



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

Date: Monday, 19 October 2015

**Committee:**  
**North Planning Committee**

**Date:** Tuesday, 27 October 2015  
**Time:** 2.00 pm  
**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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

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

**Members of the Committee**

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

**Substitute Members of the Committee**

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

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 29<sup>th</sup> September 2015, attached, marked 2.

Contact: Shelley Davies on 01743 257718.

## 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 To The North Of Moor Farm, Baschurch (15/01805/FUL) (Pages 7 - 34)

Installation of a solar park with an output of approximately 3.75 MW on land associated with Moor Farm.

## 6 Castlefields Car Park, Mereside, Ellesmere (15/02681/FUL) (Pages 35 - 60)

Change of use of existing car park to a holiday park of 20. no. lodges.

## 7 Proposed Dwelling Rear of 26 Edgeley Road, Off Rydal Avenue, Whitchurch, Shropshire (15/03326/FUL) (Pages 61 - 74)

Erection of a detached dwelling.

## 8 Proposed Dwelling North Of Bryn Benlli, Turners Lane, Llynclys, Shropshire (15/02054/OUT) (Pages 75 - 86)

Outline application for the erection of one dwelling to include means of access together with installation of septic tank.

## 9 Lower House Farm, Plas Cerrig Lane, Llanymynech, Shropshire, SY22 6LG (15/01557/EIA) (Pages 87 - 112)

Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping.

## 10 Appeals and Appeal Decisions (Pages 113 - 120)

## 11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 24<sup>th</sup> November 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.

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## Committee and Date

North Planning Committee

27<sup>th</sup> October 2015

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 29 September 2015**

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

**2.00 - 4.18 pm**

**Responsible Officer:** Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

### **Present**

Councillor Arthur Walpole (Chairman)

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

### **59 Apologies for Absence**

An apology for absence was received from Councillor David Minnery.

### **60 Minutes**

That the Minutes of the meeting of the North Planning Committee held on 2<sup>nd</sup> September 2015 be approved as a correct record and signed by the Chairman.

### **61 Public Question Time**

There were no public questions, statements or petitions received.

### **62 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.

In relation to planning application 14/03428/OUT, Aston Road and Church Lane, Wem, Councillors Paul Wynn, Gerald Dakin and Steve Davenport stated that they knew the applicant as he had been a Member of North Shropshire District Council alongside them but there was no issue of bias and they would stay in the room during consideration of the item and vote on the item.

### **63 Land South Of Bletchley Court Bletchley Market Drayton - 15/02089/FUL**

The Principal Planning Officer introduced the application for the erection of one dwelling with detached garage and vehicular access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Members' attention was drawn to the additional information from the applicant that had been circulated to the Committee.

Councillor Melanie Joyce, on behalf of Moreton Say Parish Council, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Dermot Costelloe, 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 Paul Wynn, 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 a number of points were raised including the following:

- The existing building was not fit for purpose;
- There had been no objections to the proposal; and
- The Parish Council support the application.

Having considered the submitted plans for the development Members unanimously expressed their support for the application contrary to the Officers recommendation on the basis that having given special consideration to the listed building it was felt the proposal represented sustainable development, it could be considered to be part of the settlement of Bletchley, it was supported by the Parish Council and there were no significant adverse impacts which would outweigh the benefits of the proposal.

**RESOLVED:**

That planning permission be granted contrary to the Officer's recommendation subject to:

- Standard conditions and conditions relating to design, materials, impact on heritage assets and landscaping;
- The removal of permitted development rights to further extend the property;
- The use of the garage to be restricted; and
- The applicant entering into a S106 to secure an affordable housing contribution.

**64 Old Station Yard, Brownlow Road, Ellesmere - 14/01744/OUT**

The Principal Planning Officer introduced the outline application for mixed residential development; formation of estate roads 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 Geoff Elner, on behalf of Ellesmere Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Bob Davies, 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.

Councillor Pauline Dee stated that as a member of the Shropshire Housing Alliance she would not take any further involvement in the debate.

During the ensuing debate members raised concern in relation to Heavy Goods Vehicles (HGV) accessing the Fullwoods site and requested that the application for reserved matters be considered by this Committee to ensure that any HGV traffic was segregated from the newly built houses.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the officer's recommendation.

**RESOLVED:**

That outline planning permission be granted in accordance with the Officer's recommendation, subject to:

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

**65 Pear Tree Farm, Broadhay Lane, Lower Heath, Prees - 15/02817/VAR**

The Principal Planning Officer introduced the application for the variation of condition 5 attached to planning permission reference 15/01907/AMP to allow revised plans and elevations to be submitted.

Lesley Rumney, on behalf of Prees Parish Council spoke against 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 Paul Wynn, 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 a number of points were raised including the following:

- The proposal building was large for an agricultural building; and
- If Members were minded to approve the application the conditions suggested by the Parish Council should be included to any permission granted.

The Principal Planning Officer explained that as permitted development rights had not been removed from the original planning permission the applicant was entitled to revert to this permission and extend to a larger building than proposed in the

variation. The Principal Planning Officer assured the Committee that the development would still have to be occupied by an agricultural worker.

Having considered the submitted plans and listened to the comments made by all the speakers, the majority of members expressed their support for the officer's recommendation.

**RESOLVED:**

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

**66 Proposed Residential Development Land Between Aston Road and Church Lane, Wem - 14/03428/OUT**

The Principal Planning Officer introduced the report which was an addendum to a previous report on 17<sup>th</sup> February 2015, when the Committee had resolved to grant outline approval for the erection of 50 No dwellings (to include access). Members' attention was drawn to the schedule of additional letters which referred to additional information from the agent in relation to a recent appeal decision and a further letter of objection from a local resident. The Principal Planning Officer explained that due to its advanced stage greater weight can now be given to some SAMDev policies and Officers were now recommending refusal of the application.

Geoff Soul, a local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Edward Towers, on behalf of Wem Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Amy Henson, agent for 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 Pauline Dee, 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 her statement a number of points were raised including the following:

- There was concern in Wem in relation to the impact the development would have on the infrastructure of the Town;
- The site had not been included in SAMDev; and
- The site was outside the development boundary.

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



- The harm identified would outweigh any benefit to the Town;
- The site had been assessed for inclusion within SAMDev but was rejected by officers; and
- There was a great deal of local objection to this application.

In the ensuing debate, Members expressed differing views. Some Members continued to support approval. Other Members considered that the proposal would have an adverse impact on the surrounding area and supported refusal as per the reasons set out in the report. On the casting vote of the Chairman, it was

**RESOLVED:**

That planning permission be refused in accordance with the Officer's recommendation.

*Councillor Vince Hunt left the meeting at this point.*

**67 Richardson Bros, Brookside, Morda, Oswestry - 15/03386/COU**

The Principal Planning Officer introduced the change of use application from B2 to a mixed use of B1, B2 and B8 (storage) and summarised three objections received from local residents which referred to the access road, parked cars, noise issues and additional business hours.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Joyce Barrow 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 her statement a number of points were raised including the following:

- The issues raised in relation to access were irrelevant to the application; and
- The proposal would not exacerbate the issues raised in relation to access.

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

**RESOLVED:**

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

**68 Appeals and Appeal Decisions**

**RESOLVED:**

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

**69 Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 27<sup>th</sup> October 2015, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....



Committee and Date

North Planning Committee

27 October 2015

Item

**5**

Public

## Development Management Report

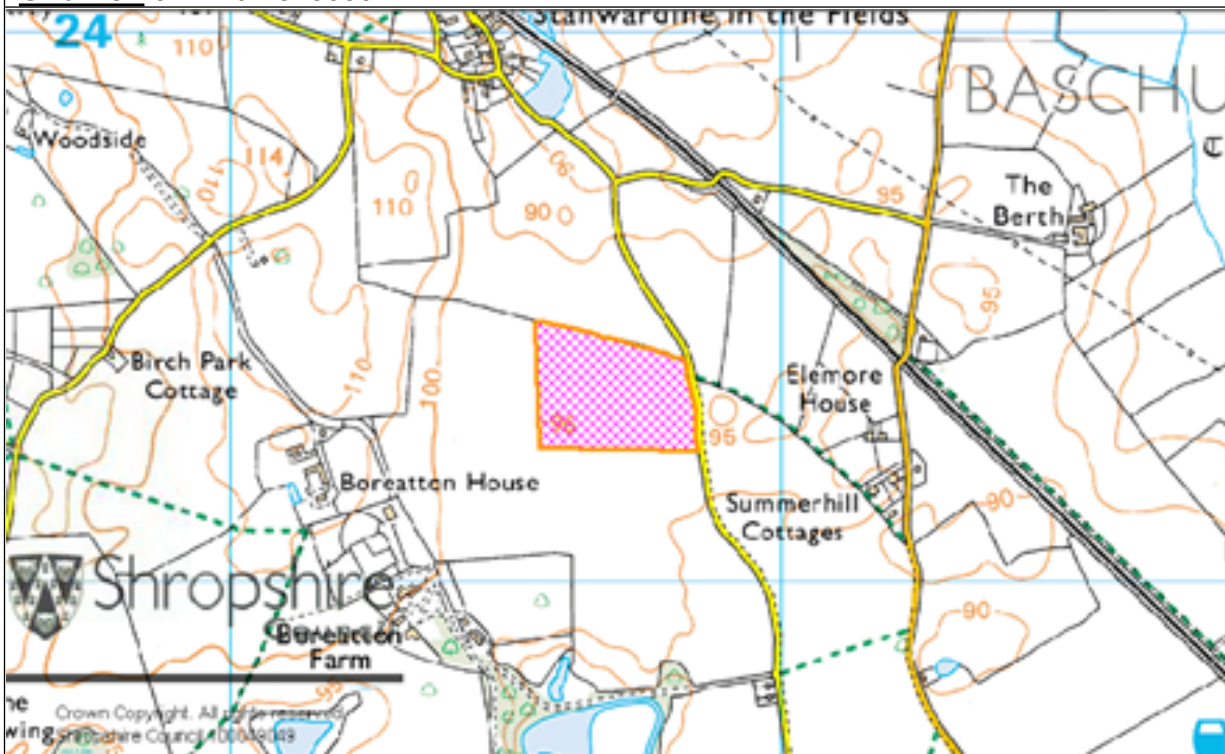
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 15/01805/FUL	<b><u>Parish:</u></b> Baschurch
<b><u>Proposal:</u></b> Installation of a solar park with an output of approximately 3.75 MW on land associated with Moor Farm	
<b><u>Site Address:</u></b> Land To The North Of Moor Farm Baschurch Shropshire	
<b><u>Applicant:</u></b> Navitas Projects Limited	
<b><u>Case Officer:</u></b> Kelvin Hall	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 341779 - 323030



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Recommendation: Grant planning permission subject to conditions as set out in Appendix 1 and subject to the completion of a Section 106 legal agreement to provide for off-site landscaping and long term maintenance.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The planning application seeks permission for the construction of a solar farm on agricultural land, comprising arrays of solar panels with associated buildings and infrastructure. The proposal would involve the installation of 15,532 solar panels generating approximately 3.75MW of electricity which would be fed into the national grid network.
- 1.2 The panels would be mounted on fixed aluminium frames arranged in west-east orientated rows. These frames would be secured to the ground through metal piles. The panels would face south, angled at approximately 25 degrees to the horizontal, with the highest edge at a height of 2.33 metres and the lowest at 0.8 metre. There would be a separation of 3 to 4 metres between each row.
- 1.3 Buildings and other infrastructure proposed comprises the following:
- Inverters (4no.): two of these would be positioned at the centre of the site; the other two along the northern boundary; they would measure 9.8 metres x 3 metres x 3.6 metres high;
  - Control building/substation: this would house control panels and the transformer: it would be sited at the north-eastern corner of the site and would be of brick construction with dimensions 3.6 metres x 3.6 metres x 2.4 metres high;
  - DNO substation: this would be accessed by the Distribution Network Operator; it would be sited at the north-eastern corner of the site, of similar construction and dimensions to the control building;
  - Perimeter fencing: wire mesh, 2.4 metres high;
  - 4no. CCTV cameras, installed on 3 metres high wooden poles.
- 1.4 Once the panels have been erected the land is proposed to be grazed by sheep. The application states that the operational life of the panels is 25 years. Existing trees and hedgerows would be retained, and additional landscape planting would be undertaken.
- 1.5 The application is supported by a number of detailed documents, including: Soils and Agricultural Quality report; Assessment of Alternatives report; Archaeology and Cultural Heritage Assessment; Landscape and Visual Impact Assessment; Ecological Appraisal; Flood Risk Assessment; Geophysical Survey Report; Noise Assessment report; Transport Assessment.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site occupies the north-eastern corner of an agricultural field which is located approximately 1.1km to the north-west of Baschurch and 430 metres to the south-east of Stanwardine in the Fields. The site is roughly rectangular in shape and covers an area of approximately 6.1 hectares (300 metres x 200

metres). The site itself is relatively flat, and is bounded to the north and east by a hedgerow. Surrounding land is in agricultural use. A public highway runs in a generally north-south direction to the east.

- 2.2 There are scattered residential properties in the vicinity of the site. The nearest of these are: Boreatton Farm, Boreatton Hall and associated cottages (approximately 320 metres to the south-west), properties known as Summerhill Cottage (approximately 325 metres to the south-east), Elemore House (approximately 335 metres to the east), Rose Bungalow (approximately 360 metres to the west), Boreatton House (approximately 370 metres to the south-west) and Smithy Cottage (approximately 405 metres to the west),
- 2.3 Boreatton Hall is a Grade II\* Listed Building. The Kitchen Garden Walls, Archways and Attached Cottages north of Boreatton Hall are a Grade II Listed Building.

2.4 Vehicular access to the site would be gained from the public highway to the east.

### 3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The views of the Parish Council are contrary to the Officer recommendation, and the Planning Manager in consultation with the Committee Chairman has agreed that the Parish Council has raised material planning issues.

### 4.0 **COMMUNITY REPRESENTATIONS**

#### 4.1 **Consultee Comments**

4.1.1 **Baschurch Parish Council** Strongly object to the solar farm development application on the following material planning grounds.

Land classification: The site does not come within the Government guidelines as land suitable for solar development. The guidelines state that suitable land for solar development should be brown field sites and poor grade land of grade 3 or more.

Screening and visual impact: It is impossible to totally screen off the area. The site sits below the adjoining properties. It will also be seen from the Cliffe which is a local beauty spot. The new hedge planting would take years to mature effectively resulting in no effective screening for a number of years. It is inappropriate to plant screening hedge on someone else's property. The substation would not blend in with the rural area.

Access and road safety: The road between Baschurch is very narrow; it is used regularly by cyclists, runners, walkers and horse riders also used by coaches carrying students to PGL and farm traffic. Any more heavy traffic will increase the risk of accidents considerably.

Baschurch Parish Council supports the detailed and valid objections sent in by the Action group.

4.1.2 **Ruyton XI Towns Parish Council (adjacent parish)** Given that the planning application will have an impact on Ruyton XI Towns primarily during installation

when there is considerable HGV activity for a fixed period of time; the Parish Council trusts that a sensible traffic plan will be agreed which:

- Avoids school pick up / drop off times;
- Takes into account PGL coach movements;
- Takes into account busy agricultural harvest times.

4.1.3 **Historic England** Do not wish to comment in detail, but offer the following general observations.

The proposed solar park is situated within the vicinity of a number of listed buildings and Scheduled Ancient Monuments which are identified within the Zone of Theoretical Visibility. These include the Grade II\* Boreatton Hall (UID 1055962) and The Berth SAM (UID: 1004770).

If the scheme is approved, to minimise the visual intrusion of the proposed development on the setting of The Berth and Boreatton Hall, conditions should be imposed requiring your Council's Historic Environment advisors prior approval of all boundary treatments and structures including security measures.

The Council's Historic Environment advisors advice should be sought regarding undesignated heritage assets which will be affected by the proposed development and there advice implemented in full.

Historic England urges the planning authority to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4.1.4 **SC Conservation** No objections subject to mitigation being undertaken.

An archaeological and cultural heritage assessment has been submitted with the application and within that designated heritage assets have been identified and an assessment of impact on significance made. This is considered accurate in its conclusions, however, it would appear that whilst undesignated heritage assets are listed in Table 5 as being within 1km no assessment of impact on their significance has been made, other than Boreatton House. It is considered that this appears to be an omission within the document, although on visiting the site it is likely that the conclusions will be similar to the assessment made for the designated assets and therefore this information is not considered to be required for a recommendation to be made, from a historic environment perspective.

Some concern is raised with regard to the impact on the Kitchen Garden Wall etc. at Garden Cottage (Boreatton Farm) but it is considered that as suggested in the landscaping plan the new proposed hedgerow will help mitigate this. Possibly more tree planting could be considered. An extension to the already proposed tree planting in connection with Boreatton House may achieve this, especially if the trees planting are of at least standard or heavy standard size to provide more immediate screening, as developments of this type have the potential to have an adverse impact on the landscape character of the area as well as setting of Heritage Assets. However, landscaping is not something which the Historic Environment Team can advise on other than to suggest how it may be used in mitigation.

The type of panel used should have a low visual impact i.e. matt black with black frames to help avoid glare and glint visual impacts.

The scheme is considered to not have an unacceptable impact on the preservation of the character and significance of the listed buildings in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and with mitigation no objection is made.

4.1.5 **Natural England** No response received.

4.1.6 **SC Highways** From a highway perspective the fundamental issue in relation to the development proposal is the construction/installation of the solar panels on the site. Post construction/installation the traffic movements associated with the solar farm are limited.

It is noted that concerns have been raised by operators PGL, who traffic the same access approach road as the proposed solar farm. The concerns relate to potential conflict in traffic movements associated with PGL and the solar farm construction traffic movements. It is considered however that these are issues to be managed and not ones that should prevent the solar farm development taking place.

It is recommended that a condition is imposed on any consent granted to require the submission of a Construction Traffic Management Plan for approval (see condition in Appendix 1).

4.1.7 **SC Drainage** The Surface Water Management Statement states that swales will be constructed to intercept the surface water runoff are acceptable.

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

Protected/notable species: There are some protected and notable species recorded that should be conserved through a condition requiring the submission of a Biodiversity Conservation Plan.

4.1.9 **SC Archaeology** The proposed site is located c.800m north of a loose group of cropmark ring ditches within the fields north of the B4397. These features are likely to represent the remains of Early Bronze Age funerary monument, which together comprise a dispersed barrow cemetery of a type characteristic of Shropshire. As a consequence the applicant has submitted a Heritage Assessment and an archaeological Geophysical Survey Report. The latter survey has identified a number of anomalies, the majority of which are interpreted as post-medieval agricultural features. No anomalies of potentially prehistoric date were identified, and the archaeological potential of the site is therefore now deemed to be lower than advised in our previous consultation response.

Given the results of the geophysical survey, and in line with requirements of Paragraph 141 of the NPPF, it is recommended that a programme of archaeological work should be made a condition of any planning permission for the proposed development. This should comprise an archaeological watching brief during the ground works for any access tracks and infrastructure (see condition in

Appendix 1).

4.1.10 **SC Trees** No objections on arboreal grounds. No trees appear to be lost to the scheme which includes additional native hedgerow and new tree planting.

4.1.11 **SC Public Protection** No objections. The proposed layout of this development will have no detrimental impact on closest residential receptors.

4.1.12 **Shropshire Wildlife Trust** No response received.

## 4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition 30 residential properties in the local area have been individually notified. 30 objections have been received. This includes a statement prepared on behalf of 14 residents. In addition two letters of support has been received, and one letter making general comments.

4.2.2 The grounds for objection are summarised below.

- Use of Grade 2 and Grade 3a agricultural land, contrary to government guidance; insufficient justification for use of BMV land
- Other sites of lower agricultural land quality should be prioritised, even if not owned by the landowner
- Proposal would degrade the best and most versatile agricultural land to low grade sward suitable for minimal sheep grazing at best
- Impact on and proximity to listed buildings and heritage assets, including the Grade II\* Boreatton Hall, and The Berth, a scheduled monument
- Impact on archaeological importance of the area
- Major traffic disruption
- Inadequate road infrastructure for size and volume of traffic
- Use of roads which are already busy with coaches to and from PGL
- Use of narrow, single track country lane; few passing places
- Traffic impact during construction works
- Allowing hedges to grow to 2.5-3 metres would limit how much drivers could see other vehicles on the highway
- Unclear as to proposals for wheel cleaning and off loading
- Impact on appearance and landscape quality of area
- Impact on enjoyment of countryside and leisure pursuits such as walking, horse riding and cycling
- Inadequacy of screening for proposal which includes panels, fencing, and associated security lighting and substations
- Potential impact on badgers
- Proximity to wildlife sites eg. Boreatton Moss, and impact on birds, butterflies and insects
- Impact from glare from panels on helicopters from RAF Shawbury
- Contrary to NPPF and Development Plan policies
- Until last year the land was in arable use for corn and other cereals
- Contrary to Ministerial Statement of March 2015
- Panels should be sited on roofs or on brownfield sites
- Insufficient justification in relation to economic benefits to landowner
- Recent appeal decisions are following emphasis of Government of avoiding



- the use of BMV
- Previous appeal decisions should not be used as setting a precedent
- Recent precedent on decision to refuse site at Sheriffhales on agricultural land quality grounds should be maintained
- Local harm outweighs the benefits
- Any tree planting should be on the applicant's land
- Noise impact
- Impact from lighting
- Impacts from increased runoff
- Query why development is necessary given that the Council does not have a renewable energy quota to achieve
- Not clear that there is a real financial need for diversification at the farm
- Applicant's assertion that a site 2km from the connection point is unviable is questioned, given 25 year life of project
- site is not relevant to achieving renewable targets as it is too small to have any county or regional impact
- 

**Shropshire Riding and Carriage Driving Forum** [comprising representatives from Bridleway Groups active in Shropshire, Association of British Riding Clubs, BHS representatives, Affiliated BHS Bridleway Groups, Carriage Driving Groups, Parish Path Partnership Groups, and Independent Riding Groups] Objects for the following reasons:

- industrial type development in open countryside
- very few off road routes in the area and horse riders rely on the lane for rides out, and to link to the few off road routes
- heavy construction traffic, which will have to use this narrow lane which has few passing places, will impact on horse rider's safety
- Shropshire Council has a duty of care to all road users
- Contrary to Policy CS17
- Proposal will be very visible, accessed via a narrow country lane used by horse riders that provides a connecting corridor for leisure users to other off road routes, goes against Policy CS17.

