions referred to by the appellant on the issue of housing land supply that were submitted to the SAMDev Plan examination. As these appeals were dealt with by way of a hearing, rather than by written representations, the Inspectors would have been able to test the submitted evidence and ask questions to clarify matters. Following the hearings and consideration of the evidence the Inspectors in the three appeals found that a five year housing land supply existed. For the purposes of this appeal, in the absence of any more recent evidence to the contrary where this issue has been considered in detail, I therefore find that the Council has a five year housing land supply.

Conclusions

21. As I have found a five year housing land supply exists the policies cited in the Council's refusal notice are up to date. Significant weight can also be attached to the SAMDev Plan which places Upper Hengoed within a Community Cluster and moderate weight to its other policies cited in this decision. I have found that the proposed development would be located within the open countryside and would cause unacceptable harm to its character and appearance. It would also not constitute a sustainable development.
22. The Council seeks a contribution towards affordable housing. In November 2014, the Government announced changes to its Planning Practice Guidance. Further updates on 27 February 2015 make clear that the changes to the planning guidance were changes to national policy. Among other things, those changes advise that contributions towards affordable housing should not be sought from small-scale developments of ten units or less. The tests in paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 apply to planning obligations. However, in this case as the appeal is to be dismissed on its substantive merits, it is not necessary to assess what is sought against these requirements.
23. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

³ Appeal references APP/L3245/A/14/2223087, APP/L3245/A/14/2228348, APP/L3245/W/14/3000672

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