**Nesscliffe Hills and District Bridleway Association**

- Access lane is an important link between the very few off road riding routes in the area
- Large construction vehicles will put horse riders at risk
- Adverse impact on the landscape and on the enjoyment of the area
- Effect on horse riders from reflection from panels
- Inadequacy of new screening

4.2.3 In addition to the above, general comments have been received from PGL Travel plc, summarised as follows:

- PGL Travel plc is a large business situated at Boreatton Park on Stanwardine Lane
- business creates a lot of traffic along the lanes that this proposal sits against
- concern over lack of consultation with PGL and lack of risk assessment on the current and proposed level of traffic
- on average PGL will have over sixty coaches coming in and out of the centre

each week, and over a hundred staff with vehicles that again will come in and out of the centre each day

#### 4.2.4 The grounds for support are summarised below:

- excellent diversification opportunity
- will help the UK meet renewable energy targets
- concerns about traffic movements are not a sensible reason for declining this application - any development will have a short term traffic impact, but with careful management this should not be a problem to local communities
- farming has to be allowed to modernise and take up the challenge of providing food and power to the ever growing population
- wheat, potatoes, milk, beef and lamb are in surplus; renewable energy is one of the best ways farmers can produce something the country needs
- will protect us from climate change
- better than a golf course or horses which are a waste of land
- traffic will be all over in 2 months then 25 years of peace and quiet

## 5.0 THE MAIN ISSUES

- Principle of development
- Community consultation
- Siting, scale and design and impact on landscape character
- Site selection and agricultural land quality considerations
- Local amenity considerations
- Historic environment considerations
- Ecological considerations
- Highways considerations
- Flood risk and drainage considerations

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan policies relevant to the current proposal are discussed below. In addition to these, the National Planning Policy Framework (NPPF) sets out the Government's planning policies and this is a material consideration which should be taken into account in the determination of this application. Further national policy guidance is provided by National Planning Policy Guidance (NPPG).

6.1.2 Renewable energy: The NPPF sets out core land-use planning principles, and one of these is to support the transition to a low carbon future. This includes encouraging the use of renewable resources. The current proposal is in line with this. The NPPF advises local planning authorities to recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources (para. 97). It states that:

- applicants do not need to demonstrate the overall need for renewable energy;
- it should be recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gases;
- applications for renewable energy should be approved if its impacts are (or

can be made) acceptable.

- 6.1.3 The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 9), and that renewable energy generation is improved where possible (Policy CS6). Core Strategy Policy CS8 positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.
- 6.1.4 Planning Practice Guidance on Renewable and low carbon energy sets out the particular planning considerations that apply to large scale ground-mounted solar farm proposals (see Section 10.2 below). The Guidance does not define 'large scale' nevertheless it is considered that its contents can be applied to the current proposal. It states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses.
- 6.1.5 The proposed solar farm would be capable of generating 3.75MW of renewable energy. This would be enough electricity to power 1,140 average sized homes per year, and result in the reduction of more than 1,900 tonnes of carbon per year. The proposal would provide significant environmental benefits in terms of the production of renewable energy. As such the principle of the proposal is in line with planning policies and national guidance.
- 6.1.6 Rural diversification: Core Strategy policy CS13 provides support for rural enterprise and diversification of the economy. This is in line with the NPPF which seeks to support a prosperous rural economy by stating that local plans should promote the development and diversification of agricultural and other land-based rural businesses (para. 28).
- 6.1.7 The application states that the proposed solar farm represents an important diversification opportunity for ongoing agricultural operations at Moor Farm. It states that the scheme would stabilise profitability, provide insurance against weather and price volatility, and facilitate ongoing investment.
- 6.1.8 Officers accept that the proposal would allow for agricultural activities to take place alongside the generation of renewable electricity, thereby increasing the profitability of the land. In principle it is accepted that there would be direct benefits to the existing agricultural business at Moor Farm as a diversification scheme which allows for the continuation of farming on the land through sheep grazing, in line with Policy CS13.
- 6.2 **Community consultation**
- 6.2.1 The application is accompanied by a Statement of Community Involvement which summarises the pre-application engagement and consultation that the applicant undertook with the local community and stakeholders. Formal pre-application advice was received from Shropshire Council, following a site visit. This resulted in some amendments being made to the design of the scheme, in particular in relation

to access, tree protection and the location of the substation.

6.2.2 The applicant's agent undertook a public consultation exercise, held at Baschurch Village Hall. The applicant's agent also attended a Parish Council meeting to present the plans to councillors.

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

6.3.1 Development in the countryside: Core Strategy Policy CS5 seeks to control new development in the countryside. It states that development 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 types including:

- small-scale new economic development diversifying the rural economy, including farm diversification schemes;
- required community uses and infrastructure which cannot be accommodated within settlements.

6.3.2 The Core Strategy does advise that larger scale agricultural related development can have significant impacts and will not be appropriate in all rural locations. However the proposed development would provide a level of renewable energy infrastructure which could not be accommodated within settlements, and represent a farm diversification scheme. As such it is not considered that, in principle, this type of proposal is restricted by Policy CS5.

6.3.3 Agricultural land quality: The NPPF states that the economic and other benefits of the best and most versatile (BMV) agricultural land should be taken into account in determining planning applications. It states that where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be sought in preference to that of a higher quality (para. 112). In relation to solar farms, Planning Practice Guidance advises that local planning authorities should encourage the effective use of land by focussing these developments on previously developed and non agricultural land, provided that it is not of high environmental value (para. 013).

6.3.4 The objection raised by the Parish Council that the proposal is contrary to Government guidelines that state that solar development should be on brownfield sites and poor grade land of Grade 3 is noted, however this is not accurate. Planning Practice Guidance advises that, in considering solar farm proposals located on greenfield sites, local planning authorities should consider whether:

- the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

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

agricultural land. It states that any proposal for a solar farm involving BMV agricultural land needs to be justified by the most compelling evidence.

- 6.3.6 The submitted Soils and Agricultural Quality report is based upon a series of soil samples that were taken of the site, at a density of one per hectare. The report confirms that 2.6 hectares of the site (43%) is Grade 2 (very good quality), and 3.5 hectares (57%) is Grade 3a (good quality). Best and most versatile (BMV) agricultural land is that classed as Grade 1, Grade 2 or Grade 3a. As such all of the site is BMV agricultural land.
- 6.3.7 Impact on BMV land: Whilst the proposed development is sited on land classed as BMV, Officers consider that it is relevant to note that the proposed development would not result in the loss of BMV, as it is proposed that the land would be grazed by sheep once the panels have been installed. The existing agricultural use of the land would therefore not change, and the land would be put to a dual use of renewable energy generation and grazing. The impact of the proposal on agricultural land would be limited to the change from arable to grazing land for the temporary period, and there is no expectation that quality of the land would be affected.
- 6.3.8 Size of site: Another relevant consideration to note is the limited scale of the site. The proposal would affect 6.1 hectares of BMV agricultural land. There is no specific guidance as to whether this amount of land can be considered to be significant. Nevertheless it is noted that Natural England, the Government's adviser, is only required to be consulted on planning applications for non-agricultural purposes that would result in the loss of 20 hectares or more of BMV. On this basis the submitted Soils and Agricultural Quality report states that the magnitude of change is considered to be low, and that this would result in a minor adverse impact to agricultural land, which leads to no significant effect. Officers are of the opinion that the amount of BMV agricultural land that would be affected is notable, but not necessarily significant.
- 6.3.9 Site selection constraints: Following a request from Officers, a revised Assessment of Alternatives (AoA) has been undertaken. This seeks to identify any alternative sites within 1km of the proposed point of connection. The AoA report states that the availability of an affordable grid connection represents a significant contributory factor when identifying a suitable site for such a proposal. The AoA report states that designations within Shropshire, such as the AONB, the Green Belt, SSSIs and heritage assets eliminate the vast majority of the county for a potential solar farm development. It states that when assessing individual sites for their suitability for a solar farm, sites within such designated sites should be avoided. It states that the land which would be potentially suited to a solar farm is predominantly limited to the northern area of the county. Officers do not necessarily concur with the generality of these statements. For example planning permission for a number of large-scale solar farms has been granted for sites located within the southern half of the county, including within the Green Belt. This demonstrates that such designations do not necessarily rule out solar farm development.
- 6.3.10 The AoA report states that solar PV is highly constrained by the requirement to be close to a suitable grid connection point. The proposed connection point has the capacity to accept additional load from the application site and therefore the

proposal fulfils this critical constraint. The AoA states that other considerations include:

- Gradient and aspect: the AoA report states that predominantly flat sites are preferred, in the interests of minimising any landscape and visual impact, and facilitating screening. It states that the applicant therefore applies a constraint to any land that has an average slope of greater than 5 degrees
- Distance from the grid connection: The AoA states that sites that are greater than 1km from the electricity grid connection are eliminated from the site selection process as the cost of connection would be prohibitively expensive.

- 6.3.11 Officers accept that the proximity of the proposed site to a suitable connection point is a favourable consideration in terms of the costs and therefore deliverability of the proposal. Officers do not have any information to verify that a site further than 1km from the point of connection would not be viable. In addition planning policies do not suggest that the most favourable site within a viable distance of an available point of connection should be permitted. However it is relevant to look into whether there are other more preferable sites within this 1km radius of the connection point, to test the extent to which the selection of the current site is justified. This is discussed below.
- 6.3.12 Alternative sites considered: In terms of assessing alternative sites, the AoA report focusses on those sites within 1km of the grid connection point. Officers do not consider that it is reasonable to require applicants to assess potential alternative sites in proximity of other connection points in the county. In making a decision on the current application it is not necessary to sequentially assess all other sites in proximity to other connection points.
- 6.3.13 In terms of assessing potential alternative sites within 1km of the grid connection point the AoA report discounts sites east of the railway as it states that the cost of taking cables over or under the railway line would make the project financially unviable. It has also taken into consideration the visual impact of alternative sites on the Grade II\* Boreatton Hall and the Berth Scheduled Ancient Monument. The report identifies two potential alternative sites within the 1km radius: one to the north east, and one to the south-east of the application site. It is accepted that both of these sites are located on Grade 2 agricultural land and therefore, in terms of agricultural land quality, would be less favourable than the application site, part of which comprises lower quality land. The AoA report concludes that neither of these two sites would be more suitable than the application site. In addition it states that the availability and deliverability of the two alternatives is not certain.
- 6.3.14 The applicant has confirmed that the only areas of agricultural land of lower than Grade 2 quality within the 1km radius are in an arc around the northern edge of this zone. The applicant has advised that the constraints that apply to this land include: the prohibitive cost of the cable crossing the railway line to the point of connection; the visual impact including on properties in these areas; and impact on The Berth Scheduled Monument.
- 6.3.15 The AoA report has also considered the scope of potential large scale rooftop installations within the county. It concludes that ground-based and rooftop solar installations are complimentary, but commercial scale rooftop solar PV is likely to make a relatively limited contribution to the UK's statutory targets of generating

15% of its energy from renewable sources by 2020. Officers accept this.

6.3.15 In overall terms it is considered that the AoA report provides a reasonable assessment of selection constraints for the siting of ground-mounted solar farms. In addition, Officers accept that there are likely to be limited alternative sites available within a reasonable distance of the grid connection point that are more favourable than the application site. The application has justified the use of agricultural land for the installation of solar panels. It is accepted that the proposal would affect BMV agricultural land, however the amount of BMV land affected is limited. The applicant states that the landowner has been offered a grazing licence for the site which would allow grazing for up to 50 sheep per hectare (albeit that the landowner's normal stocking rate is 15 per hectare). As such the development would not result in the loss of agricultural land, as it is proposed that the land would be grazed by sheep once the panels have been installed. In addition land would be returned to its current agricultural use by no later than 25 years following installation. Furthermore the application would result in significant biodiversity enhancements to the area, as discussed below.

6.3.16 In summary Officers consider that a satisfactory level of justification has been put forward for the use of the 6.1 hectares of BMV land as part of the solar farm proposal. As such the proposal is in line with the March 2015 WMS, and meets the criteria for consideration as set out Planning Practice Guidance as outlined in sections 6.3.4 and 6.3.5 above. The extent to which the proposal is acceptable in land-use terms is considered further below.

#### 6.4 **Siting, scale and design and impact on landscape character**

6.4.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It is noted that the site and surrounding land do not fall within an area designated for landscape importance. In addition it is acknowledged that the development would be temporary, and a condition can be imposed requiring that the panels would be removed at the end of their operational life or after 25 years, whichever sooner.

6.4.2 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which has been undertaken based on recognised methodology. The LVIA assesses the proposed development on both landscape character and in relation to visual impacts.

6.4.3 Impact on landscape character: The LVIA notes that the site is located within the landscape type Estate Farmlands (as defined in the Shropshire Landscape Typology). This landscape type is characterised by mixed farming landuse; clustered settlements; large country houses; planned woodland character; medium to large scale landscapes. The LVIA assesses the site as being medium in value, given that although it is in good condition, it is not subject to any landscape designations. The LVIA states that the overall effect of the introduction of the solar farm on the landscape character of the site would be substantial adverse, but that the overall level of effect of the development on the landscape character area

(Estate Farmlands) would be slight adverse to imperceptible.

- 6.4.4 The site benefits from some hedgerow screening along the northern and eastern boundaries. There are also other pockets of vegetation in the local landscape that break up open views. As such the visibility of the solar farm would be limited from some directions, particularly in view of the limited scale and relatively low height of the panels. The proposal would have some impact on the character of the local landscape, but it is considered that views in the wider landscape would be limited.
- 6.4.5 Visual impacts: The LVIA notes that residential properties comprise high sensitivity receptors when assessing visual effects. It states that properties to the west around Boreatton House and Boreatton Hall would experience a moderate adverse visual effects, as views of the site would generally be screened by intervening vegetation, and usually limited to upper floor views. It states that views from properties to the east and south-east (Summerhill Cottages, Elemore House and neighbouring properties) would have views screened by intervening vegetation and neighbouring properties, and the visual impact would be moderate adverse. It states that a similar level of visual impact would be experienced at Meadowvale to the northwest and Mount Cottage to the south-east.
- 6.4.6 The LVIA states that users of the public highway to the east of the site would experience a moderate adverse visual impact for a maximum 900 metres section of the road. The LVIA states that users of the public right of way that runs in a west-east orientation east of the public highway would also experience substantial adverse visual impact.
- 6.4.7 It is considered that this distance would generally reduce the significance of any views. Proposed mitigation includes reinforcing existing hedgerows through infill planting, and allowing hedgerows to grow to a height of 2.5–3 metres. Additional mitigation would take the form of a new hedgerow to be planted along the western and southern boundary of the site, together with tree/hedgerow planting further to the west close to the properties to the south-west.
- 6.4.8 Officers acknowledge that views of the solar farm from some properties, from the public highway and from the public right of way would be possible, and as such the proposed development would have an impact upon these receptors. In addition it is recognised that new hedgerow screening would take around eight years to mature. Nevertheless it should be noted that the closest properties are some 320 metres from the site. This distance would generally reduce the significance of any views. Officers do not consider that the visibility of the solar farm from surrounding properties would not have an overbearing impact on residential amenity. In terms of impact upon users of the highway and footpath, it should be noted that these views would be transient as users pass along these routes. The comments of the Parish Council that the site would be visible from The Cliffe are noted. However this area of higher ground is more than 2.5km away and from this distance it is not considered that the development would be prominent in the overall view.
- 6.4.9 In terms of potential cumulative impacts there are no other large-scale ground-mounted solar farms within the general area of the application site. As such there would be no cumulative impact with other solar farms in the area.



6.4.10 Overall it is considered that a satisfactory level of mitigation has been put forward in terms of new hedgerow, tree planting and management and that, given the level of environmental benefit of the proposal, these residual impacts would not be unacceptable. As such the application can be acceptable in relation to Core Strategy Policy CS6.

## 6.5 Local amenity considerations

6.5.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity.

6.5.2 Noise: A noise assessment has been submitted in support of the application, which includes details of a noise survey undertaken to assess background noise levels at sensitive receptors in the vicinity of the site. The noise report identifies the noise emission levels from the inverters, transformers and substations, and undertaken an assessment of impact based upon BS412. It states that noise from the proposed solar farm is likely to cause a low impact at existing sensitive receptors during the daytime, and during the night-time during the summer months. It concludes that no mitigation measures are required. The Public Protection Officer has advised that the proposal would have no detrimental impact on closest residential receptors.

6.5.3 Glint and glare: The planning application notes that the main issue with solar farms normally only relates to glint, rather than glare. It provides details of the specific effects of glint from the proposed development. It is noted that the panels are very dark in colour as they are designed to absorb light rather than reflect it. The application states that any glint from the solar panels would be significantly dimmer than other common sources of glint. They have a low level of reflectivity when compared to surfaces such as window glass, water or snow. There is no information to suggest that the proposal would result in adverse levels of impact upon local amenity, horses or aircraft due to glint or glare.

6.5.4 Decommissioning and land reinstatement: Planning Practice Guidance on renewable energy recognises that solar farms are normally temporary structures and that planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use (para. 013). The applicant has confirmed that the operational lifespan of the solar panels is 25 years. A planning condition can be imposed to require the removal of all of the equipment at the end of its useful life, or within 25 years whichever sooner, and the land reinstated. The application states that the applicant has signed a contract with the landowner to clear the site and revert it back to agricultural use, and that a 'clean up' bond would be put in place to ensure reinstatement.

## 6.6 Historic environment considerations

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

- 6.6.2 An Archaeology and Cultural Heritage Assessment has been submitted as part of the planning application to assess the impact of the proposed development on the setting of designated heritage assets in the area. This assessment concludes that no designated heritage assets would be impacted upon by the proposals. It states that the Grade II\* Listed Boreatton House may experience an impact to its setting but this would be of slight adverse significance and temporary. In addition it states that proposed hedgerow planting would mitigate this impact. The Assessment states that the presence of vegetation within the intervening landscape would screen views of the solar farm from The Berth, a Scheduled Monument approximately 1km to the east of the site. As such it considers that the significance of the impact is neutral.
- 6.6.3 The Council's Conservation Officer considers that the conclusions of the Cultural Heritage Report are accurate, but that consideration should be given to additional tree planting such as between the site and Boreatton House. The applicant has put forward an outline landscaping scheme that proposes tree planting in this area. Given that this land is outside of the application site the applicant has confirmed that they would be willing to deal with landscaping matters under a Section 106 agreement to ensure full control over the longer term maintenance of such planting.
- 6.6.4 In relation to archaeological matters, the Geophysical Survey report undertaken has confirmed an absence of anomalies of prehistoric date. The planning condition recommended by the Council's Archaeological Officer that an archaeological watching brief is undertaken can be added should permission be granted.
- 6.6.5 On the basis of the above it is considered that subject to the condition and legal agreement recommended the proposed development would provide satisfactory protection against harm to heritage assets, particularly when considered against the significant public benefits of the proposal in terms of renewable energy production.
- 6.7 Ecological considerations**
- 6.7.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It is noted that the application site does not form part of any statutory or non-statutory designated site for nature conservation. In addition there are no statutory designated ecology sites within 2km of the site.
- 6.7.2 Protected species and habitats: A Preliminary Ecological Appraisal has been submitted as part of the planning application. This identifies that habitats and species that would be potentially affected by the proposed development are: arable field margins; hedgerows; bats; hedgehogs; and breeding birds. The ecology report recommends that a minimum 10 metres buffer strip is maintained around the field margins, to retain wildlife corridors. The proposed development would result in some hedgerow loss to facilitate the construction of the access. However infill planting of the existing hedgerow adjacent to the site, together with the planting of new hedgerow along the western and southern boundary of the site (a length of more than 500 metres) would result in a significant net increase in hedgerow and wildlife corridor.

- 6.7.3 The Council's Ecologist has recommended that a condition is imposed to require the submission and approval of a Biodiversity Conservation Plan. This would set out the detailed protection measures to be implemented in relation to protected habitat and protected or notable species (see Appendix 1). Concern has been raised by local residents regarding potential impact upon badgers. No specific issues have been raised by the Ecological Appraisal or the Council's Ecologist, however it is considered that the Biodiversity Conservation Plan is an appropriate mechanism to ensure that satisfactory protection is afforded to this protected species. Concern over the impact of the proposal on Boreatton Moss, an area of former bogland, has been raised as part of local objections. This area is approximately 360 metres to the south of the site, and it is not anticipated that the installation of panels would have any impact on this area.
- 6.7.4 Biodiversity considerations and management: The proposed development offers the opportunity to provide significant biodiversity enhancements to the area. Whilst it is proposed that the central parts of the site would be grazed by sheep, the peripheral areas can be managed for the benefit of wildlife. Proposals put forward included the retention of the 10 metres buffer strip and the planting of new hedgerow as noted above, and also the planting of trees/hedgerow to the west of the site. These would provide habitat for invertebrates, ground nesting birds, small mammals and reptiles. It is proposed that the field margins would be planted with a species rich mix of wildflowers and grasses to support a wide range of wildlife. In addition the application states that log piles can be provided at the site for the benefit of butterflies, solitary bees, beetles and reptiles. It is considered that a detailed management plan for the site should be agreed to maximise the biodiversity benefits over the 25 year period of the solar farm. An appropriate condition can be imposed to require this (see Appendix 1).
- 6.7.5 Subject to this, it is considered that the measures proposed in relation to protected species, and those for ecological enhancement are appropriate, and that the proposal is therefore in line with Core Strategy Policy CS17.
- 6.8 **Highways considerations**
- 6.8.1 The application is accompanied by a Transport Statement and Construction Traffic Management Plan. The Transport Statement states that during the operation of the solar farm, traffic to and from the site would be minimal as all metering and recording devices are remotely monitored. Planned traffic would be restricted to maintenance contractors associated with cleaning the panels, and agricultural traffic movements associated with sheep grazing on the land. It is not considered that such movements would be significant. It is considered that the existing access arrangements to the site, via a field entrance, is satisfactory.
- 6.8.2 The construction period is anticipated to last approximately 3 to 4 months. During this time it is estimated that there would be approximately 30-40 HGVs movements associated with the delivery of materials. It is proposed that such movements would be staggered throughout the construction period such that the maximum number of HGVs to the site per week would not be expected to exceed 8. Vehicle types would comprise: curtain sided trailer and tractor unit for transportation of modules; flatbed trailers and tractor unit (for transportation of components); works vans; road crane (for installation of the sub-station and inverter housing). Access

to the site for construction traffic would be from A5 to the west via B4397 through Ruyton XI Towns.

- 6.8.3 The Highways Officer acknowledges the concerns raised regarding potential traffic impact, including from PGL. In addition the concerns raised by the Bridleway Association, the Riding and Carriage Driving Forum and some local road users over impacts of construction and other traffic on horse riders and other road users are noted. An outline Construction Management Plan (CMP) has been submitted by the applicant. However in view of the concerns raised it is considered that a more detailed CMP should be submitted for approval which sets out specific measures that would be adopted to minimise traffic impacts during the construction period, including the timing of deliveries to avoid conflicts on the minor approach road to the site. In addition it is anticipated that the CMP can be prepared in conjunction with dialogue with PGL. Given the limited amount of construction traffic anticipated, it is considered that traffic concerns raised by user groups and other road users can be appropriately addressed through the CMP. An appropriate condition is in Appendix 1. Concern has been raised by local residents that allowing roadside hedgerow to grow to 2.5-3 metres high would limit how much drivers could see other vehicles on the highway. The section of roadside hedgerow that is adjacent to the application site is approximately 150 metres long. Whilst there is a slight bend in the road along this section it is not considered that any restriction on forward visibility along this section of the highway would be of such significance as to prohibit a higher growth of hedgerow for screening purposes.

## 6.9 **Flood risk and drainage considerations**

- 6.9.1 Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. The submitted Flood Risk Assessment (FRA) confirms that the site lies entirely within Flood Zone 1, signifying areas with the lowest probability of fluvial flooding. The FRA states that the additional impermeable surfaces that would be created by the installation of the inverters and substations are considered to be negligible in the context of the size of the overall site. Nevertheless the application proposes the construction of swales alongside the buildings to intercept surface water runoff from these structures.
- 6.9.2 The Soils and Agricultural Quality report states that no formal agricultural drainage network was identified during the site survey. It states that the development has the potential to result in permanent disruption to both on- and off-site drainage, and recommends that a drainage survey combined with any required remedial works should be undertaken if field drains are affected. A condition to this effect can be imposed if permission is granted (see condition in Appendix 1).
- 6.9.3 The Drainage Officer has confirmed that the water management proposals are acceptable. The proposal does not raise any significant issues in respect of flood risk and water management and is therefore in line with Policy CS18.

## 7.0 **CONCLUSION**

- 7.1 The proposed installation of a solar farm at land at Moor Farm, Baschurch would allow the generation of 3.75MW of renewable energy for export to the National Grid, and contribute to a reduction in carbon emissions. As such it is supported in principle by both national and local planning policy. Whilst the site comprises best

and most versatile land, the area affected is relatively small, the land would nevertheless remain in agricultural use and a satisfactory level of information has been provided to demonstrate that the use of such land is justified. Furthermore the panels would be removed after the end of their useful life or within 25 years, whichever sooner, following which the land would revert to its former status. The landscaping proposed would satisfactorily mitigate against any impact on the setting of designated heritage assets in the area. The proposal would not result in adverse levels of noise, or significantly affect flood risk. It is accepted that the proposal would have some impact upon the local landscape character of the area, and on visual amenity to some receptors. However it is considered that the design of the site is acceptable and incorporates a satisfactory level of mitigation in relation to these impacts. On balance it is considered that, given the environmental benefits that would be provided in terms of the generation of renewable energy and also biodiversity enhancements, these impacts on the visual character of the area would not be unacceptable. On this basis it is recommended that the proposal can be accepted in relation to Development Plan policies and other material considerations, and that planning permission can be granted subject to the conditions as set out in Appendix 1 and the completion of a Section 106 agreement.

## **8. Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9. Financial Implications

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

## 10. Background

### 10.1 Relevant Planning Policies

#### 10.1.1 Shropshire Core Strategy

This promotes a low carbon Shropshire by promoting the generation of energy from renewable sources (Strategic Objective 9)

- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS8 (Facilities, Services and Infrastructure Provision)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire's environmental assets
- Policy CS18 (Sustainable Water Management)

### 10.2 Central Government Guidance:

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

and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11).

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

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

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

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

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

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

incorporating well thought out visual screening, involving communities in developing projects and bringing them with you”.

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

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

### 10.3 Emerging policy:

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

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

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

### 10.4 Relevant Planning History:

- 14/02423/SCR** Screening Opinion for installation up to 3 MWp of solar panels on land ***EIA not required*** 28th July 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) The application ref. 15/01805/FUL and supporting information and consultation responses.
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Nicholas Bardsley (Ruyton and Baschurch)
Appendices APPENDIX 1 - Conditions





## **APPENDIX 1 - Conditions**

### **STANDARD CONDITION(S)**

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

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

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

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

### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to the commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority; the CTMP shall be implemented fully in accordance with the approved details for the duration of the construction/installation of the solar farm development.

Reason: In the interests of highway safety.

Note: As part of the submission of the CTMP it will be necessary for liaison to take place between the solar farm contractor/managing agent and PGL in order to minimise the impact of conflicting traffic movements

4. No development shall take place until a Biodiversity Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

a) An appropriate scale plan showing “Wildlife Protection Zones” where construction activities are restricted and where protective measures will be installed or implemented;

b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction and any enhancement. These should be based on recommendations in the “Preliminary Ecological Assessment” by Wardell Armstrong, April 2015 and particularly with respect to:

- Arable Field Margins (including location and extent);
- Hedgerows (including location and extent);
- Bats (especially details on position of any external lighting);
- Hedgehog;
- Breeding birds;
- Other habitat or species enhancements, such as the location and numbers of bat and/or bird boxes.

Reason: To ensure the conservation of protected habitat and protected/notable species.

5. The development hereby permitted shall not be brought into operation until a habitat management plan has been submitted to and approved by the local planning authority. The plan shall include: a) Description and evaluation of the features to be managed; b) Ecological trends and constraints on site that may influence management; c) Aims and objectives of management; d) Appropriate management options for achieving aims and objectives; e) Prescriptions for management actions; f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually); g) Personnel responsible for implementation of the plan; h) Monitoring and remedial/contingencies measures triggered by monitoring. The plan shall be carried out as approved for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

6. 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 site is known to hold archaeological interest.

7. No development hereby permitted shall take place until details of the specification of the solar panel frames, to include colour and finish, have been submitted to and approved in writing by the local planning authority.

Reason: To minimise the potential impact on local land users from glint.

8. No above ground works shall be commenced until full details of both hard and soft landscape works 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 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.

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

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

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

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

10. If, during the course of the construction of the development hereby permitted, field drains on the application site are identified, a drainage scheme shall be submitted in writing for the approval of the local planning authority within two months of such identification. The submitted scheme shall include details of a drainage survey and any remedial measures proposed to ensure that adverse impacts upon drainage are prevented or rectified. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure drainage does not adversely affect the site or surrounding land.

11. (a) Within one week of the completion of the construction of the solar panels, written notice of the date of completion shall be given to the local planning authority.

(b) Within 6 months of the cessation of energy generation from the site, or a period of 25 years and 6 months following completion of construction, whichever is the sooner, all infrastructure associated with the solar farm will be removed from the site.

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

### ***Informatives***

1. 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.

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

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

Shropshire Core Strategy and saved Local Plan policies:

Policy CS5 (Countryside and Green Belt)

Policy CS6 (Sustainable Design and Development Principles)

Policy CS13 (Economic Development, Enterprise and Employment)

Policy CS17 (Environmental Networks)

Policy CS18 (Sustainable Water Management)

3. For information, the Biodiversity Conservation Plan should be prescriptive, using words like 'will' and 'must' rather than 'could' or 'should'.

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

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

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

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Committee and Date  
 North Planning Committee  
 27 October 2015

Item  
**6**  
 Public

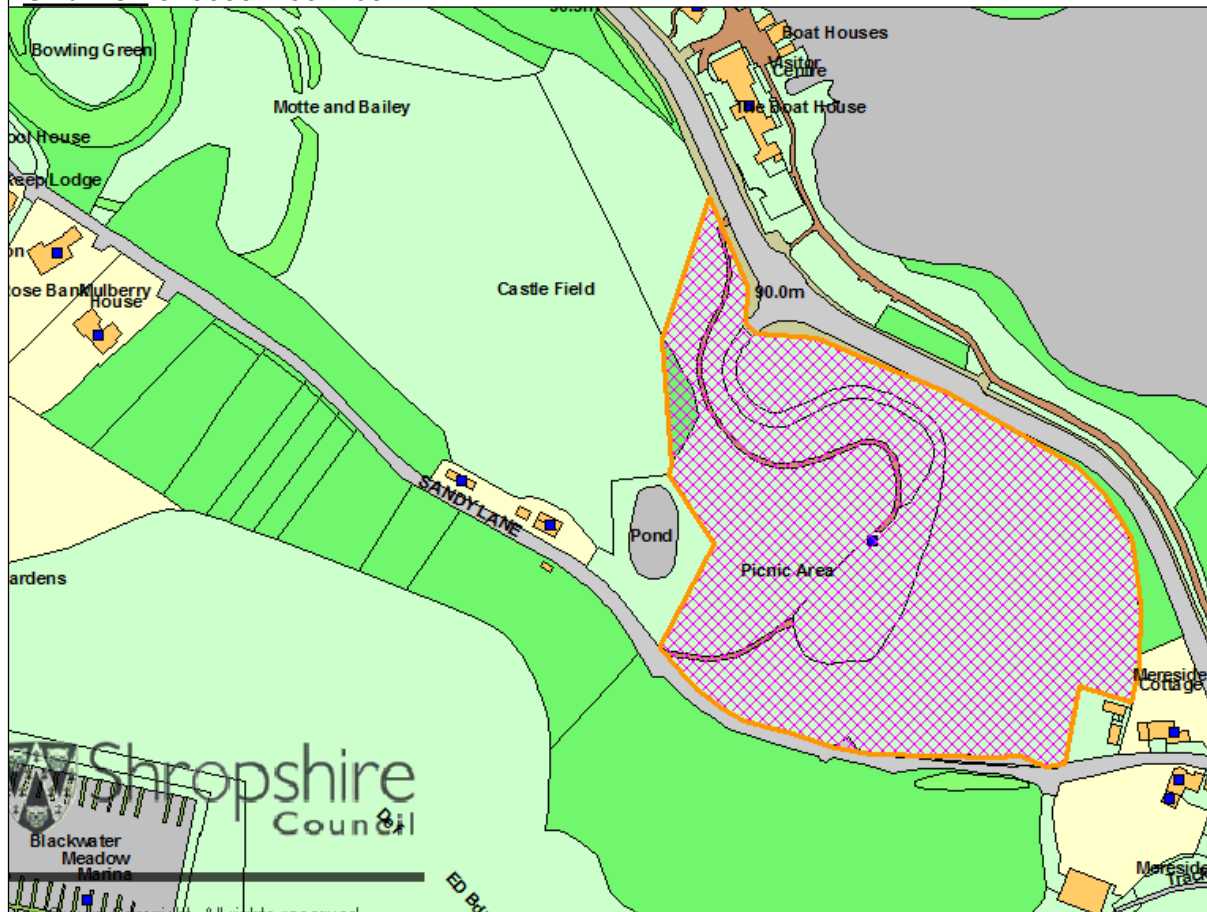
## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 15/02681/FUL	<b>Parish:</b> Ellesmere Urban
<b>Proposal:</b> Change of use of existing car park to a holiday park of 20. no. lodges	
<b>Site Address:</b> Castlefields Car Park Mereside Ellesmere Shropshire	
<b>Applicant:</b> Euro Source And Find Limited	
<b>Case Officer:</b> Sue Collins	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 340635 – 334465



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**Recommendation:- Refuse.**

## Recommended Reasons for refusal

1. The proposed development site is in a sensitive location being within the Ellesmere Conservation Area, close to a Scheduled Ancient Monument and within a relatively undeveloped area which has High Level Stewardship of the land. In addition given the topography of the site the proposed lodges would be visible from outside the application site and have a significant visual impact from the adjacent footpaths and as such will detract from the overall rural landscape and the setting of the Mere and its surrounding area. There are also concerns in relationship to the economic impacts with concerns about the loss of the car parking facility. Therefore the proposal is considered contrary to the NPPF, policies CS5, CS6 and CS16 of the Shropshire Core Strategy and emerging Policy MD11 of the Council's SAMDev.
2. Insufficient information has been submitted with the application to comply with the requirements of the NPPF. This results in it not being possible to fully assess the impact of the proposal on the heritage asset and its setting together with the setting of the Conservation Area. . Therefore the proposal is contrary to the NPPF and policy CS17 of the Shropshire Core Strategy.
3. Insufficient information has been submitted with the application to fully assess the impact the proposal will have on the natural environment of the site and its surroundings. In particular the impact on protected species and their habitats and the botany of the area and the Higher Land Stewardship requirements. This is contrary to the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks planning permission for the change of use of the existing car park to a holiday park consisting of 20 no. lodges.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located on the southern edge of Ellesmere adjacent to the A495 with The Mere on the opposite side of the highway. This is an area outside the development boundary for Ellesmere but within the Ellesmere Conservation Area. To the west of the site is the site of the Ellesmere Motte and Bailey which is a Scheduled Ancient Monument. The topography of the site is such that it is higher than the highway and leads upwards to the north and west with the existing parking area located in the "sink hole" below the higher level land. The existing access winds its way through the grounds to minimise the visual intrusion. Apart from the car park, access road and footpaths no other development has been carried out on the site and it is generally grassland with various botanical species. The area has been in Higher Level Stewardship and re-seeded in order to provide a species rich grassland.
- 2.2 To the north west of the site is the castle field and the Motte and Bailey with a few houses along Sandy Lane which passes to the south of the application site. To the south and west there are highways and a few cottages with car parking also being provided for visitors to The Mere. A visitor centre and The Boat House are



to the north adjacent to the Mere. As the A495 is a main entrance into the town it is highly trafficked and this area is highly visible.

2.3 Along part of the boundaries of the site there are bands of woodland with hedgerows also along some of the boundaries.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 This application has been made on land that is within the ownership of the Council and the proposed use does not fall within the statutory functions of the Council. Therefore the application is required to be considered by the Planning Committee under the terms of the Scheme of Delegation.

### **4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online**

#### **4.1 Consultee Comments**

##### **4.1.1 Ellesmere Town Council: Object**

Ellesmere Town Council's Planning, Economic Development and Land Committee met on Thursday 6th August. Councillors agreed to extend public question time to allow as many of the 70 members of the public in attendance time to make comments on this application. Following this, members of the PEDaL Committee then voted and a unanimous decision was made to object to this application.

The Town Council has many concerns regarding this application as they did with the applicant's previous application (15/00948/FUL).

Material Planning Reasons are:

- It is considered that the proposal conflicts both with CS Policies CS3, CS5, CS16 and CS17 of the adopted Core Strategy.
- Conflict of Interest with Shropshire Council being the landowner and the Planning Authority making the decision on this application.
- The building of the utilities block is outside the 'existing' recognised development boundary, 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.
- This application is counter and potentially undermining to the planning policies of Shropshire Council for the Ellesmere area within the SAMDev. Provision for a significant number of log cabins of this nature has been made with the locally supported development site ELL003 this could well undermine the commercial feasibility of that proposed site. There is also a current application being submitted to the west of the Town as part of an extension to an already established caravan park and there are also a number of sites within three or four miles of the Town where planning approval has been granted for this type of development and there has not been sufficient demand for these to proceed to completion.

- The Design and Access Statement clearly states the lodges will have views of the Mere, of course this means the site will be viewed from the Mere and this in turn will have an adverse effect on tourism which would affect the economic development of the town as it would restrict visitors from coming in the future. Also to be able to position the lodges in the proposed positions of the site plan will require earth movement to site them.
- The site is wholly within the Conservation Area and as such any development should be of high quality and contribute to and compliment the historic environment setting. **Shropshire Council's**, The Mere at Ellesmere Management Plan 2010 – 2020, 2.3 Heritage Context gives a summary of the heritage significance of the Mere stating “ The Motte and Bailey, a scheduled ancient monument is of national significance and occupies what was once one of the most significant positions in the County.” The provision of log cabins or static caravans presented as such as in this case does not make a positive contribution and would detract from the quality of the conservation area's environment.
- Castlefields car park currently offers 50 parking spaces, for which there is a very high demand, due to the increasing number of tourists to the area. If this application were to go ahead those 50 car parking spaces would be lost (along with loss of income to the local economy), leaving inadequate parking for the large volume of tourists that visit the town and making the town less appealing to day visitors.
- The Castlefields site is a former kettle hole which has been capped and hollow underneath, when it was sold to Shropshire County Council in the early 1990's it was only deemed suitable for car parking and nothing heavier, in light of this we feel that a land survey and a historical survey should be undertaken. The bowl of the carpark is also prone to flooding due to drainage problems.
- The Town Council believes that the application will have a detrimental effect on the ecology of this conservation area. The Mere is unspoilt, beautiful and a very important site in terms of ecology, it is a local wildlife site which supports a wide range of protected species and habitats; Roach, Bream, Carp, Eel, Perch, Pike and Hybrids of Roach can be found in the Mere and Red-breasted goose, Goosander, Barnacle goose, Cormorants, great-crested grebes, kingfishers, goldeneye, gulls, ruddy duck, tufted duck, Canada geese, little grebe, song thrush, sand martins, crows, wood pigeons, mallards, coots, moorhens, Muscovy ducks are only some of the many birds to be seen on the Mere.
- Ellesmere is famous for its Heron Watch which is run by volunteers of Shropshire Wildlife Trust, in a report carried out for this application it suggests that there will be no impact on the Herons however we have been advised that the Herons are very sensitive and if disturbed they may stray too far from their nest and may never return to their young. There have also been recent sightings of otters crossing from the Mere and accessing Castlefields, which is being investigated further by Mere's and Mosses. The Town Council has no desire to see an area of such natural beauty

commercialised. The grassland on the Castlefields site is managed as a wildflower meadow with summer shows of native plant life includes vast numbers of common spotted orchid. The Ecology Assessment that was carried out under the former application (15/00948/FUL) was carried out in the month of February 2015, which is not an ideal time of year to be completing an assessment of this nature, we ask that a new Ecological Assessment be conducted.

- There is a footpath across this site which has been used as a public right of way for many years and Councillors would not want to see this restricted in any way.

Shropshire Council's, The Mere at Ellesmere Management Plan 2010 – 2020, states that their vision is:

"Shropshire Council will work with partners and the local community to develop and manage the Mere at Ellesmere, a regionally significant park of cultural value within a nationally significant wetland landscape. It is a well-used community facility and a visitor destination of regional importance: a place of value to wildlife, local residents and visitors alike. Through the provision of access, facilities and interpretation visitors to the Mere at Ellesmere are provided with a unique and enjoyable experience and the information to help them explore the landscape and local attractions for themselves."

Shropshire Council's, The Mere at Ellesmere Management Plan 2010 – 2020 states that their Overarching objectives for the park are:

"To conserve and enhance the heritage value of the park, including the natural heritage of the landscape which is of national significance and the cultural landscape and buildings which are of national, regional and local significance."

Shropshire Council's, The Mere at Ellesmere Management Plan 2010 – 2020 Section 2.4.4 Designations, Archaeologically Sensitive Area makes extremely interesting reading particularly it states " The Motte and Bailey, the Garden Terrace and the northern section of Castlefields is designated an Archaeologically Sensitive Area. As such any planning applications for works within these areas need to be accompanied by an archaeological evaluation. It also explains that the Motte and Bailey is listed as a Scheduled Ancient Monument, the Government called for Localism in 2011, which is about listening to the members of the public, it is supposed to give sway to local people and it is very clear that the residents of Ellesmere are against this application, the Town Council are here to support their views and protect their town its heritage and the ancient monument sites within that.

- A Development Management Report was produced for Shropshire Council's North Planning Committee who met on 4th August 2015 to consider application 15/00291/OUT. The report highlighted the findings of Planning Inspector from 2014 on 13/01988/OUT, many of the findings are extremely relevant and also could be used to argue the case for application 15/01389/FUL. 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.” The reasons for refusal last week of 15/00291/OUT were: 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 dwelling 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 Oswestry Borough 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.”

Ellesmere Town Council feels that this application will have unacceptable impact on the setting of The Mere, the historic designated parkland of Cremorne Gardens, and the setting of the adjacent conservation area.

- 4.1.2 **SC Highways:** No objection in principle from a highway safety aspect. However the concern is the permanent loss of car parking associated with the Mere and its value as providing parking stock and promoting tourism.
- 4.1.3 **SC Ecology:** Objection. Further information required on the Great Crested Newts surveys, and a Habitat Management Plan must be submitted. In the absence of this additional information I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010). It may be contrary to Core Strategy Policy CS17 in relation to protection of Environmental Networks and UK BAP Priority Habitat.
- 4.1.4 **Shropshire Wildlife Trust:** Objects although the footprint of the development has been reduced many concerns remain unaddressed. The applicant should be aware of the HLS status of the land and the wider area was confirmed as species rich in 2013. The proposal lacks any measures to promote preservation. It is acknowledged that the proposed development will not have a direct visual impact upon the castle as a result of the screening provided by the natural topography. It will, however, introduce a significant number of lodges (20), in the form of holiday chalets, into the open space to the east of the castle, such that it will alter the character of part of this area. This change to the setting of the monument will in turn have an effect upon people’s ability to experience and appreciate its significance as I have outlined it above. It is therefore our view that the proposed development will cause some harm to the significance of the monument through the effect it will have upon its setting, and that this impact equates to less than substantial harm.

#### 12.10.15 – Additional Comments

The ecological assessment accepts that the development will result in the loss of an area of grassland within Shropshire's Environmental Network. The grassland is also more diverse than initially thought. However the surveys do not meet the requirements of Phase 1 and TIN110 guidance. The land is identified as MG5 grassland which is nationally scarce and should be protected. Opportunities should be taken to enhance and create this habitat type. Area E has importance as a buffer area to the Plantation Reserve. The proposed ecological enhancement is minimal and insufficient to meet CS17. There is a contradiction between the findings and recommendations in documents provided. Money has recently been spent on the site for fencing to ensure appropriate management across the site. A Habitat Management Plan should be submitted as well as details of enhancements to neighbouring habitats.

#### 4.1.5 **SuDS:** No objections subject to informative

In the Surface Water Management Statement, it states that the base of the individual caravan plots will be constructed of permeable gravel bases, this is acceptable from the drainage perspective

#### 4.1.6 **Historic England:** Object subject to Paragraph 128 of the NPPF The proposed site sections are welcome additional information however it does not address the concerns raised regarding the Historic Environment Assessment which should be updated in accordance with current guidance and advice.

We recommend that the application is refused or deferred until such a time as the requirements of paragraph 128 of the NPPF have been met.

#### 4.1.7 **SC Archaeology:** Objection

It is acknowledged that the proposed development will not have a direct visual impact upon the castle as a result of the screening provided by the natural topography. It will, however, introduce a significant number of lodges (20), in the form of holiday chalets, into the open space to the east of the castle, such that it will alter the character of part of this area. This change to the setting of the monument will in turn have an effect upon people's ability to experience and appreciate its significance. It is therefore considered by officers that the proposed development will cause some harm to the significance of the monument through the effect it will have upon its setting, and that this impact equates to less than substantial harm.

#### 4.1.8 **SC Conservation:** Objection

Whilst part of the site has been developed through the provision of the existing access paths, track and car park, the proposed development will extend beyond these areas. It therefore has the potential to impact directly on the character and significance of this part of the Ellesmere Conservation Area. The proposed development site also falls within the setting of the Scheduled Monument identified. Whilst tourism is recognised as a contributor to the local economy, in this instance we would observe that there would appear to be no evidence base as to the need for this type and scale of development at this location to justify the harm caused.

## 4.2 Public Comments

### 4.2.1 113 public representations opposing the proposal have been received, these can be found in full in the planning file, with all main considerations being summarised as follows;

#### **Planning Policy Issues;**

- Development site is outside the Development Boundary for Ellesmere as set out within the Site Allocation and Management of Development (SAMDev Plan).
- Development site as defined with Core Strategy CS5 is classed as Open Countryside, if it were to gain approval it would set a precedent for this type of development.
- Development is contrary to the development plan of the Mere itself – The Mere Management Plan.
- Classification of the land as Brownfield is incorrect, as car park occupies only 11% of the site.
- Contrary to a number of policies within the Shropshire Core Strategy, National Planning Policy Framework, the North Shropshire Local Development Plan and also the SAMDev.
- Development site is not within the recognised settlement of Ellesmere, nor is it linked to any existing business development.
- There is a tourism allocation included within SAMDev to serve the town. That is where this form of development should be located.

#### **Economical Issues;**

- Loss of 'Car-Park' would have a detrimental impact on to the Town's tourism trade
- There is evidence to suggest that 70% of visitors are day trippers and these are important to the economy.
- Log cabins by nature will only be affordable by the affluent, resulting in the development being unviable.
- Existing facilities for tourism at the Wharf, Marina and Hotel development will provide adequate and sufficient tourism provisions without the need of additional accommodation.
- Self-catered accommodation would create no benefit to local businesses, as tourists would bring supplies without the need of visiting local businesses.
- Development would create no economical benefit to Ellesmere.
- Lack of car parking will result in lack of visitors which will result in downfall of local surrounding small businesses which Shropshire Council actively supports.
- Development site should be used to enhance the locality, extending Sculpture Park or creating more natural tourist attractions – development that does not deter from the commercial interests of Ellesmere.
- Ellesmere is growing in popularity with tourists year on year, demonstrating a solid need for the provision of car parking.

- People who would use these lodges would not necessarily spend their money in Ellesmere as they would travel to other places. Therefore their economic value is not ensured.
- The development of the site would result in the loss of open space and walkways for use by both local residents and visitors.

### **Impact on Residential and Local Amenities;**

- Development would harm residential and local amenity as an influx in visitors would create more demand on the current sewage disposal infrastructure, and create large amounts of extra refuse.
- The required lighting for No.20 Log Cabins will create an unreasonable amount of light pollution around the Mere area.
- Design of the proposed accommodation will be an eye-sore within its surrounding, being unsympathetic to an inherent nature and wildlife environment.
- The proposed accommodation would create strains and possibility of waste and refuse contaminating the surrounding landscape.

Other sites have been identified as potentials for caravanning sites which would deliver a more practical and sustainable development site.

### **Highways and Access Issues;**

- Current proposal shows no provision for vehicle parking, resulting in an additional 20 vehicles requiring spaces on the already limited parking surrounding the Mere.
- Removing 50 vehicle parking spaces will create stresses with existing parking provision, ultimately having an adverse impact on tourism.
- Ellesmere lacks sufficient infrastructure to cater for added increase to traffic and tourists.
- Loss of invaluable car parking spaces will result in a significant and detrimental harm to highway safety as car owners will be forced to park on the roadside.
- The on-street parking along the front of the Mere is dangerous and if no land is allocated to make these parking spaces safer an accident will happen and then the Council will only have this car park to rely on.

### **Environmental Issues;**

- Proposal would disrupt the local surroundings, creating a visual blot on the landscape of the protected Mere.
- Development would disrupt and destroy local habitats, especially Herons
- Development site has previously been refused permission for developments as a result of a 'Kettle Hole' on site – the added stresses from the proposed number of holiday homes would exacerbate the problem.
- Castle fields contains large amount of wildlife and flora, with development disrupting and destroying this.
- Ellesmere lacks 'nature walks', with the development site regularly frequented by tourists and residents accessing the Shropshire Wildlife Trust woodland area adjacent to the site.

- Ellesmere is within the Meres and Mosses Nature Improvement Area – one of only 12 similarly designated area within England.
- Castlefields has recently obtained 'Higher Level Stewardship' funding for its maintenance and up-keep – allowing it exponentially expand in relation to its flora and fauna.
- The current rich grassland is subject to a Habitat Action Plan as included within the Shropshire Biodiversity Action Plan – further to this, watercourses on site may be home for European Protected Species (Great Crested Newts).
- Night-time and anti-social hours will affect and disrupt the local wildlife and its habitats.
- To construct the platforms on which the lodges are to be located will require significant earthworks extending beyond the developed area to provide stable slopes.
- No details have been provided as to what will take place on the land between the caravans and the application site boundary.
- In order to meet the Caravan Site Licence requirements it would be necessary to regularly cut the grass and vegetation around the lodges.

#### **Visual Impact and Landscaping Issues;**

- Proposed accommodation would be seen for long distances.
- Extending the existing 'Moors' car park would encroach on the appearance of the Mere and would provide an insufficient number of parking spaces.
- The "lodges" will not be timber lodges but caravans

#### **Drainage Issues;**

- The site is on land which is prone to flooding during winter months, so much so that the current car park is currently constructed on a special membrane which prevents water seeping through – resulting in HGV's unable to gain access – if gained approval construction vehicles would face obstructions and difficulties in accessing the site.
- Mereside Development Project has recently made improvements to the site; improved drainage for the car park site, tarmacked footpath and steps connecting Castlefields with Sandy Lane, approval would prevent use of these recent improvements.
- The drainage of the site must be appropriate.

#### **Archaeological Issues;**

- The site has recently been described as a Site of Historical Interest by the Council and should therefore be exempt from development.
- Castlefields contains a Scheduled Historic Monument.

#### **Conservation Issues;**

- Development site is within the Ellesmere Conservation Area, as such the proposal would not enhance nor maintain the unique environment and landscaping.



**Other Issues;**

- No demonstrable need or solid justification for the development has been submitted with the proposal.
- Increased number of events in the town together with the residential and economic development that is being undertaken will require the support of more parking.
- Development site is frequently used by outdoor activity groups.
- Discrepancies with the submitted application form; applicant selected 'no' in the section for 'Biodiversity and Geological Conservation' despite watercourses and environmental habitats on site.
- Approval of current application, will give way to future developments for further types of accommodation on site.
- Justification is needed for the reason as to why Shropshire Council wish to make the public car park available for alternative usage.
- Further clarification is needed in relation to the economical benefits the development will create – creation of direct and indirect jobs.
- Conflict of interest between Shropshire Council and applicant.
- No justifiable need for additional holidaying sites.
- Approval will give way to further residential accommodation once the demand for log cabins dissipates.
- There is no evidence to suggest that the land is stable enough to be developed.
- The site is incorporated within the Country Park and forms part of the Green Flag award. Loss of the facility would be contrary to the criteria for this.
- Any loss of parking may affect existing businesses which may cause the loss of more than the 3 part-time jobs promised by this development.
- The proposed BBQ area is shown on higher ground in an area where there are currently picnic benches and tables. Presumably this area will be for the use of the occupants of the lodges and not the general public.
- The continued use of the footpath across the site by the public would need to be secured and this has not been indicated.
- A large amount of money including grants has been spent on this site to make it the beautiful and wildlife rich area it is and one which provides a vital facility to the town.
- This proposal is for financial reasons for the Council with little regard to the impact on the town, tourism and ecology.
- The land should be sold to the community who could manage and carry out limited changes decided upon by a Charitable Trust.

One letter of support has been received.

- The proposal will help local shops, restaurants and businesses
- Tourists would enjoy staying a night or two and not be restricted to day trips.

**5.0 THE MAIN ISSUES**

- Policy and principle of development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways

- Ecology and Landscape
- Drainage
- Historic Environment
- Other Matters

## **6.0 OFFICER APPRAISAL**

### **6.1 Policy & principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 Para 28 of the NPPF supports the principle of sustainable rural tourism and leisure developments provided they benefit businesses in rural areas, communities and visitors and which benefits the character of the countryside. This includes supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.
- 6.1.3 Policy CS16 of the Shropshire Core Strategy also supports this principle, subject to a number of criteria including that development must be appropriate in terms of location, scale and nature which retain and enhance the existing natural features whilst also understands and engages with the landscape, cultural and historic assets.
- 6.1.4 It is also a requirement of CS16 that the development should comply with policy CS5 countryside and greenbelt. This policy advises that proposals must be on appropriate sites which maintain and enhance countryside vitality and character. The policy does support the principle of sustainable tourism development in rural locations provided it complies with policy CS17.
- 6.1.5 CS17 relates to Environmental Networks and requires development to identify, protect, enhance, expand and connect Shropshire's natural, built and historic environment. It is also a requirement that the proposal does not affect the visual ecological, geological, heritage or recreation values and functions of these assets, their immediate surroundings or their connecting corridors. In addition the policy requires the development to contribute to the local distinctiveness and have regard to the landscape, biodiversity and heritage assets.
- 6.1.6 Policy CS3 relates to the Market Towns and Other Key Centres. Whilst the site is defined as being in countryside, it is close to the town of Ellesmere. Policy CS3 does allow for development that enhances the role of market towns in providing facilities and services. However, this must recognise its high quality landscape

particularly the environmental and historic assets of the Meres and the canal.

- 6.1.7 A significant number of objections have been received in connection with the proposed development from the local community, including the Town Council, in relation to the principle of the scheme. It is argued that far from increasing the viability for the town the proposed development would have a detrimental impact on the area. This is mainly due to the importance the site currently has as a car park that serves visitors to the town and its attractions. The site is also well used as a place to walk and enjoy the beauty and character of the area including the setting of The Mere, the Scheduled Ancient Monument and the surrounding landscape.
- 6.1.8 Many consider that the loss of the parking area and the damage caused by the development will not only spoil the character of the area but also reduce parking which is considered to be an issue due to the limited parking available within the town. The objections also consider this would cause more of a financial deficit to the town and cause problems for existing businesses than would be generated through the use of the site for holiday lodges.
- 6.1.9 A Planning Statement has been submitted with the application which includes facts and figures relating to the comparisons of spending in connection with overnight stays to day trip visitors. Much of the information provided relates to either the Country or the Oswestry and North Shropshire areas. The Statement also points out that development at Castlefields fits within five of the six product themes proposed by the Visitor Economy Strategy 2012. It also fits the Visitor Economy strategy's promotion of the Meres and Mosses character of North Shropshire.
- 6.1.10 Concerns have been raised by local residents that the proposed development would have a significant impact on the economic future of the town through a reduction in the number of day trips that may be made through the loss of the parking area.
- 6.1.11 It should also be noted that SAMDev includes an area of mixed use that is being looked at to provide tourism accommodation. A current application 14/04047/OUT is being considered which would provide a hotel, boating marina, leisure complex, pub/restaurant, residential development, holiday cabins and touring caravans. This would be in a site close to the town in an area that the local population and community have agreed is acceptable. It is understood that this proposal is deliverable and overall would be the preferred option for development of this type.
- 6.1.12 In terms of sustainability it is claimed within the Planning Statement that the proposed holiday lodges would make a positive contribution to the local economy through increased trade for local services and facilities. The development of tourist accommodation is also likely to generate employment opportunities both on the site and in businesses benefitting from the increased trade. It is also stated that the increase in accommodation would help support the local services and facilities which would maintain the upkeep of valued services within the town and surrounding area. The applicant also considers that the sensitive design of the development will not have a significant impact on the natural, built and historic environment within Ellesmere and its surrounds.

- 6.1.13 Officer opinion is to agree that there could potentially be some economic benefits as a result of the development. It is noted that paragraph 28 of the NPPF on 'supporting a prosperous rural economy', refers to supporting sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres. Officers consider that impacts have not been adequately established, and are also concerned with regards to the potential impact on 'day trippers through loss of car parking on site as well as the visual impact of the development. This information would have been helpful in order to adequately assess the application. It is noted from public comments made that nearly all the business premises in the town centre are occupied and as such Ellesmere appears to be presently relatively viable.
- 6.1.14 It is agreed that the proposal could potentially have some social benefit but again insufficient information accompanies the application in order to establish impacts. Evidence provided does not sufficiently demonstrate how 20 lodges would impact on the local community and visitors to the area.
- 6.1.15 From an Environmental aspect there are major concerns which the application has failed to address. Whilst these will be discussed in more detail further in the report, Historic England and the Council's Historic Environment Team have objected to the proposal due to a lack of information as have the Council's Ecologists. The creation of the platforms on which to place the lodges will also impact on the glacial landscape as well as the general landscape. Therefore it is considered by officers that this aspect outweighs the potential benefits from economic and social aspects and as such it is considered by officers that the proposal does not meet the criteria for sustainable development
- 6.2 **Design, Scale and Character**
- 6.2.1 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. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Policy CS5 'Countryside and Green Belt' sets out the criteria for development in the countryside. It requires development to be carried out on appropriate sites which maintain and enhance countryside vitality and character.
- 6.2.2 The proposal includes the installation of 20 lodges set within the lower section of the landscape in the kettle hole and will include the provision of access drives to the units. In the Planning Statement it is identified that these will be caravans under the statutory definition. They will be positioned on concrete plinths, timber clad and coloured brown or green to help limit any visible impact.

- 6.2.3 A number of objections have been made to the proposal on the basis that these are not lodges but caravans which are totally out of keeping with the character of the area. It is also considered by objectors that the proposal will be visually unacceptable and will spoil the beauty of the site and its surroundings.
- 6.2.4 Officers have assessed the sections which demonstrate that although the lodges would be positioned on lower land they would still be visible from The Mere and from the surrounding higher ground including the Motte and Bailey and Sandy Lane. It is the opinion of Officers that although it would be possible to colour them brown or green which would help with reducing their visibility this would still detract from the existing character of the area.
- 6.2.5 Emerging policy MD11 of SAMDev provides further policy information on development of this nature. It is a requirement that all development should be well screened and sited to mitigate the impact on the visual quality of the area through the use of natural screening and on site features. It is also noted that static caravans, chalets and cabins are recognised as having a greater impact on the countryside and should therefore be well screened.
- 6.2.5 It is the opinion of Officers that the proposal would be visually intrusive from outside the site and in particular from the higher ground and from The Mere. Therefore the proposal overall does not comply with policies CS5 or CS6 of the Shropshire Core Strategy and policy MD11 of the emerging SAMDev which is now considered to have significant weight.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 Comments have been received that the proposal relates to the development of land that is used for walking and recreation purposes not only for visitors but also for residents of the area. In particular the various footpaths that cross the site and the existing picnic places.
- 6.3.3 There are no residential properties immediately adjacent to the site so there would be no loss of light or privacy to the occupiers of dwellings nearby. However the impact of the loss of the amenity has to be considered. The Planning Statement confirms the intention of the applicant to retain the footpaths for use by the public. However if people are unable to use the car park this may limit the potential use of the area for recreational purposes. It is also considered that the development as proposed will have a significant detrimental impact visually from these footpaths.
- 6.4 **Highways**
- 6.4.1 Concerns have been raised by the local community that the proposed use would have a detrimental impact on traffic safety and parking for the town. This includes the impact the loss of the car park will have on visitors to the town and the ability anyone will have to park. Photographic evidence has been provided by local residents to demonstrate that the car park is in regular use and how busy it can be particularly during the summer months and when there are events on in the town.

- 6.4.2 The Council's Highways Development Control Officer has not objected to the proposal as it is considered that the access to the site is appropriate for the proposed use. However it has been noted that Ellesmere does have a problem with parking and no information has been provided with the application to demonstrate the impact the loss of the car park will have on the area.
- 6.5 **Ecology and Landscape**
- 6.5.1 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. In addition CS3 also requires development to recognise the high quality landscape particularly the environmental and historic assets of the area. Emerging policy MD12 of SAMDev also deals with the natural environment. Therefore the application has been considered by the Council's Ecologist.
- 6.5.2 A number of objections to the proposal have been received in respect of the impact the proposal will have on the ecology and biodiversity of the area. The site is being promoted for a Green Flag Award and large sums of money have been spent on the land to meet the Higher Level Stewardship. The area is peaceful and a haven for wildlife both in terms of flora and fauna which would be lost as a result of the development. Comments received from objectors also refer to the future maintenance of the land particularly if they are to meet the requirements of Caravan Site Licences will damage much of this.
- 6.5.3 **Protected sites**  
There are two Local Wildlife Sites around 10m from the application site boundary to both north and south, The Mere and The Plantation. The application site forms part of the Environmental Network linking them (see below).
- The closest European site is White Mere SSSI/Ramsar at 1.5km, with Cole Mere SSSI/Ramsar and Clarepool Moss SSSI/Ramsar/SAC around 2.5km away. Natural England consultation is not triggered by Impact Risk Zones. 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.
- 6.5.4 **Environmental Networks and Priority Habitats**  
Turnstone has provided an adequate botanical survey sufficient to judge whether any UK 'priority habitat' will be lost to the development, although it was carried out later than the recommended May to August period and may have missed early flowering species. This concludes that all the grassland affected by the development is essentially in the NVC-MG5 grassland sub communities and presently in 'unfavourable' condition. Approximately 0.3 hectares of grassland would be directly lost however to install flat plinths will involve cutting into the slope, particularly on the western side.
- If the management of the remaining grassland can be secured to ensure it is enhanced as BAP priority lowland meadow by a management plan under condition, the Council's Ecologist would be satisfied that the proposal can demonstrate that the development will 'promote the preservation, restoration and re-creation of priority habitats and ecological networks' under Policy CS17.

Turnstone recommends that a Habitat Management Plan is produced. To give confidence that management as hay meadow will remain practicable, the type of management which will take place on the remaining public open space should be specified as per the current Higher Level Stewardship scheme i.e. grazing, mowing etc. To retain as much of the remaining grassland as possible it would be necessary that tree planting be restricted to the immediate area of the caravans.

Once an acceptable Habitat Management Plan has been submitted, this can be conditioned. But there is a concern that if the tree planting is to be restricted this in itself have a detrimental visual impact that cannot be mitigated against.

### 6.5.5 Great crested newts

The updated Turnstone report from September 2015 indicates the location of the four ponds assessed and confirmed this does not include The Moors, where there is an historic record of great crested newt (GCN) at The Moors. The table below has been compiled by the Council's Ecologist to summarise the survey results.

The information provided is summarised in this table:

Pond	Distance from site	HSI	Suitability	Survey effort	Survey results
1	25m	0.57	Below Average	Torching & netting 3 times. Egg search 4 times	Incomplete due to low water levels
2	175-225m	0.49	Poor	Torching & netting 2 times. Egg search 4 times.	Peak count 2
3	175-225m	0.62	Average	Torching & netting 2 times. Egg search 4 times.	GCN egg present
4	175-225m	0.69	Average	Torching & netting 2 times. Egg search 4 times.	Negative
The Moors	165m approx			None	2005 and 2006 GCN eggs present

It should be noted that it was not possible to complete the six surveys needed to gain a population count figure for any ponds as water levels had dropped too low by the 9<sup>th</sup> June. The Council's Ecologist requested from the agent why The Moors was not included in the survey and asked for photos to demonstrate the ponds had dried up.

Using the known GCN records for Pond 2 and for The Moors the Natural England Rapid Risk Assessment result is as follows:

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	0.5 - 1 ha lost or damaged	0.3
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
	Maximum:	0.3
Rapid risk assessment result:	<b>AMBER: OFFENCE LIKELY</b>	

Impact of the development on great crested newts will arise from the earth movements necessary to create flat concrete plinths on the sloping ground. The reports mention rabbit grazing but it is not stated whether there are rabbit or other mammal holes on the application site. Such features could support hibernating amphibians.

From the information provided the Council's Ecologist is not convinced that adequate survey work has been carried out or a full assessment carried out of the impacts of the development to confidently state the proposals will not result in an offence.

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

#### 6.5.6 Bats

The mature trees on the site boundaries and a mature oak and horse chestnut were identified as having bat roost potential. No plan is included in the report showing the trees with bat potential, however the Design and Access Statement says that existing large trees will be retained. The boundary tree lines are likely to be important for bat foraging and commuting and Turnstone recommend provision of bat boxes and controlling lighting. Root Protection Zones for trees should be protected.

#### 6.5.7 Reptiles

Turnstone state that suitable reptile habitat is limited to scrub and boundary vegetation. They advise that safe working methods are put in place to ensure no reptiles are harmed during works.



### 6.5.8 **Badgers**

No evidence of badgers was recorded in the survey however Turnstone recommends another check for setts 8 weeks before development starts.

### 6.5.9 **Nesting birds**

The Mere Local Wildlife Site immediately adjacent is known to support large numbers of wintering and nesting birds. Turnstone note that there is bird nesting habitat on the site. Existing trees and nesting habitat should be retained on site wherever possible. Any removals should take place outside of bird breeding season.

6.5.10 The Shropshire Wildlife Trust has also objected to the proposed development. They have raised concerns in relation to both the impact of the proposal on the High Land Stewardship of the site but also it has identified that the land is of MG5 standard which is a nationally scarce resource and should therefore be protected, enhanced and created. They also raise concerns that the findings and recommendations that have been put forward contradict one another. Another issue is the lack of a Habitat Management Plan and details of enhancements to neighbouring habitats such as the Plantation.

6.5.11 In view of the above it is considered that there is a lack of information to demonstrate that the proposed development will not have a detrimental impact on Great Crested Newts or their habitats. In the absence of this additional information (detailed below) Officers recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010). It is also contrary to Core Strategy Policy CS17 in relation to protection of Environmental Networks and UK BAP Priority Habitat and emerging policy MD12.

### 6.6 **Drainage**

6.6.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.

6.6.2 Information has been provided by local residents that the car park is prone to flooding particularly during periods of heavy rain. Therefore any drainage systems installed would need to overcome this problem and not exacerbate the situation in other areas.

6.6.3 The Council's Drainage Engineer has considered the application and has raised no objection to the proposal. However, it is recommended that should planning permission be granted, that a condition be included requiring full details of the drainage systems to be installed. This will ensure that any installation is robust enough to deal with the site and its intended use.

6.6.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

**6.7 Historic Environment**

- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration of all development in connection with its impact on the historic environment.
- 6.7.2 A number of concerns have been received regarding the impact the development will have on the character of the Conservation Area and the setting of the Scheduled Ancient Monument.
- 6.7.3 The proposed development site is located c.175m south-east of the Scheduled Monument of Ellesmere Castle (National Heritage List ref. 1019303), and wholly within the Ellesmere Conservation Area. The north-western part of the site boundary lies partially within the putative extent of the castle, based on the Central Marches Historic Towns Survey, as recorded on the Shropshire Historic Environment Record (HER PRN 01004).
- 6.7.4 Ellesmere Castle was established as a motte and bailey castle on a ridge of glacial moraine. It is thought to have been constructed by Roger de Montgomery, 1st Earl of Shrewsbury, shortly after 1086. After Roger's son's forfeiture in 1101 it was confiscated by the Crown. Its seignorial history thereafter was complex; it was granted to William Peverel of Dover by Henry I in 1138, and by Henry II to the Welsh prince Dafydd ab Owain in 1174. Thereafter it was held intermittently by the Crown until it was granted to the Le Strange family in 1263 and subsequently passed by descent to the Stanleys, Earls of Derby. The castle's significance derives from its evidential and historical values as an example of a Marcher castle, which was held at varying dates by the Crown and some of the principal families in the county. Its aesthetic values stem from the way in which its partially tree covered earthworks provide a landmark above the historic market town of Ellesmere, whilst it has communal value as a result of the way in which the summit of the bailey has been made into a bowling green and the eastern bailey incorporated into an area of public open space. The designation of the castle as a Scheduled Monument indicates that it is of national importance. Can some of this be summarised, it is not on or adjacent to the site.
- 6.7.5 The castle's setting includes both the town of Ellesmere to the north and west, which served it and is subsequently thought to have subsumed a western bailey beyond the Scheduled Area, and the green open space to the east. The latter contributes to the significance of the monument by enabling the prominent landscape position of the castle to be experienced and appreciated.
- 6.7.6 It is recognised that this site is only one part of the Conservation Area but development of it has the potential to harm at least two other identified character areas and therefore degrade the character of the Conservation Area as a whole. The two areas are noted as Area 2 and Area 3. Area 2: Church Street, Church Hill and Church precincts – In brief it is described as "...Dramatic contrast between open space (Area 1) and the narrowness of the entry to Church Street ..." (Ellesmere Snapshot CA, 2007). Area 3: Love Lane – described as having a wooded paddock to the west which "contributes to tranquil atmosphere". Together with Area 1: the Mere, Cremorne Gardens, Castle Mound and Castle Field (within which the application site is set) – This area is described as "Tranquil areas of high landscape quality ..." (Ellesmere Snapshot CA, 2007). Cumulatively, it is noted, that these areas are all tranquil open areas with landscape value within the

Conservation Area and as such are all contribute to the character of this part of the Conservation Area ie open green space on the edge of the town.

- 6.7.7 It is considered by Historic England and agreed by the Historic Environment Team that the requirements of the NPPF have not been met in terms of the heritage assessment. Within the Heritage Impact Assessment (June 2015) it states 'the still current advice in the notes that accompanied PPS5' (page 6, paragraph 4), this is incorrect as this guidance note as withdrawn on 25 March 2015, and was replaced by the Planning Practice Guide. Additionally the reference to the 'English Heritage guidance on the setting of heritage assets' (page 7, paragraph 1) is also incorrect as it again has been replaced by Historic England's The Historic Environment Good Practice in Planning Note 3: *The setting of Heritage Assets*. The assessment should also consider the impact of the proposed development in relation to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and additionally provide a reasoned justification for the design of the proposed development in relation to its scale, massing, materials etc.
- 6.7.8 The proposed development of 20 lodges could potentially impact on and cause harm to the significance of designated heritage assets. It is acknowledged that the proposed development will not have a direct visual impact upon the castle as a result of the screening provided by the natural topography. It will, however, introduce a significant number of lodges (20), in the form of holiday chalets, into the open space to the east of the castle, such that it will alter the character of part of this area. This change to the setting of the monument will in turn have an effect upon people's ability to experience and appreciate its significance. It is therefore the view of the Historic Environment Officer that the proposed development will cause some harm to the significance of the monument through the effect it will have upon its setting, and that this impact equates to less than substantial harm.
- 6.7.9 It is acknowledged that the site plan submitted with the application indicates that the footprint of the development will not directly impact upon the monument. However, the proposed development site boundary also falls within an area of possible earthwork remains of medieval-post medieval quarry pits excavated into the underlying glacial moraine (HER PRN 21992), although the area is also thought to have been partially landscaped in the later 20th century.
- 6.7.10 Whilst part of the site has been developed through the provision of the existing access paths, track and car park, the proposed development will extend beyond these areas. It therefore has the potential to impact directly on any archaeological remains present on the proposed development site itself.
- 6.7.11 It is noted by Officers that the sections appear incomplete/inaccurate in that although they slice through the site they do not show all the proposed caravans on that chosen section. An example of this can be seen in AA and BB sections, which are opposing yet do not show all the caravans in section AA. It is considered that these are not acceptable to enable full and proper understanding of the impact of development on this site. Together it is noted that none of the sections indeed make any reference to the wider site and area, therefore, do not give a wider appreciation of the way the proposal will sit within the overall area of the Castlefields.

6.7.12 It is considered by the Historic Environment Team that the introduction of buildings, in the form of 20 holiday chalets of underwhelming design, materials and scale will have a harmful impact on the setting of the Conservation Area. With reference to paragraph 138 of the NPPF, and the relevant guidance provided in the NPPG, the response indicates that this impact to represent less than substantial harm. When considering para 132 and 134 of the NPPF it is noted that less than substantial harm to the significance of a designated heritage asset, the harm caused should be weighed against the public benefits of the proposal. However, it is advised that Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant to this case and it is noted that this establishes a statutory presumption against development which does not preserve or enhance the character and appearance of a Conservation Area. It is considered that the proposed development does not contribute to preserving or enhancing of the character or appearance of the Conservation Area, in line with the requirements of Section 72 (1) of the Act 1990. Further that the decision maker should be mindful when undertaking the balancing exercise required in relation to para 132 and 134 that significant weight should be attached to Section 72(1), such that the public benefits of any development would need to be substantial in order to outweigh it. Whilst tourism is recognised as a contributor to the local economy, in this instance it is officers opinion that there would appear to be no evidence base as to the need for this type and scale of development at this location to justify the harm caused.

6.7.13 To conclude; in relation to paragraphs 128, 131 – 134 and 137 of the NPPF, Policies CS6 and CS17 of the Shropshire Council Core Strategy, Policy MD13 of the emergent SAMDev and Section 72 (1) of the above noted Act, it is advised by the Historic Environment Manager that the application cannot be supported and it is recommended that the application be refused.

## 6.8 **Other Matters**

### 6.8.1 **Stability of Ground**

A number of comments have been made regarding the suitability of the site for development given that it is a kettle hole. This is a geological feature which is formed through glaciation. It is alleged that the site has been prevented from being used by buses and coaches as this is a weakness in the ground and therefore unsuitable for heavy weights. In view of this the use of the site for stationing lodges should be questioned.

The stability of the ground for building on is not normally a matter that is assessed as part of a planning application. However, the case officer has discussed this issue with a Building Inspector and gained further information. The development would require Building Regulations as the lodges would be considered semi-permanent. As part of this it the concrete pads to be included in the application. Given the possibility of the ground conditions being unsuitable they would require a full site investigation to be carried out before giving Building Regulations approval.

### 6.8.2 **Inaccurate Information**

Some of the information contained within the application is alleged to be inaccurate or misleading. A resident has identified discrepancies with the submitted application form; applicant selected 'no' in the section for 'Biodiversity

and Geological Conservation' despite watercourses and environmental habitats on site. In this instance the matters have been dealt with through the submission of ecology information. However the lack of information particularly in relation to the Ecology and Historic Assessments is of more concern and is part of the reasoning for recommending this application to be refused.

## **7.0 CONCLUSION**

7.1 The proposed development would provide additional accommodation for tourists to the area. However it is unclear from the application the full implications the proposal will have on the area both in terms of impact on the natural and historic environment and on the economy of the surrounding local area. As these areas of the proposal cannot be fully assessed due to the lack of information it is the recommendation of Officers that the application be refused. There is also a concern that the design and layout of the proposal will have a detrimental impact on the character and appearance of the surrounding area particularly when viewed from the higher ground or The Mere. As such the proposal is contrary to the NPPF and policies CS3, CS5, CS6, CS16, CS17 and CS18 of the Shropshire Core Strategy.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

PREAPP/14/00485 Proposed use of area as a caravan/camping/glamping park. NOOBJC 10th September 2014

15/00948/FUL Proposed change of use of existing car park to a touring and static caravan park WDN 22nd May 2015

15/02681/FUL Change of use of existing car park to a holiday park of 20. no. lodges PDE

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Ann Hartley
Appendices None



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Committee and Date

North Planning Committee

27 October 2015

Item

**7**

Public

## Development Management Report

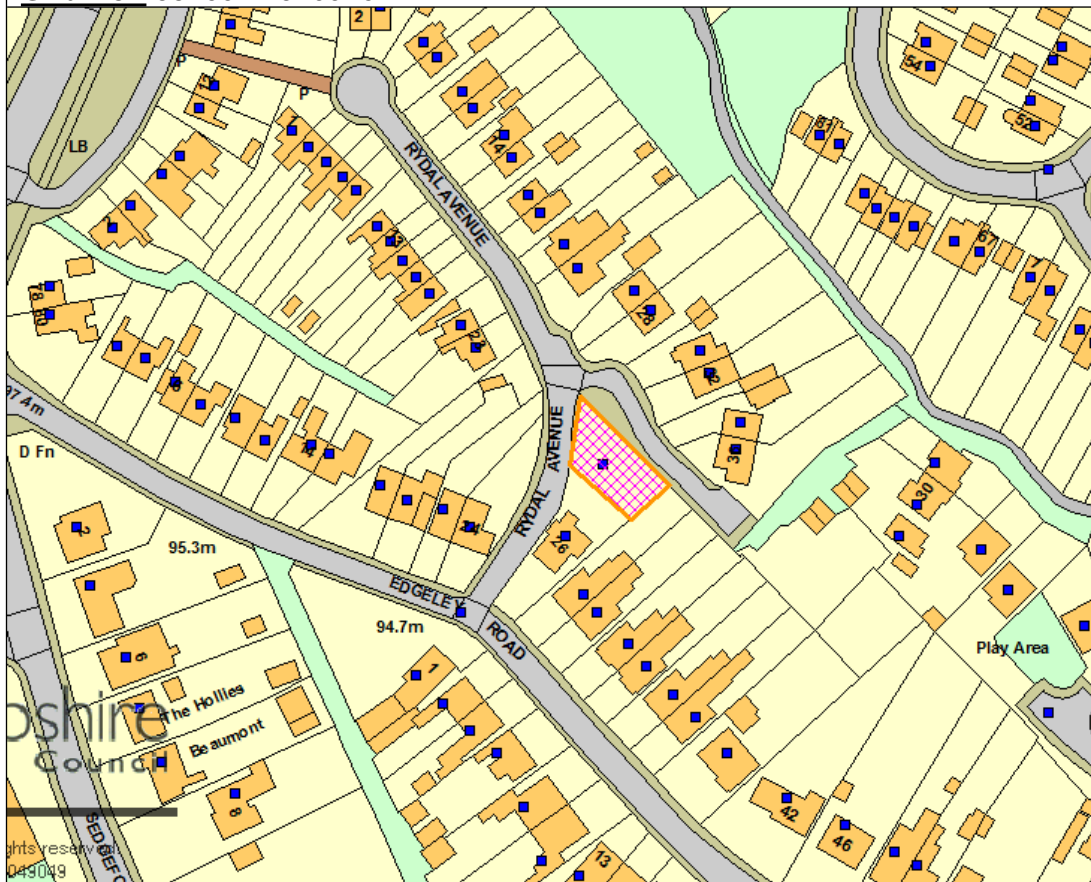
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 15/03326/FUL	<b><u>Parish:</u></b> Whitchurch Urban
<b><u>Proposal:</u></b> Erection of a detached dwelling	
<b><u>Site Address:</u></b> Proposed Dwelling Rear Of 26 Edgeley Road Off Rydal Avenue Whitchurch Shropshire	
<b><u>Applicant:</u></b> Hawk Developments Ltd	
<b><u>Case Officer:</u></b> Sue Collins	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 354601 - 340976



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

Recommended Reason for Approval

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks planning permission for the erection of a detached dwelling on land that was formerly part of the rear garden to 26 Edgeley Road. Access is to be created off Rydal Avenue.
- 1.2 Two previous applications have been made for a dwelling on this site. The first was withdrawn and the second refused and this was later dismissed on appeal.

The main issues in the appeal were:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on the living conditions of the occupiers No 26 Edgeley Road with particular reference to outlook and light and the occupiers of No 28 Edgeley Road with particular reference to privacy; and
- whether the proposed development would be at risk of flooding.

The Inspector concluded that:

- The size of the dwelling on the plot would result in only a small area of front garden which would not reflect the wider townscape and would be contrary to the existing urban grain. As such the development would appear cramped and the site would appear over-development. This would have a detrimental impact on the character and appearance of the area.
- The proposed dwelling would be similar in scale and mass to other semi-detached and terraced houses but not with detached dwellings in the area which are more substantial. The incongruous nature of the development would cause harm to the character and appearance of the area.
- The proposal would reduce the level of privacy enjoyed by occupiers of No. 28 Edgeley Road in the rear garden. The dwelling would not have an overbearing impact on No 26 and it would result in only limited loss of light.
- Agreed the site is not at significant risk of flooding. It would be possible to ensure adequate flood mitigation measures were incorporated into the scheme.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 26 Edgeley Road is located within a residential area of Whitchurch and it occupies a corner position at the junction of Rydal Avenue. The side boundary of the dwelling extends along Rydal Avenue. A boundary hedge defines the majority of the back garden from the highway. The rear garden abuts the highway to the rear

which provides access for further dwellings off Rydal Avenue.

- 2.2 The pattern of development along Rydal Avenue is primarily for semi-detached and terraced dwellings set back from the highway with long narrow gardens.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council have objected to the proposal on the grounds of garden grabbing and lack of access.

The Local Member has requested that the application be presented to the Planning Committee for consideration given the appeal decision and the continued objection from the Town Council and the Chair of the Planning Committee, in discussion with the Principal Planning Officers has agreed that the issues raised are material and should be discussed at committee.

### 4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

#### 4.1 Consultee Comments

- 4.1.1 **Affordable Housing Officer:** No objection. The submitted proforma indicates the correct level of contribution and/or on site affordable housing provision.
- 4.1.2 **Drainage:** No objection. Further details will need to be submitted for approval and these can be conditioned should planning permission be granted.
- 4.1.3 **Welsh Water:** No objection subject to the inclusion of the recommended conditions on any planning permission that may be granted.
- 4.1.4 **Town Council:** Objects: On the grounds of garden grabbing and lack of access.

#### 4.2 Public Comments

- 4.2.1 One letter of representation has been received.
- The site will have an overbearing impact on the neighbouring property
  - It will result in a loss of privacy and light to the neighbouring property
  - The area is a flood water risk and development could affect neighbouring properties.
  - Traffic and parking is an issue on Rydal Avenue.
  - Construction traffic would exacerbate the current problems on Rydal Avenue
  - The mature Sycamore Tree in the corner of the site will be affected by the development.

### 5.0 THE MAIN ISSUES

- Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Drainage
- Highways
- Trees

## **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 In this case the site is located within the defined development boundary for Whitchurch both in the current North Shropshire Local Plan and the emerging SAMDev. Whitchurch is identified as a Market Town with Policy CS3 of the Shropshire Core Strategy identifying this as an area for substantial development in recognition of its accessible location on the highway and rail network. Development will also maintain and enhance its vibrant town centre balancing business with new housing.
- 6.1.3 The Affordable Housing Officer has confirmed that a contribution will be required and that the amount shown on the proforma is correct. The applicants will be required to complete a S106 Legal Agreement to secure the payment.
- 6.1.4 Whilst an objection has been made to the proposal on the grounds of garden grabbing, this was not considered an issue with the previous the appeal. Whilst the NPPF does try to dissuade from development being undertaken on garden areas, it is not a complete ban and where acceptable this can be undertaken. Therefore the main issues relate to the scale and design of the proposal and its impact on the residential amenities of the area. Other issues will also be considered further in this report.

### **6.2 Design, Scale and Character**

- 6.2.1 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. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 6.2.2 The previous scheme that was refused on appeal was for a dwelling that measured approximately 6.3 metres by 7.9 metres by 8.8 metres high to be constructed approximately 1.7 metres from the boundary and 9.2 metres from the rear wall with 26 Edgeley Road. A copy of the proposed block plan is attached for information.

- 6.2.3 The Planning Inspector at the appeal commented that the site is in a prominent position on Rydal Avenue with the surrounding area being predominantly residential in nature. “Although the houses vary in age and design, a characteristic feature is that they are set back from the road in long narrow plots. This gives a spacious suburban character to the area.” It was considered that although the overall size of the plot is similar to some others in the area, the plot is wider but shorter than is the norm. As a result of the limited depth of the plot the dwelling would have been positioned close to Rydal Avenue, particularly in the western corner. As such a small area of front garden would not be in keeping with the wider townscape and therefore contrary to the existing urban grain. The Inspector concluded that it would cause the development to appear cramped and the site over-developed. As such it would be detrimental to the character and appearance of the area.
- 6.2.4 With regard to the scale and design of the dwelling the Planning Inspector noted that although some of the terraced and semi-detached dwelling are of similar scale and mass, the detached dwellings in the area are generally quite substantial properties. Therefore the scheme for the dwelling assessed at appeal would not be in keeping with the prevailing character of detached dwellings in the area and therefore out of keeping. This would be further emphasised by the prominent corner location of the site.
- 6.2.5 The Inspector did comment that the design and materials did reflect some of the architectural details found in the area and in addition the mature tree and some of the hedging would be retained which would be in the favour of the scheme. However he concluded that these did not outweigh the detrimental impact of the proposal on the character and appearance of the area. A copy of the Appeal Decision is attached for further information.
- 6.2.6 The current proposal is for a building that measures 7.865 metres by 5.165 with a maximum height of 7.6 metres from the finished floor level. The reduced footprint has enabled the dwelling to be repositioned on the plot so that it is set further back from Rydal Avenue than the previous scheme. This allows for a front garden space to be provided together with a parking area. Whilst the front garden may not be as deep as some along Rydal Avenue it is comparable with the majority. It is therefore the opinion of Officers that this now overcomes this concern that was raised by the Planning Inspector.
- 6.2.7 The external appearance of the building has been kept relatively simple with brick and tile as external materials. A two storey bay window has been included to reflect the style of the 20<sup>th</sup> century buildings along Rydal Avenue. It was the opinion of the Planning Inspector and is the consideration of Officers that this style reflects that of other dwellings in the area and is therefore acceptable.
- 6.2.8 It is accepted by Officers that the scale is not as substantial as other detached dwellings which are located within Edgeley Road. However, along Rydal Avenue there are only semi-detached and terraced dwellings. Therefore by being similar in scale and mass to these would be in keeping with the character of Rydal Avenue. The large detached dwellings in Edgeley Road date from the late 19<sup>th</sup> early 20<sup>th</sup> Century and set the character for that area and are not found in Rydal Avenue. These are more modern 20<sup>th</sup> century dwelling which also vary in style. It

is the opinion of officers that the new proposal will not have a detrimental impact on the character of this part of Rydal Avenue. As such the development is considered by officers to be in accordance with policy CS6 of the Shropshire Core Strategy.

### 6.3 **Impact on Residential Amenity**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.3.2 A local resident has raised concerns that the development will have an overbearing impact and reduce privacy and light to the adjacent property.

6.3.3 The size and position of the dwelling have significantly changed from that previous submitted. Copies of the current site plan and the one assessed as part of the appeal are attached for information. The height of the proposed building has been reduced by approximately 1 metre from the previous proposal and it has been moved approximately 1 metre further away from the rear of 26 Edgeley Road. In addition by redesigning the internal layout of the dwelling no habitable room windows at first floor level would provide views to the dwelling at 28 Edgeley Road. In connection with 26 Edgeley Road it may be possible for a narrow angled view of the side elevation from the first floor front bay window however this would be no more than would be currently viewable from the public highway.

6.3.4 It is noted from the Planning Inspectors report that his only concern regarding impact on residential amenity was the loss of privacy to 28 Edgeley Road. The size and location of the building was considered not to have either an overbearing impact or cause an unacceptable loss of light. Therefore by reducing the height and moving the dwelling further away from 26 Edgeley Road this would reduce the impact on the residential amenities of this property even more.

6.3.5 In view of the above it is considered by Officers that the proposal will not have an unacceptable impact on the residential amenities of the neighbouring properties. Therefore the proposal is in accordance with policy CS6 of the Shropshire Core Strategy.

### 6.4 **Highways**

6.4.1 Concerns have been expressed by the Town Council and a local resident in connection with traffic, access and parking arrangements. It is stated that currently there are issues with on-street parking and residents being able to gain access to their dwellings.

6.4.2 Rydal Avenue is an unclassified highway that ends as a cul-de-sac and as such it is not used as a through route for vehicles. Therefore only local traffic will use the highway and whilst there may be some periods of the day when more traffic is likely, it would not necessarily be considered excessive.

6.4.3 Two parking spaces have been provided to the front of the property which is located on the outside of a bend giving ample visibility in both directions particularly given the level of use of the highway. Overall whilst there may be some additional traffic this would not be significant or to such a degree as to

cause issues regarding highway safety.

## 6.5 **Impact on Trees**

6.5.1 Policy CS17 of the Shropshire Core Strategy requires consideration to be given to the impact of development on the natural environment.

6.5.2 A concern has been raised regarding the impact the development will have on the existing mature sycamore in the corner of the site.

6.5.3 The block plan submitted with the application shows the intention to retain this tree. By providing a parking area under the tree canopy most of the roots would be protected particularly from damage during the course of the construction works. However to ensure that this tree is fully protected a condition is recommended to be included on any planning permission granted requiring a scheme for its protection to be submitted for approval prior to works commencing on site.

6.5.4 As such it is the opinion of officers that the sycamore tree can be protected from the development and as such be maintained for its landscape value within the street scene.

## 6.6 **Drainage**

6.6.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.

6.6.2 A local resident has raised concerns regarding the flood risk and the potential impact the development may have on this and his property.

6.6.3 An FRA has been submitted with the application as part of the site falls within Zone 2 Flood Risk Area. The application has been considered by the Council's Drainage Engineer and no objection has been raised. It has been recommended that full details of the drainage scheme for the development be submitted for approval. However this can be the subject of a condition attached to any planning permission that may be granted.

6.6.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

## 7.0 **CONCLUSION**

7.1 In the opinion of Officers it is considered that the proposed development is acceptable in its design and scale and that it will not have a detrimental impact on the character and appearance of the surrounding area. In addition the proposal will not have an unacceptable impact on the residential amenities of the area. Therefore the proposal is in accordance with the NPPF, policies CS3, CS6, CS11 and CS17 of the Shropshire Core Strategy and the SPD on the Type and Affordability of Housing.

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.

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.

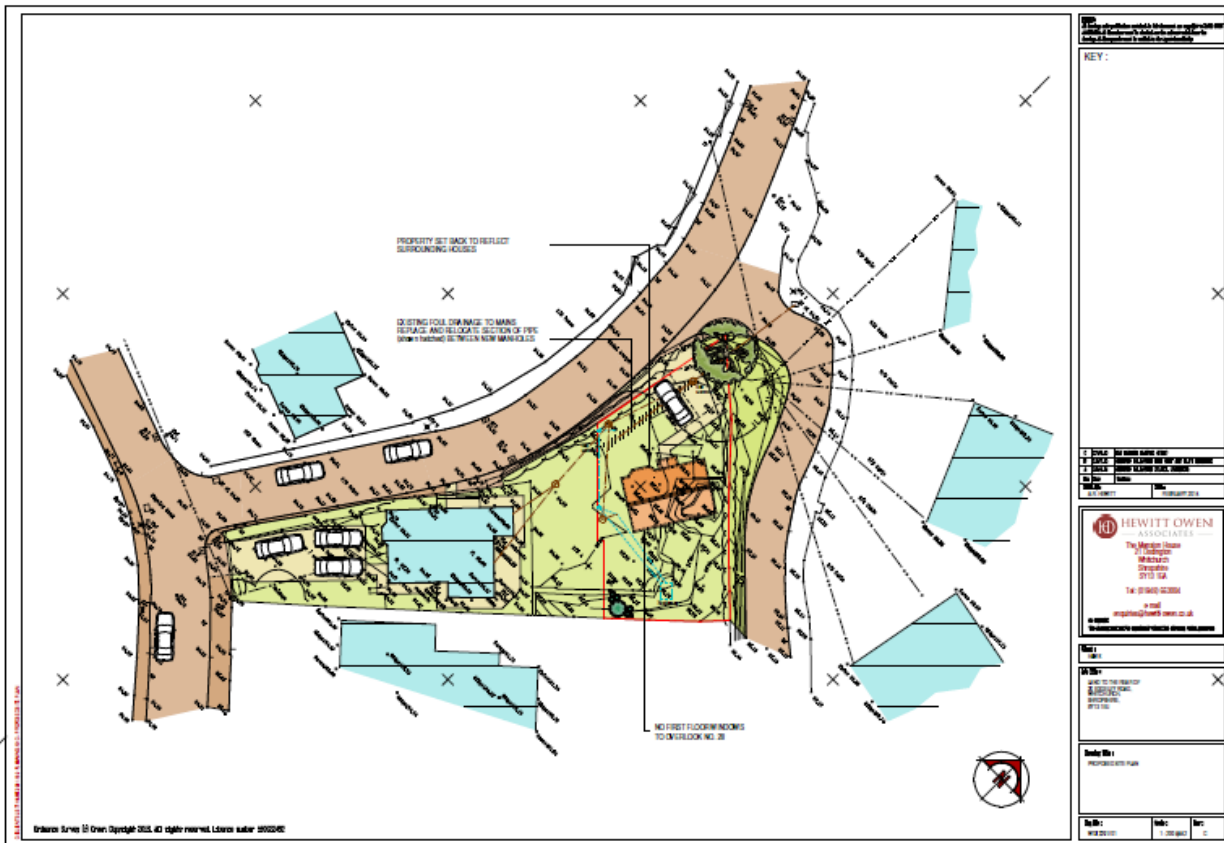
### **8.3 Equalities**

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.

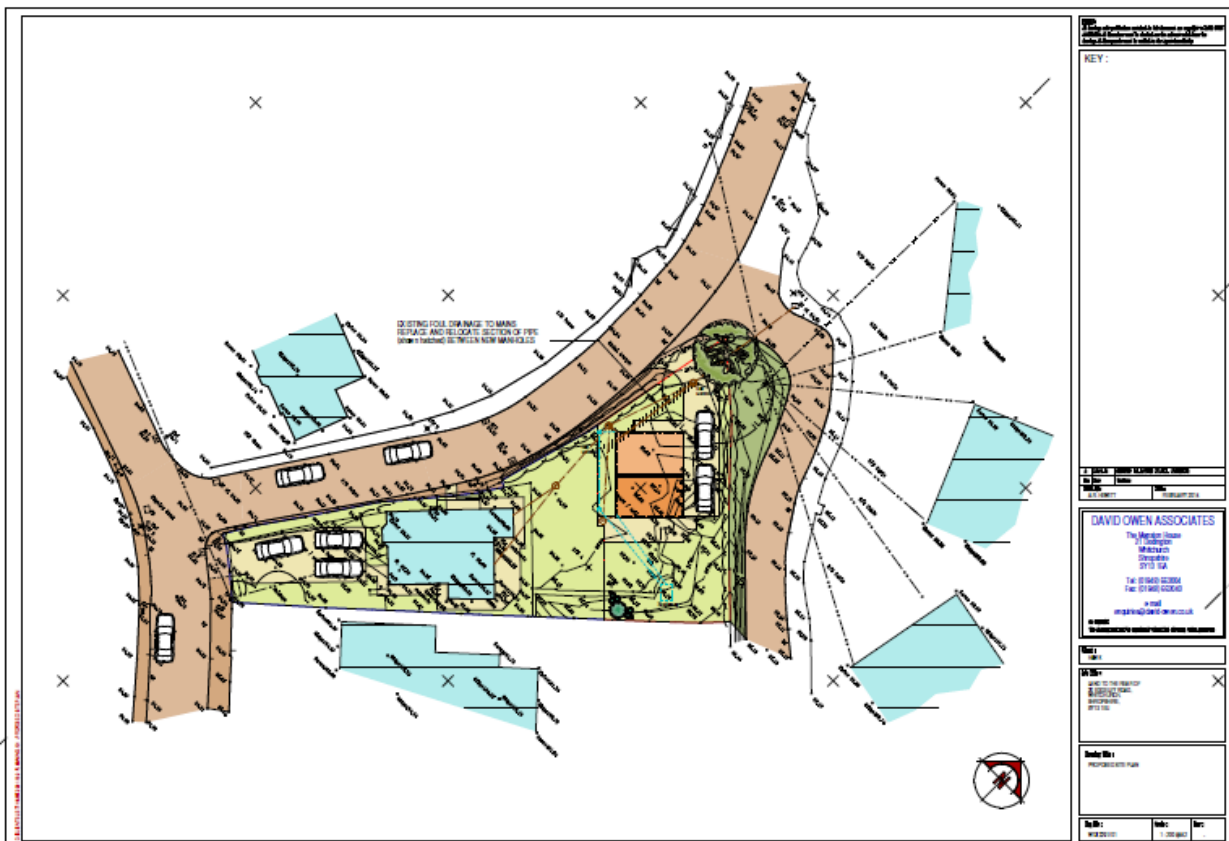
## **9.0 FINANCIAL IMPLICATIONS**

- 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.





Current Site Layout Plan



## Appeal Site Layout Plan



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## Appeal Decision

Site visit made on 1 June 2015

by **Alison Partington BA (Hons) MA MRTPI**

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

Decision date: 5<sup>th</sup> June 2015

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**Appeal Ref: APP/L3245/W/15/3007022**

**26 Edgeley Road, Whitchurch, Shropshire SY13 1EU**

- 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 Hawk Developments Ltd against the decision of Shropshire Council.
  - The application Ref 14/03131/FUL, dated 11 June 2014, was refused by notice dated 1 October 2014.
  - The development proposed is the erection of a dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in the appeal are:
  - the effect of the proposed development on the character and appearance of the area;
  - the effect of the proposed development on the living conditions of the occupiers No 26 Edgeley Road with particular reference to outlook and light and the occupiers of No 28 Edgeley Road with particular reference to privacy; and
  - whether the proposed development would be at risk of flooding.

### Reasons

#### *Character and appearance*

3. The appeal site is situated to the rear of No 26 Edgeley Road, in a prominent position on Rydal Avenue. The surrounding area is predominantly residential in nature. Although the houses vary in age and design, a characteristic feature is that they are set back from the road in long narrow plots. This gives a spacious suburban character to the area.
4. Although the overall size of the plot is not dissimilar to some others in the area, the plot is wider but shorter than is the norm. Due to the limited depth of the plot, the proposed dwelling would be located close to Rydal Avenue, particularly its western corner. Such a position, with only a small area of front garden would not reflect the wider townscape and would be contrary to the existing urban grain. As a result the development would appear cramped and the site

Appeal Decision APP/L3245/W/15/3007022

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would appear over-developed. This would have a detrimental impact on the character and appearance of the area.

5. The proposed development would consist of a modestly sized two storey detached dwelling. Whilst some of the semi-detached and terraced houses in the vicinity are of a similar scale and mass, the other detached dwellings in the area are generally quite substantial properties. As a result the proposed house would not reflect the prevailing character of detached dwellings in the area and would appear out of keeping. The incongruous nature of the proposed development would be emphasised by the site's prominent corner location.
6. The design of the dwelling would reflect some of the architectural details found on dwellings in the area and would utilise similar materials. In addition, it would retain the existing mature tree and some of the hedging around the site which are both attractive features. Whilst these points favour the scheme, they do not outweigh the identified harm that would be caused to the character and appearance of the area.
7. Overall, I consider that the proposed development would be detrimental to the character and appearance of the area. Accordingly it would be contrary to *Policy C6 of the Shropshire Core Strategy (adopted March 2011)* (SCS) which requires development to have a high quality of design, which amongst other things takes account of the local context and character.

#### *Living Conditions*

8. The rear elevation of the proposed dwelling would face the rear garden of No 28 Edgeley Road and would be approximately 9.5m from this boundary. Although No 28 has a number of mature trees and shrubs along this part of the boundary, these do not provide a complete screen. As a result direct views into the bottom part of this property's garden area would be possible from the first floor bedroom window. Notwithstanding the fact that, in a suburban context, first floor windows are often afforded some views into neighbouring gardens, the proposal would increase both the level of overlooking and the perception of being overlooked. As a result it would significantly reduce the level of privacy enjoyed by occupiers of this property in their garden.
9. The rear elevation of No 26, which includes a number of habitable and non-habitable windows, faces towards the appeal site. However, the proposed dwelling would be positioned so that the windows mainly face the garden area rather than the side elevation of the property. From the habitable windows in particular, the proposal would only be seen at an angle. As a result the dwelling would not have an overbearing impact on the occupiers of this property. Moreover, the location of the dwelling to the north east of No 26 means that any loss of sunlight to the house or property would be limited.
10. All in all, although I consider the appeal scheme would not result in a loss of outlook and light to No 26 Edgeley Road, I have found that it would unacceptably harm the living conditions of No 28 Edgeley Road with particular reference to privacy. As such it would conflict with Policy CS6 of the SCS which amongst other things seeks to ensure that development protects residential amenity.

Appeal Decision APP/L3245/W/15/3007022

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### *Flooding*

11. As a result of the reason for refusal relating to flooding, a Flood Risk Assessment (FRA) was submitted at appeal stage. This states that the red line boundary is very close to Zone 2 on the indicative flood plain but is situated in Zone 1. However, the Council have indicated that a small part of the site projects into Zone 2. I note that the FRA states that the Environment Agency agree that no flooding appears to be present within the red edge boundary and it is concluded that the site is not at significant risk of flooding.
12. From the evidence before me, had the proposal been acceptable in other respects, I consider that it would have been possible to ensure adequate flood mitigation measures were incorporated into the scheme. As a result it would be possible to ensure the development was not contrary to policy CS18 of the SCS which requires development to integrate measures for sustainable water management to reduce flood risk.

### **Conclusion**

13. Despite my findings regarding flooding and the impact of the proposal on the living conditions of No 26 Edgeley Road, these matters do not outweigh or negate my strong concerns about the effect of the proposal on the character and appearance of the area, and the living conditions of the occupiers of No 28 Edgeley Road. As a result of these matters, I consider that the appeal proposal would be unacceptable.
14. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR

## **10. Background**

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework  
 CS3 - The Market Towns and Other Key Centres  
 CS6 - Sustainable Design and Development Principles  
 CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks  
 SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

14/00935/FUL Erection of dwelling with attached single garage WDN 7th May 2014  
 14/03131/FUL Erection of 1No dwelling REFUSE 1st October 2014  
 15/03326/FUL Erection of a detached dwelling PDE

Appeal

15/02242/REF Erection of 1No dwelling DISMIS 5th June 2015

## 11. Additional Information

View details online:

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

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

4. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

5. No ground clearance, demolition, or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.

Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.

6. The development hereby permitted shall not be brought into use/occupied until the car parking shown on the approved plan W13/2291/01 C received on 27th August 2015 has been provided, laid out and hard surfaced.

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



Committee and Date  
 North Planning Committee  
 27 October 2015

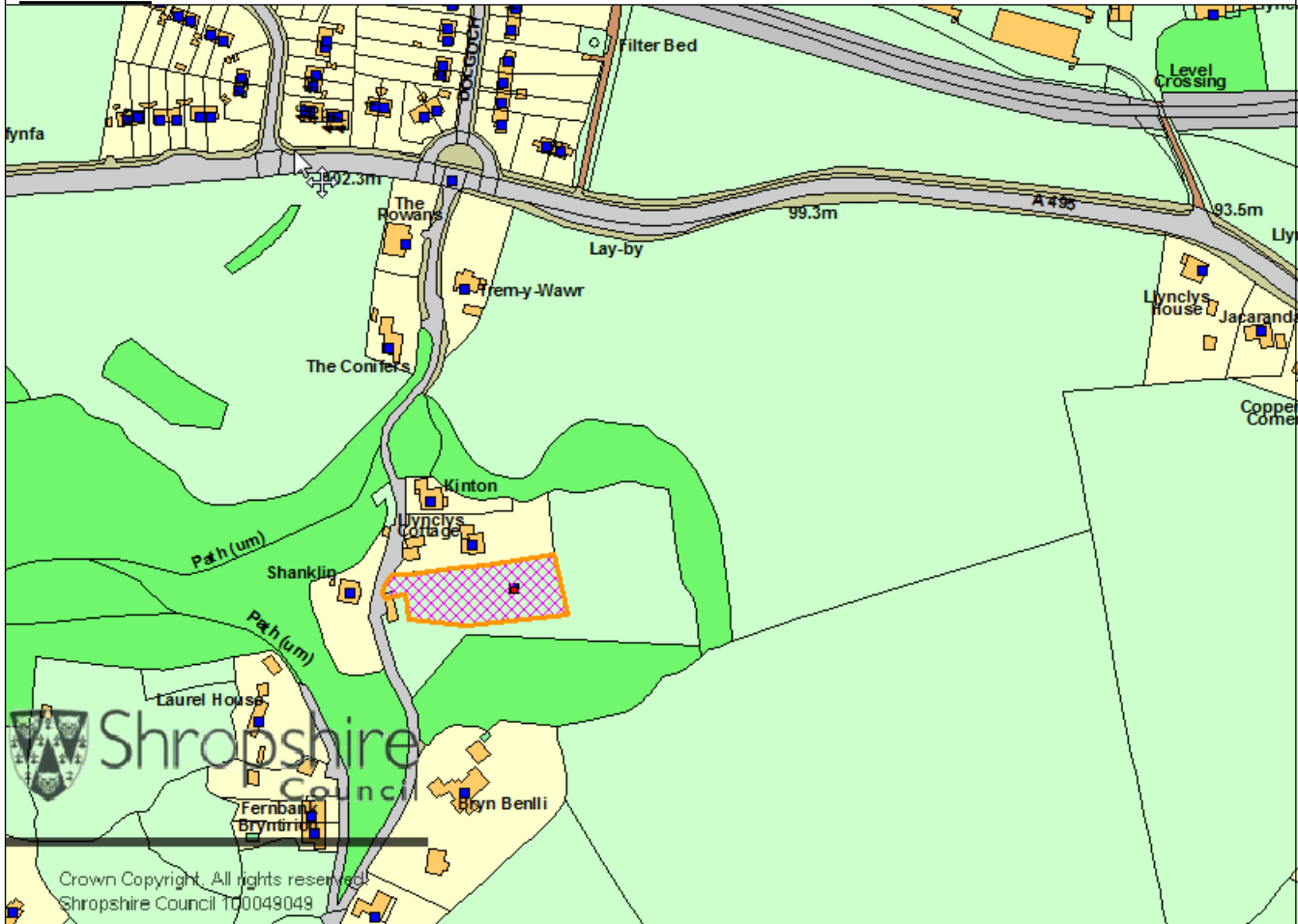
Item  
**8**  
 Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 15/02054/OUT	<b>Parish:</b>	Llanyblodwell
<b>Proposal:</b> Outline application for the erection of one dwelling to include means of access together with installation of septic tank		
<b>Site Address:</b> Proposed Dwelling North Of Bryn Benlli Turners Lane Llynclys Shropshire		
<b>Applicant:</b> Mrs Hannah Walpole		
<b>Case Officer:</b> Llinos Jones	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	
<b>Grid Ref:</b> 327780 - 324012		



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**Recommendation:- Refuse for the following reason:**

1. The proposed development is located within an area defined as open countryside for planning policy purposes and accordingly would lead to sporadic development in the open countryside that would undermine the "rural rebalance" approach to development. In addition, this proposal would represent a sporadic, undesirable and unwarranted addition to an existing pattern of scattered development and would fail to comply with adopted policies CS4 and CS5 of the Core Strategy and M7a and S14.2(viii) of the SAMDev and in particular Government advice as contained in the National Planning Policy Framework (in particular paragraph 55) in relationship to sustainable development.

**REPORT****1.0 THE PROPOSAL**

1.1 This application seeks outline permission for the erection of a single open market detached dwelling. The application includes the means of access with all other matters (layout, scale, appearance and landscaping) reserved for future consideration.

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The application site is situated off Turners Lane, which is a single width roadway accessed via A495 and services several dwellings.

2.2 The application site is situated within a loose – knit gathering of dwellings located as the crow flies approximately 187 metres to the South of Dolgoch, 475 of Llyncllys, 1km from Bryn Melyn, 1.4km from Porthywaen and 3.9km from Llanyblodwell which are all identified as a Community Cluster within SAMDev.

2.3 Currently the site is open grassland with dwellings situated to its north and west and at an approximate distance of 50 metres to the south of the plot. Adjacent to the proposed vehicular access is an existing stone outbuilding, constructed with corrugated sheeting for its roof. Around these houses is open countryside.

2.4 Site of Special Scientific Interest (SSSI) named Llanymynech and Llyncllys Hills is situated to the North and North East of the site.

2.5 The application site is not considered to be a heritage asset as defined under Annex 2 of National Planning Policy Framework.

**2.6 PLANNING HISTORY**

75/6320 – Erection of a bungalow – refused 30.07.75

80/425 – Erection of a bungalow and alterations to access – refused 9.7.80

92/7802 – Conversion of a barn to small dwelling – refused 03.6.92

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 In accordance with Part 8 of the Council's Constitution the application is brought to planning committee given that the applicant is related by marriage to Cllr Arthur Walpole who is the chairman of North Planning Committee



## 4.0 Community Representations

### Consultee Comments

**Highways** – No Objection, recommend conditions and informative's.

*Comments:* The application is proposing a new access onto Turners Lane, an unclassified no through road. From the highway perspective traffic flows and speeds are likely to be low given the prevailing highway conditions in terms of the alignment of the road and that it does not experience through flow traffic. The formation of the access in the location proposed will also provide a passing opportunity, with the removal of the boundary hedge in forming the access opening potentially improving the measure of forward visibility for the drivers of vehicles travelling along the lane at this point. It is considered therefore that the proposed development is unlikely to result in an adverse highway impact to warrant a highway objection.

**Sustainable Urban Drainage Systems (SUDS)** – No objection, recommend Conditions and Informative's.

**Natural England** – No objection and recommend conditions. This application is in close proximity to Llanymynech & Llyncllys Hills Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted.

**Public Protection** – No objection. Glare and glint from photovoltaic panels are mentioned as objections. I am not aware of any complaints received resulting from glare and glint from this equipment and have no further comment on this matter. With regard to introducing a septic tank I would recommend that an appropriate assessment is carried out and submitted for your approval to ensure it is suitable. I have no historical data to suggest that complaints in relation to septic tank issues have arisen in the past.

### Ecologist

*Comments:*

3<sup>rd</sup> August – Additional information is required relating to bats. In the absence of this additional information, I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Additional information received and Ecologist re-consulted on 3<sup>rd</sup> September – await comments.

23<sup>rd</sup> September – No objection recommend conditions and informative's

**Planning Policy** – Object. The development guidelines for the cluster do not provide for new build open market housing outside of the development boundaries of Llanyblodwell and Porthywaen and the application is therefore contrary to SAMDev in principle.

**Llanyblodwell Parish Council** – Support the application subject to the condition that the proposed dwelling is a single storey dormer bungalow.

### **Public Comments**

The application was publicised in accordance with Part 3, Section 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 by way of both site notice display and through serving notice on adjoining owner / occupiers.

Two representations were received objecting to the proposal raising the following concerns which will be addressed accordingly within the report;

- Previous applications for additional dwellings refused on Turners Lane.
- The lane is considered insufficient to support vehicular movements and no details have been provided to indicate improvement to the existing lane.
- The properties in Turner’s Lane are situated well apart and each property enjoys a considerable measure of privacy which contributes to the character of the neighbourhood. The proposed development is located extremely close to existing dwelling, leading to loss of privacy.
- Applications have been refused on the lane given that the use of septic tanks had reached saturation level. Run off from the applicants septic tank due to high water table would run into the lane and does not soak away properly.
- Type of property requested for the dwelling to be single storey to be in-keeping with the character of other dwellings on Turners Lane.
- Concern is raised over glare and dazzle from the proposed photovoltaic solar panels.
- Concern is raised over construction period which could cause noise and impact upon amenity of neighbouring residents.
- Concern is raised over increased traffic and possible impact of construction vehicles down Turners Lane which is a single lane.
- Highway concern over proposed access point to the site.
- Previous planning refusals.

## **5.0 THE MAIN ISSUES**

### **Principle of development**

### **Siting, amenity, scale and design of structure**

### **Visual impact and landscaping**

### **Ecology (Biodiversity and landscape character)**

### **Highways**

### **Drainage**

### **Community Infrastructure Levy (CIL) & Affordable Housing Contribution**

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published

and is a material consideration which is given weight in the determination of planning applications. Paragraph 11 of the NPPF advises that proposed development which 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.

- 6.1.2 Local policies relating to this application are contained within Shropshire Core Strategy Policies CS4 (Community Hubs and Clusters), CS5 (Countryside and Green Belt), CS6 (Sustainable Design and Development Principles), CS9 (Infrastructure Contributions) and CS11 (Type and Affordability of Housing and CS17 (Environmental Networks), CS18 (Sustainable Water Management) and Supplementary Planning Document for Affordable Housing (SPD), together with the Site Allocations and Management of Development (SAMDev) Plan policies MD1, MD2, MD3, MD7A, MD12 and S14.
- 6.1.3 Shropshire Council's Sites Allocations Management Development Plan (SAMDev) sets out proposals for the use of land and policies to guide future development in Shropshire up to 2026 and covers the whole of the administrative area of Shropshire Council (excluding Telford & Wrekin).
- 6.1.4 Following several stages of consultation, the SAMDev Plan and all representations has been submitted to the Secretary of State for examination by an Independent Planning Inspector. The SAMDev Plan Schedule of Main Modification was published for six weeks consultation from 1<sup>st</sup> of June 2015 until 13<sup>th</sup> of July 2015. The Main Modifications have been identified by the Inspector as those necessary to make the policies in the SAMDev Plan 'sound'. Therefore ahead of adoption, following the publication of the Schedule of Main Modifications it may be considered that those parts of the plan not subject to modification are considered 'sound' in principle. Therefore from the date of the publication of the Schedule of Main Modifications on 1<sup>st</sup> of June, significant weight in planning decisions can be given to those SAMDev policies, and proposals not subject to main modifications, in accordance with paragraph 216 of the NPPF.
- 6.1.5 The application site is situated within the parish of Llanyblodwell. The site is not within a defined settlement identified for residential development in the saved Oswestry Borough Local Plan nor is it within a development boundary identified within proposals map as brought forward within the SAMDev. For this reason in planning terms the site is considered to be located within open countryside, where new development will be strictly controlled.
- 6.1.6 Section S14.2 (viii) of the SAMDev identifies the settlements of Llanyblodwell, Porthywaen, Dolgoch, Llynclys and Bryn Melyn as a Community Cluster applicable to policy CS4 of the Core Strategy.
- 6.1.7 Both the Core Strategy and SAMDev aims to increase the sustainability of rural areas, by focusing private and public investment in the rural area into Community Hubs and Community Clusters and not allowing development outside of these settlements unless the proposal meets with policy CS5 of the Core Strategy. Essentially pursuing the same stance advised under the NPPF which directs that new isolated homes in the countryside should be avoided unless there are exceptional circumstances. The objectives of the policy is to protect the countryside,

new development are to be strictly controlled with new dwellings only being allowed on appropriate sites when limited to house persons connected to agriculture, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local needs. Policy MD7a specifically directs that new market housing will be strictly controlled outside of Shrewsbury, Market Towns, Key Centres and Community Hubs and Clusters. The applicant has advised that they wish to construct a self-build open market dwelling, and would not be an 'exception site' as a dwelling house local need, as directed under Policy CS5.

- 6.1.8 Section S14.2 (viii) of SAMDev which covers Oswestry Area advises that the five settlements within this Cluster will assist with the provision of future housing growth of around 15 dwellings during the period to 2026 to help meet a need for affordable housing. No specific site allocations have been proposed, but the policy does state that sustainable development by infilling, conversions and small groups of houses could be acceptable on suitable sites solely within the established Development Boundaries of Llanyblodwell and Porthywaen, together with exception sites within or adjacent to Cluster settlements. The site is not located within the settlement boundaries of Llanyblodwell nor Porthywaen nor does it propose exception development adjacent to a Cluster settlement. The site is located approximately 187m to the South of Community Cluster settlement of Dolgoch thusly in planning policy terms the application site is considered to be in open countryside failing to comply with policies CS4, CS5, M7a and S14.2 (viii) which is a view maintained by the Shropshire Council Planning Policy Manager.
- 6.1.9 At the heart of NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. The three dimensions to sustainable development include, economic, social and environmental roles. The proposal would partly observe paragraphs 7 and 55 of the NPPF by the delivery of limited social and economic benefits to the rural area through the introduction of a new household within the area and employment generated during construction. The proposal, however, would fail to comply with the environmental thread having regard to its location. The proposal would not contribute to or protect the natural and built environment. The proposal would constitute an undesirable and unwarranted addition to an existing pattern of scattered development in an area and by virtue of its character and location is considered unsuitable for further development. Local and national policy aims to concentrate further development within village settlements close to existing village facilities, these include shops, village hall, school, church with good public transport links. Dolgoch does have an allocated bus stop with frequent services to larger settlements with facilities. Dolgoch which is the nearest Community Cluster to the site does not have any shops, but Llyncllys Cluster which is approximately 470 metres as the crow flies, does have a community facility in the form of the White Lion Pub but no other facilities. Although there are pedestrian footpath at Dolgoch, in order for an individual to walk or cycle to nearest settlement with facilities they would be required to travel along busy arterial route and most likely by use of car, which is commonly seen within rural locations.
- 6.1.10 It is officers opinion that the proposed development is therefore not located within an accessible location, where opportunities for walking, cycling and the use of public transport can be maximised without being overly reliant of the motor vehicle and the proposed development would not be considered to enhance or maintain the vitality

of the rural settlement by bringing economic and social benefits. Therefore, the proposed development would be considered contrary to policies CS4, CS5 and section S14.2 (viii) of the SAMDev.

- 6.1.11 Officers note that Llanyblodwell Parish Council support the application. However, this response does not detail whether the Parish Council have considered it against the SAMDev.
- 6.1.12 The applicant submitted a supporting statement in response to concerns raised by the case officer in terms of the location of the plot and failure to comply with criteria identified within policies CS4, CS5 of the Core Strategy and policies M7a and S14.2(viii) of the SAMDev. Policy MD3 covers Managing Housing Development, and likelihood of delivery prevailing over the year 2006-2026, as referred to within the applicants supporting statement. Officers advise there is substantial plan period outstanding to deliver new homes within the period outlined.
- 6.1.13 Within the applicants supporting statement they set out that they consider the proposal complies with the relevant policies for the following reasons; the scheme would be a self-build which is encouraged within the community for local people. The scheme would provide appropriate offsite contribution as required under policy CS11 for affordable housing. They also advise given that the site is located outside of a development boundary, they believe that the site is considered to be an 'exception site' as 'affordable housing'. Unfortunately, Affordable housing contributions alone required under policy CS11 does not make a dwelling "Affordable Housing" in its own right. The definition of what a 'build your own affordable home single plot exception scheme' is outlined within Appendix G, Section 9, page 61 of the Shropshire Type and Affordability of Housing SPD 2012.
- 6.1.14 The SPD directs that this is a low cost home ownership option which is restricted to 'qualifying persons' and are dwellings that under usual circumstances would not gain planning permission and are thusly considered 'exception sites' given that it is development of affordable housing for local people. Usually individuals who wish to utilise the Council's 'build your own affordable home' single plot scheme (i.e owner occupied affordable housing) will have restriction on the title by way of s.106 legal agreement where only qualifying persons would be able to occupy the dwelling in perpetuity. To qualify for the scheme, all applicants must demonstrate eligibility through requirements as set out under paragraph 5.11 of the SPD. Eligibility for the scheme is confirmed in writing by the Housing Enabling Officer following a personal interview with each household and consideration of all subsequently submitted information to support their case. In this case, the applicant has indicated that they wish for the scheme to be open market and have not explored their eligibility as a qualifying persons. Should the applicant wish to explore whether they are qualifying persons they must follow guidance set out within Shropshire Type and Affordability of Housing. It should also be noted that recognised 'affordable dwellings' would be restricted in their resale value and occupants, with market value being limited to approximately 60% of market value and the new owners would need to fulfil the criteria within paragraph 5.11 of the SPD.
- 6.1.15 Having due regard to assessment detailed above, the scheme is not considered by officers to be an exception site within policy CS5 given that the scheme is for open market housing, with the applicant confirming they are happy to provide formal off

site contribution following requirements of policy CS11.

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

- 6.2.1 The development is also required to meet the relevant criteria of Shropshire Core Strategy policy CS6 and the emerging SAMDev policy MD2. These policies state that development should be appropriate in scale, density pattern and design. Furthermore, advising that development should respect the existing pattern of development both visually and in relation to function of spaces with no adverse impact on residential amenity as a result of the development.
- 6.2.2 Turners Lane is characterised by an organic layout with scattering of dwellings, mostly bungalows constructed of red brick under tile roof, with older properties constructed of stone or with facing render. This scheme is in Outline only, with all other matters which include layout, scale, appearance and landscaping reserved for future consideration. It is noted that Llanyblodwell Parish Council and an objector requested should permission be given, the dwelling should be designed so as to be single storey. Upon submission of reserved matters application, the scale and design of the dwelling would be assessed on its individual merits, with consideration being given to the form and layout of existing developments, streetscape, building heights and lines, scale, density, plot sizes and building materials,
- 6.2.3 Objectors raised concern over glare and glint from the photovoltaic panels. In the professional view of the public protection officer, they have no historic complaints of receiving comments on this matter.
- 6.3 Visual impact and landscaping**
- 6.3.1 As touched upon within paragraphs 6.1.7 and 6.2.2 although specific details on the layout of the site are held back until reserved matters stage, considerable weight is given to the sites location and its appropriateness at the particular location in terms of impact on landscape character.
- 6.3.2 Development along Turners Lane is characterised by grouped scatterings of detached dwellings situated adjacent to the roadway. The application site is situated immediately to the South of Llynclys Cottage, West of Shanklin which is opposite over the road and North of Bryn Benlli at an approximate separation distance of 45 metres. There is an existing outbuilding constructed of stone with corrugated roof at the proposed entrance into the site.
- 6.3.3 The current arrangement of dwellings down Turners Lane is organic and is not a prescribed form. The loose knit scattering of development contribute to protecting rural charm of its setting, retaining the pastoral impression at this location. The construction of a dwelling at the location proposed adjacent to existing dwellings would assist to limit impact upon the open aspect of the lane and countryside.
- 6.3.4 It is noted that the applicant has submitted a block plan, this is indicative only and will not be considered during the assessment of this outline application. Specific details of landscaping, layout, siting and design would be assessed during a reserved matters application and considered on its individual merit.
- 6.3.4 Should planning committee be minded to approve the scheme contrary to officer

recommendation, in the interests of protecting the amenity in terms of noise and general disturbance of other residents along Turners Lane, it would be considered reasonable to include a restrictive time limiting condition for hours of construction in accordance with policy CS6 of the Core Strategy.

#### 6.4 **Ecology**

6.4.1 The site is currently open grassland and is situated in close proximity to Llanymynech & Llyncllys Hills Site of Special Scientific Interest (SSSI).

6.4.2 In accordance with NPPF paragraph 118, 166 and 192 officers requested for the applicant to submit an Environmental Survey, in order to ascertain the presence or absence of a protected species and or damage or destructed habitats of ecological value. The report would also provide guidance on mitigation measures should any protected species be found.

6.4.2 A report was submitted and Natural England and Shropshire Council Ecologist advise that although the application site is in close proximity to Llanymynech and Llyncllys Hills Site of Special Scientific Interest (SSSI), given the nature and scale of the proposal they are satisfied that there is unlikely to be any adverse effect on this site as a result of the proposal being carried out, when in strict accordance with the details submitted with the application. Planning conditions which include works carried out in accordance with Preliminary Ecological Appraisal submitted, drainage details, together with provision of bat and bird boxes and details on lighting agreed by Natural England and Shropshire Council ecologist will need to be included with any permission complying with policies CS17 of the Core Strategy and policy MD12 of the SAMDev.

#### 6.5 **Highways**

6.5.1 Objectors raised concern over increased highway safety implications following the construction of the new dwelling in terms of additional traffic on the narrow single width road and possibility of construction vehicles manoeuvring into and out of the site. Shropshire Council Highways Manager advised that he has no objection to the scheme advising that he has considered the concerns raised by the objectors, but from a highways perspective traffic flows and speeds are likely to be low given the prevailing highway conditions. Adding that the formation of the new access in the location proposed will also provide a passing opportunity, with the removal of the boundary hedge in forming the access opening, potentially improving the measure of forward visibility for the driver of vehicles travelling along the lane at this point. The Highways manager therefore considers that the proposed development is unlikely to result in adverse highway impact to warrant any objection.

#### 6.6 **Drainage**

6.6.1 Policy CS18 of the Core Strategy and policy MD12 aims to reduce flood risk and any additional impact on water courses and ground water resources.

6.6.2 Concern is raised by objectors over groundwater flooding and inclusion of septic tank at the site. The drainage officer has also identified the site to be at risk of groundwater flooding and the public protection officer has advised that with regard to introducing a septic tank, an appropriate assessment be carried out and submitted further that they have no historic complaints of such issues arising in the area. Therefore, should permission be forthcoming it is recommended that pre-commencement conditions be

included with the permission requiring the applicant to provide details on how groundwater will be managed with the water table being determined should the use of infiltration techniques be proposed complying with policies CS18 of the Core Strategy and policy MD12 of the SAMDev.

## 6.7 **Community Infrastructure Levy (CIL) & Affordable Housing Contribution**

6.7.1 In January 2012 the Council introduced a Community Infrastructure Levy (CIL), which is a charge on new development to help fund support infrastructure across Shropshire as advised under Policy CS9 of the Core Strategy. The CIL liability would at that stage be determined by the Council's CIL team and the CIL liability for development will be determined following the approval of the Planning Application

6.7.2 This applies to the formation of one or more new dwelling, either through conversion or new build, regardless of size (unless it is affordable housing) Or, the establishment of new residential floor space (including extensions and replacements) of 100sqm or above.

6.7.3 New market housing developments within Shropshire are also required to contribute towards Affordable housing provision, as advised under policy CS11 of the Core Strategy. Planning applications would be subject to one of three rates as shown in the housing zones, A B and C. The proforma can be downloaded from the Council's web site.

6.7.5 The affordable housing officer was consulted and is in support of the proposal subject to complying with policy CS11. The applicant has now submitted the Affordable Housing Contribution proforma, confirming that they would be happy to enter into the agreement to provide a contribution to the affordable housing liability. Therefore, the applicant has indicated that they are happy to contribute towards off site affordable housing contribution, and does comply with requirements of policy CS11.

6.7.7 Should members be minded to approve this application, planning permission should be granted only subject to the satisfactory completion of a s.106 legal agreement to secure the provision of off site affordable housing in accordance with the terms of the policy.

## 7.0 **CONCLUSION**

7.1 The proposed development is located within an area defined as open countryside for planning policy purposes and accordingly would lead to sporadic development in the open countryside that would undermine the "rural rebalance" approach to development. In addition, this proposal would represent a sporadic, undesirable and unwarranted addition to an existing pattern of scattered development and would fail to comply with adopted policies CS4, CS5 of the Core Strategy and M7a and S14.2(viii) of the SAMDev and in particular Government advice as contained in the National Planning Policy Framework (in particular paragraph 55) in relationship to sustainable development.

## 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the Countryside

MD1 - Scale and Distribution of Development

MD12 - Natural Environment

Settlement: S14 - Oswestry

### RELEVANT PLANNING HISTORY:

15/02054/OUT Outline application for the erection of one dwelling to include means of access together with installation of septic tank PDE

## 11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)
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Cllr M. Price
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Local Member
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Cllr Arthur Walpole
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Appendices
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None
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Committee and Date

North Planning Committee

27 October 2015

Item

9

Public

## Development Management Report

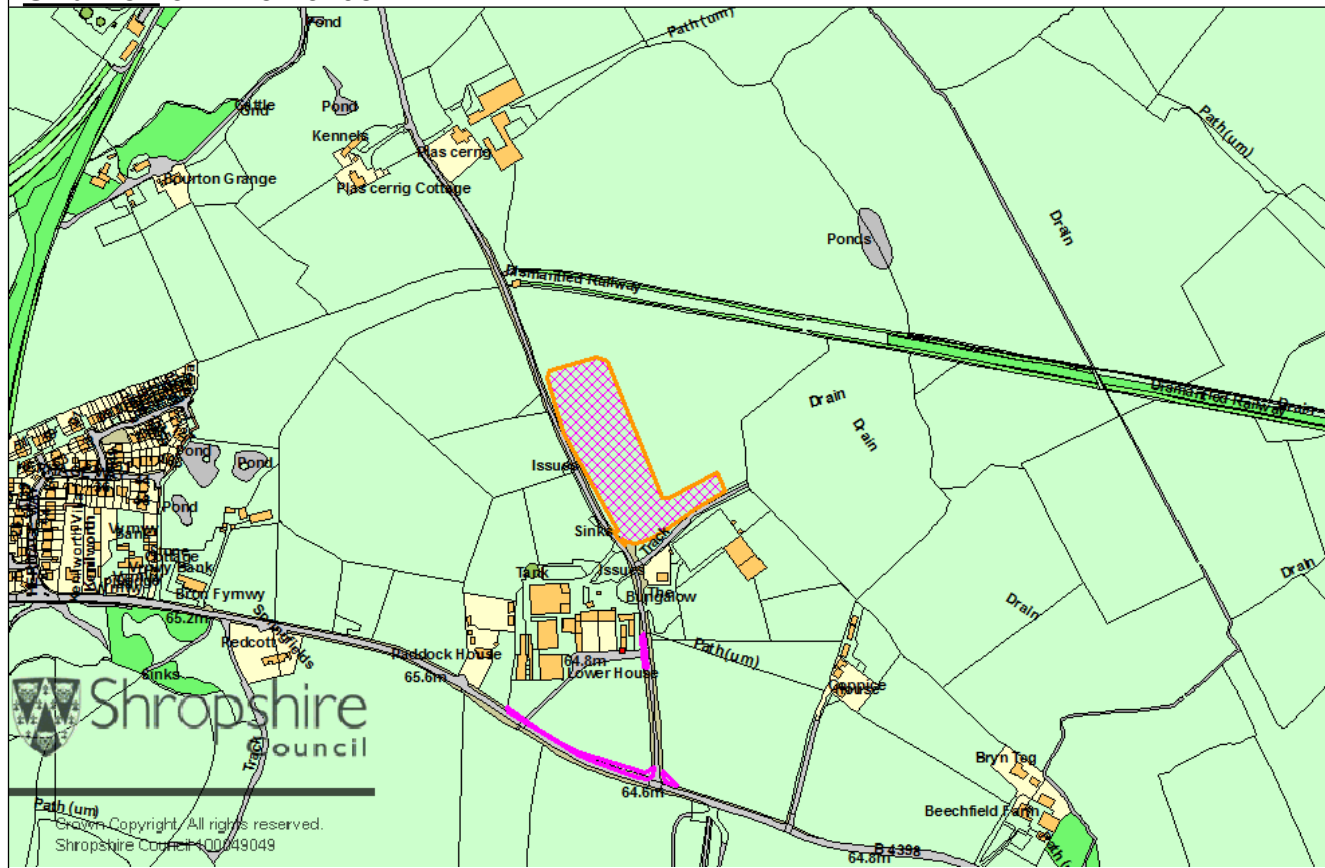
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 15/01557/EIA	<b>Parish:</b>	Llanymynech And Pant
<b>Proposal:</b> Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping.		
<b>Site Address:</b> Lower House Farm Plas Cerrig Lane Llanymynech Shropshire SY22 6LG		
<b>Applicant:</b> Mr Jonathan Radford		
<b>Case Officer:</b> Philip Mullineux	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 327745 - 320872



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## REPORT

**Recommendation: That Members delegate authority to the Head of Planning Services to grant planning permission for the proposed development subject to the conditions as set out in Appendix 1 and any modifications to these conditions if considered necessary by the Head of Planning Services.**

### 1.0 THE PROPOSAL

- 1.1 The application is made in 'full' and proposes construction of two poultry sheds, and three feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping on land to the side of Lower House Farm, Plas Cerrig Lane, Llanymynech, Shropshire.
- 1.2 The application is accompanied by an Environmental Statement which includes reference to a planning policy statement, heritage assessment, transportation assessment, landscape visual impact assessment, flood and drainage assessment, ecological report, ammonia screening report, noise report, odour report and amenity risk assessment. Also accompanying the application is a set of proposed elevation and floor plans, road improvements plan, site location plan and block plan. Further information in relationship to archaeology issues were received during the application consultation process.
- 1.3 The application falls into the remit of the Town and Country Planning (Environmental Impact Assessment), England and Wales) Regulations 2011 (as amended) Schedule one development, and as such an Environmental Statement is mandatory to accompany any planning application for development on site. The threshold for schedule one development is 85,000 broiler birds, this application proposes housing for up to 100,000 birds on site. As such the application was advertised by the Council as development accompanied by an Environmental Statement.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located to the north-east of the existing farmyard at Lower House Farm and on opposite side of the adjacent 'Plas Cerrig Lane' which separates the site from the adjacent farmstead. The site sits in a bowl within the wider landscape and forms part of a field that slopes upwards slightly from west to east, and there is significant native vegetation in the form of trees and hedgerows which would contribute towards mitigating any development on site into the wider landscape. The application site which covers an area of approx. 01.56 hectares forms part of a field in arable crop production, (currently maize), which is grade three in accordance with the agricultural land classification. The nearest dwelling to the application site which is outside the control of the applicant is a property known as 'The Paddocks' which is located approx.190 metres in a south westerly direction from the site.
- 2.2 The application site forms part of a family run farming enterprise to which the

applicants wish to diversify the business into 'broiler' production in order to ensure the business remains viable for two sons of the family concerned. The farm extends to 111 hectares, (274 acres), and is a mixed holding mainly involved in beef production with some arable cropping, (potatoes and maize). There is also to the south of the site an equestrian business and it is understood this is in the control of the applicant's family.

- 2.3 The proposed broiler house units will each measure 110.13 metres (plus 3 metres for the control rooms) by 26.61 metre (360ft x 80ft poultry area), with a height to the eaves of 2.5 metres and maximum height of 6.05 metres. In addition to the two poultry sheds there will be 3 feed bins and a feed control building located between the sheds. It is also proposed to construct a 22.46 metres x 17.69 metres biomass building to house the biomass boilers and associated equipment which will be used to heat the poultry houses.
- 2.4 Information submitted in support of the Environmental Statement indicates that the broilers will be brought onto site as day old chicks at a 50-50 mix of males and females. The 36 day growth period will lead to birds being around 2 kg in weight by clear out. It is proposed that there will be around 7 crops produced on site per year. Between each crop there will be approx 10 day turnaround in order to clean out and prepare for the next crop of birds to be reared on site. Stocking on site will be in accordance with the welfare of broiler chickens as covered by the Welfare of Farmed Animals, (England) (Amendment) Regulations 2010. This sets limits on stocking densities to include a maximum of 38kg/square metre and the production cycle will be in accordance with the independently audited Red Tractor Farm Assured Chicken Scheme (formally ACP).

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal is for schedule one development in accordance with EIA Regulations and therefore Committee consideration is mandatory in accordance with the Council's scheme of delegation.

### 4.0 Community Representations

- 4.1 Llanymynech and Pant Parish Council **objects**, their response states:

*' The Parish Council objects due to the following issues TRAFFIC - increase on the narrow junction of the cross roads where there is no pavement and HGVs have difficulty, and the mini roundabout at Badgers Green which is unsuitable for HGVs as they have to cross into the opposite carriageway into the path of oncoming traffic. POLLUTION close proximity to large housing estate and possible issues of odour, vermin and flies. The spreading of manure on local fields and the water used for cleaning kept in a lagoon. ENVIRONMENT - The adjacent wetland which drains a considerable area of Pant into a stream which then enters the River Vyrnwy could be polluted. BYPASS - The route of the Bypass may conflict with the site. The operation of the chicken producing business may in the future become a cause for objection to a bypass of the village. Highways England Ltd must be consulted on this issue.'*

#### 4.2 **Consultee Comments**

4.3 **Natural England** raises no objections, however the response indicates that the consultation documents provided by the authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered, i.e. the consultation does not include a Habitats Regulations Assessment.

4.4 **The Environment Agency** raises no objections. The response indicates:

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. For completeness, the total number of bird places proposed (approximately 100,000 broilers) would exceed the capacity thresholds and require an EP to operate. We have just received an EP application for this proposal. We normally recommend the 'twin tracking' of the EP application alongside the planning application. The 'twin tracking' of applications allows for a more comprehensive submission. A cross reference with the permit requirements (those affecting land use decisions) would help demonstrate "the development itself is an acceptable use of the land" (NPPF, paragraph 120).

This is an application for a new poultry farm and there is no existing EP relating to it. An application for an EP was made on the 29 May 2015 and is currently being determined by us. The EP application also includes the self-contained biomass building as shown on the plans.

We carried out an ammonia screening exercise on 24 March 2015. This exercise determined that aerial ammonia emissions from 120,000 broilers would not impact on any designated protected habitat site within the locality and therefore ammonia modelling (for air quality impacts upon designated habitat sites) would not be required. 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 'River Morda – confluence of un-named tributary to confluence of the River Vyrnwy' (Waterbody Reference GB109054049930, which is classified as a 'moderate' waterbody. Any development should not cause any deterioration in water quality or hamper efforts to improve waterbody status to 'good' by 2027. The aim is to achieve good ecological status by 2027.

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 (SuDS), Guidance Document, which can be accessed via: <http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

#### Flood Risk:

We note the Flood Risk and Drainage Assessment' by Woodsyde Developments Ltd dated April 2015.

Fluvial flooding - Based on our 'indicative' Flood Map for Planning (Rivers and Sea), parts of the proposed site, including parts of the access, is located within Flood Zone 2 (0.1% annual probability of fluvial flooding). The majority of the site is within Flood Zone 1. However, there are also un-modelled ordinary watercourses running in close proximity to the proposed development. We would recommend that these are considered by your Flood and Water Management team in line with our area Flood Risk Standing Advice, for Development in Flood Zone 2 where the flood zone is generated by an 'ordinary watercourse'. We make the following strategic overview comments given that the application is subject to EIA. The FRA does not define the 1% plus climate change fluvial event. However, in the absence of such we note that the FRA refers to the "Adjacent watercourse/ditch course" and provides a nominal assessment of the potential risk of flooding relative to flood levels. The FRA concludes that "even in extreme flooding the site would not be effected by flooding from the ditch course. However from the Flood Maps it is shown that the access area may be liable to potential flooding. The levels of the access will be adjusted accordingly and a small area of flood compensation provided to the east of the proposed site". In the absence of a 1%

plus climate change event the extent/depth of flooding on the access track is perhaps unclear, including the impacts or requirements for any compensation. However, given the scale and nature of the proposed development, within Flood Zone 2, we would leave the detail of this to your Flood and Water Management team, with reference to the below.

Our standing advice confirms that for 'less vulnerable' development (especially those uses where there are people occupying the building and/or vehicles are present, e.g. office, retail) the FRA should consider safe access above the 1% river flood level plus climate change. However, given the nature of this type of proposal we would advise that this is considered as a less critical risk i.e. future occupants may not be able to access the proposed development (building and/or any car park) in design flood events. On this basis, we would also advise consideration of an appropriate flood evacuation management plan (see below) in consultation with Emergency Planners.

Some water compatible and less vulnerable development such as agricultural developments/structures, stables, etc, by their nature may be floodable and therefore the raising of floor levels may not be feasible/practicable. In these cases, we would suggest that any storage in these buildings, including any flood susceptible electrics, or items that may be damaged should be sited above possible flood levels, in order to minimise flood risk and associated pollution. To help manage flood risk we advise that a Flood Evacuation Management Plan should be considered, in consultation with Emergency Planners and Emergency Services. For information on developing a Flood Evacuation Management Plan see sub-section 22 of the Flood Risk and Coastal Change Section of the PPG and our guidance online at: <https://www.gov.uk/browse/environment-countryside/flooding-extreme-weather>

#### Surface Water and other sources of flooding

For applications subject to EIA we wish to provide 'strategic' surface water comments. Detailed design aspects should be assessed by the Lead Local Flood Authority (LLFA).

We would recommend that the Flood and Water Management team are consulted on the detail of the surface water drainage proposals, as the LLFA. We acknowledge the proposal incorporates limited SuDS, but discharge to an existing watercourse is to be restricted to greenfield run-off rate for events up to a 1 in 100 year plus climate change (20% allowance) design standard.

The potential for groundwater flooding should be considered by the LLFA. 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.

We can confirm that the proposed site (as shown on the site plan submitted) is not 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:

<http://www.environment-agency.gov.uk/business/444251/444731/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.

Confirmation was received in a letter from the Environment Agency dated 27<sup>th</sup> August 2015 that the Agency has issued an Environmental Permit that will allow this site to operate.

4.5 **SC Highways Manager** has responded to the application with no objections, recommending conditions. The response states:

The highway authority raise no objection to the granting of consent in respect of application 15/01557/EIA subject to the following condition(s) being imposed:-

- Prior to the development hereby permitted being brought into use the access and road improvements layout details as shown on Drawings No.LH-RI-301 & LH-SA-302 shall be fully implemented in accordance with engineering/specification details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

- Prior to the development hereby permitted being brought into use the internal hardstanding vehicle parking and manoeuvring layout details as shown on Drawings No.SA16158/02 shall be fully implemented in accordance with engineering/specification details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

In response to a request for further information the Highways Manager has responded indicating that In response to the local issues relating to the impact of the development on a potential bypass scheme coming forward, the comments from Highways England clearly provide a definitive position on this matter

(Highways England have confirmed that there are no plans for a bypass of Llanymynech.)

Insofar as the highways under Shropshire Council's control, as the local highway authority, we are satisfied that the proposed development and resultant traffic movements can be accommodated on the local highway network. Whilst noting the concerns raised relating to additional poultry traffic movements on the adjacent Class II road B4398, there are no substantive highway grounds that would warrant a highway objection. Moreover, as part of the development proposal improvements are being carried out B4398/Unclassified Road junction in terms of easing the junction radii on the western side, improving junction visibility in both direction along the B4398 and provision of a passing place along the unclassified road.

The highway authority therefore reaffirms its position as outlined previously, subject to the highway conditions requested being imposed upon any consent granted.

- 4.6 **SC Land Drainage Manager** has responded to the application indicating: The drainage proposals in the Drainage and Flood Risk Assessment are acceptable.
- 4.7 **SC Public Protection** raises no objections. The response states: 'Having considered the noise and odour reports it can be concluded that it is possible for the development to occur without considerable noise and odour issues being introduced. As the installation will require an environmental permit issued and regulated by the environment agency, the permit will be the method used to control these issues. I would recommend that the Environment Agency scrutinise the noise assessment and ensure that any improvements in noise are achieved where possible in order to reduce the likelihood of an impact when the installation is commissioned.
- 4.8 **SC Historic Conservation Manager** has responded to the application with no objections. The response indicates that the Heritage Statement submitted in support of the application is sufficient to fulfil the requirements of para 128 of the NPPF in that it describes the significance of any heritage asset affected, including their setting, to a level which has allowed an understanding of potential impact on their significance. It is considered that the impact assessment contained with 7.1 and 7.2 are fair and are not contested and the conclusions that no harm to the character, setting or significance of any designated or non-designated assets will result from the development is agreed, however, it is considered that there is likely to be less than substantial harm to the setting of the non-designated heritage asset (railway bridge and embankment) but it is considered that this is minor.
- It is considered, therefore, that no objection is made to the application in Historic Environment terms.
- 4.9 **SC Planning Ecologist** raises no objections recommending conditions with regards to bat box installation on site, external lighting, landscaping detail and works carried out in accordance with detail as set out in the ecological

assessment report submitted in support of the application are attached to any approval notice issued. The response also indicates that a Habitat Regulation Assessment matrix is attached with the 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. (A copy of this is annexed to the report).

- 4.10 **SC Archaeology Manager** raises no objections recommending a condition. In his initial response the Manager indicated that an archaeological field evaluation should be commissioned by the applicant and the results submitted to the Local Planning Authority prior to the determination of this application. This should initially comprise a geophysical survey. Subject to the results, it may also be necessary to undertake a programme of targeted trial trenching. 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, 135 and 139 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 field evaluation has been submitted to the Local Planning Authority.

A further response from the Archaeology Manager in response to further information received indicated that on the basis of the plot of the geophysical survey results and the associated comments from the surveyors, that there is no requirement for any further pre-determination evaluation work on the site. Instead, and in relation to Paragraph 141 of the NPPF, the Archaeology Manager is satisfied that further archaeological mitigation can be secured via a pre-commencement condition for a phased programme of archaeological work. This should comprise an initial evaluation, consisting of targeted trial trenching of the anomaly on the western edge of the site and the palaeochannel, together with two trenches as controls in the quieter areas (e.g. four c.1.8m x 30m trenches), followed by further mitigation as appropriate.

The Archaeology Manager recommends the attachment of the following condition to any approval notice subsequently issued: -

*No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.*

*Reason: The site is known to hold archaeological interest.*

#### 4.11 **Public Comments**

At the time of writing this report 28 letters of objections have been received from members of the public in relationship to this application.

Key issues raised can be summarised as follows:

- Detrimental impact on surrounding residential amenity.
- Proposal will produce an unacceptable odour.
- Proposal will create increased issues with vermin.
- Detrimental impact on public highways.

- The application site is located within 250 metres of a residential area consisting of in excess of 160 dwellings.
- Noise impact
- Increase risk of flooding.
- Proposal will create an unacceptable impact on surrounding public highways, which are not considered to be of a suitable standard to accommodate traffic as a result of the proposed development.
- There will be noise as a result of construction on site.
- Development will affect the value of dwellings within the surrounding area
- Proposal will have an unacceptable impact on public health

## 5.0 THE MAIN ISSUES

- Environmental Impact assessment
- Policy and principle of development
- Siting, scale, design and visual impact and landscaping
- Residential amenity and public protection
- Ecological issues
- Drainage
- Public highway access
- Historic environment considerations.

## 6.0 OFFICER APPRAISAL

### 6.1 Environmental Impact Assessment

6.1.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. As such the current proposal is EIA development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.1.2 The Environmental Statement in support of the application makes reference to a sequential site selection and Officers consider detail as set out on site selection is considered satisfactory with consideration to the farming business concerned and the location and impacts etc.

### 6.2 Planning policy and principle of development

6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the

planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 120).

- 6.2.2 Core Strategy Policy CS5 states that 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 specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.
- 6.2.3 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of a poultry unit development in this location can be supported. Objections to the proposal have been made on the grounds of residential amenity and welfare of birds, however it is noted whilst residential amenity is a planning matter, these matters are also governed under separate legislation. Policies recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.
- 6.3 **Siting, scale and design of structures and visual landscape impact.**
- 6.3.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It is noted that the site is not located within an area designated for landscape value.
- 6.3.2 The application site is located in a 'bowl' within the wider landscape and forms part of a field that slopes upwards slightly from west to east, and there is significant native vegetation in the form of trees and hedgerows which would contribute towards mitigating any development on site into the wider landscape. The landscape is characterised by fields with hedgerow boundary trees, in-field trees and ponds. The area of the application site is generally undeveloped, and is located on opposite side of the adjoining public highway to a farmstead in the applicants' control, which will be used in association to the proposed development. To the north of the application site is the base of a disused railway line, (now in use as a footpath), to which it is considered that development as proposed will

have no significant detrimental impact upon its route, as located between the former railway line and the site for the proposed development is significant vegetation which will help mitigate the development into the surrounding landscape.

- 6.3.3 The development would be located within a primary area of the land owned by the applicant, adjacent to the main farmstead which extends to 111 hectares, (274 acres). The site is accessible from the adjoining public highway which separates the site from the farmstead itself. To the south of the site is an equestrian business to which it is understood is in the control of the farming family concerned. From a sequential site test point of view the location is considered acceptable.
- 6.3.4 A Landscape and Visual Impact Assessment (LVIA) has been undertaken in support of the application. This concludes that the landscape and viewpoint assessment has only identified limited views of the site from certain locations. The views are restricted by the topography of the area and the site itself, and existing landscape features. Views from public roads are limited by roadside hedges and structures and there are limited views from surrounding public footpaths. Any views there are can be mitigated by appropriate landscaping particularly the change in levels. The setting of the local heritage assets will not be significantly affected by the development as there are very limited views from these towards the application site. With consideration to the scale and cumulative impacts of the proposed development in relationship to the location and surrounding land topography Officers concur with this assessment. However it must be noted that owing to the location of the site within a bowl within the wider landscape, further significant development of the scale as proposed on or alongside the site would raise concerns with regards to cumulative impacts in relationship to 'industrialisation' of the rural landscape. The scale as proposed considered acceptable, which will in the wider landscape on balance blend in with the existing farming operations based around the farmstead at Lower House Farm. It is also considered that the proposal will also contribute towards an appropriate form of diversification for the family farming enterprise concerned.
- 6.3.5 Whilst it is acknowledged that the proposed poultry sheds will appear large structures in terms of their footprint, there is also a requirement for consideration to the proposed biomass building, overall and on balance with consideration to the location, surrounding natural vegetation and further landscaping in order to mitigate the development into the existing landscape and whilst it is acknowledged that the applicants have indicated in the Design and Access Statement submitted in support of the application that the proposed poultry sheds and biomass building will be constructed externally of profile sheet cladding finished in a BS12B29 Juniper Green colour to facilitate integration within the landscape, it is recommended that if members are mindful to approve the application, that all development on site, (including the 3 proposed feed silo's and feed operations room), are all externally to colour code BS12B29, (juniper green).
- 6.3.6 With consideration to the above-mentioned, on balance, development is considered acceptable in relationship to siting, scale and landscape and visual impact and as such in accordance with the overall aims and objectives of the NPPF, Policies CS5, CS6 and CS17 of the Shropshire Core Strategy and the emerging SAMDev which can now be attributed significant weight in relationship

to this proposal.

#### 6.4 **Residential amenity and public protection**

- 6.4.1 The proposed development is located some 190m metres from the nearest residential dwelling outside the control of the applicants. The National Planning Policy Framework in paragraph 122 states that 'local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.
- 6.4.2 The applicants will need to obtain from the Environment Agency an Environmental Permit in order to operate the site, this will control issues in relationship to residential amenity. The Environment Agency's response to the application raises no objections indicating that they have received an environmental permit application from the applicants and that this will cover issues such as on site noise, emissions and waste generated on site and their management, the permit will also covers issues of concern in relationship to surrounding residential amenity. An odour management plan will also form part of the Environmental Permit. The response also refers to planning advice as set out in the NPPF.
- 6.4.3 Management operations are as outlined in the EA response as indicated in paragraph 4.4 of this report. Also as indicated in paragraph 4.4 of this report confirmation has been received from the Environment Agency in a letter dated 27th August 2015 that the Agency has issued an Environmental Permit that will allow this site to operate as proposed and as such it is considered that development on site is acceptable in relationship to residential amenity issues . As noted earlier in this report Natural England do not raise any objections.
- 6.4.4 Whilst the concerns of the Local Parish Council and members of the public in relationship to the development are acknowledged, it is considered that Information submitted in support of the application, as part of the Environmental Statement, is acceptable in relationship to residential amenity and public protection, as it is noted that none of the statutory consultees raise any objections on this matter and it is also noted that SC Public Protection have responded to the application referring to the requirement for the EA to scrutinise the proposal in relationship to amenity issues and that the environmental permit issued and regulated by the Environment Agency will control these elements. With consideration to the fact that the EA have issued a site permit, on site observations and consultee responses, the development in relationship to residential amenity issues in relationship to relevant policies is considered satisfactory.
- 6.4.5 The permit issued and monitored by the Environment Agency only covers on site activities and therefore feed deliveries to the site and manure movements off the farming unit concerned will not be covered by the permit, (other than on-site activities), and as such with proximity to the location of dwellings outside of the applicants control it is recommended that conditions are attached to any approval notice issued restricting times for feed deliveries and that any manure removed off site is done so in sealed and covered containers/trailers.

6.4.6 **Manure disposal and storage.** Detail in support of the application indicates that the applicants intend storing some of the manure generated on site, on the farm holding for spreading on land forming part of the farm and that the remainder of the manure will be exported off the farm in sealed and covered trailers. The response from the Environment Agency as outlined in paragraph 4.4 above discusses this aspect of the proposal indicating that under the environmental permitting regime 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). Therefore it is considered that the Environmental Permit will address matters of concern in relationship to manure storage and disposal on site. Clearly when manure leaves the permitted holding it then becomes outside of the permit regime for the specific holding and as such it is recommended that a condition is attached to any approval notice if members are mindful to approve the application, in order to ensure all manure moved off the intensive poultry site is done so in sealed and covered trailers as proposed. It must also be noted that the Council's Public Protection section has statutory powers to deal with any proven amenity issues as a result of the development.

6.4.7 On balance the proposal is considered acceptable in relationship to surrounding residential amenity issues, the applicants having obtained an environmental permit for the operations as proposed from the EA. As such the proposal on balance is considered to be in accordance with relevant policies of the Shropshire Core Strategy, the Council's emerging SAMDev and the National Planning Policy Framework on issues in relationship to residential amenity and public protection.

## 6.5 **Ecological issues.**

6.5.1 The application is accompanied by an ecological assessment and the conclusions to the reports are considered satisfactory. A Habitat Regulations Assessment has been carried out and this is attached to the report as appendix 1 for reference purposes.

6.5.2 Natural England and SC Ecology raise no objections and recommend the attachment of conditions to any approval notice issued with regards to wildlife protection, external lighting in relationship to bats, nesting provision, and on site landscaping. Also recommended are the attachment of informatives in order to remind the applicants/developer with regards to the provisions of the Wildlife and Countryside Act 1981, trench excavation, storage of construction materials and badger protection

6.5.3 On ecological issues the proposal is considered acceptable and in accordance with Policy CS17: Environmental Networks of the Shropshire Core Strategy and other relevant local plan policies as well as the National Planning Policy Framework and the emerging SAMDev.

## 6.6 **Drainage**



- 6.6.1 Policy CS18 of the Shropshire Core Strategy seeks to reduce flood risk and avoid adverse impacts on water quality and quantity.
- 6.6.2 The Environment Agency whilst raising no objections to the proposed development acknowledges that the site is mostly within flood zone one, (least risk), and that a small section including access is within flood zone two. The response refers to the flood risk assessment submitted in support of the application and defers to the Council's Land Drainage Manager for further consideration on flood and drainage issues.
- 6.6.3 The Council's Land Drainage Manager has responded to the application raising no objections indicating that the drainage proposals in the Drainage and Flood Risk Assessment submitted in support of the application are considered acceptable. The response recommending the attachment of an informative to any approval notice issued with regards to the surface water outfall structure may require Ordinary Watercourse Consent from Shropshire Council if the headwall is within the channel of the watercourse or the works to construct the headwall is within the channel of the watercourse.
- 6.6.4 On flooding and drainage issues the proposal is considered acceptable and in accordance with Policy CS18 of the Shropshire Core Strategy, the emerging SAMDev and the NPPF.
- 6.7 **Public Highway access**
- 6.7.1 Access to the site will be directly off 'Plas Cerrig Lane, which is a minor single track public highway which runs alongside the western side of the application site. The site is located some 240 metres from the junction of this highway with the B4398 which runs in a direction from Knockin towards Llanymynech in a westerly direction. The Local Parish Council and members of the public raise concerns in relationship to transportation issues. In response to the Parish Council's concerns about the route of a bypass, Highways England have confirmed that there are no plans for a bypass of Llanymynech.
- 6.7.2 The applicants have submitted a highways statement in support of the application and this indicates that the applicants propose to upgrade an existing field access into the site which will be the entrance into the site from the adjoining public highway, as well as improvements to the junction and visibility of Plas Cerrig Lane at its junction with the B4398. These improvements include improved visibility splays to the required standards, which will mean some loss of roadside hedgerow and replanting within the visibility splay line, and a passing place facility between the site and the B4398. A road improvements plan also accompanies the application.
- 6.7.3 Traffic generation as a result of the proposed development is considered acceptable in accordance with the information submitted in support of the application which indicates that all traffic to the site will be from the B4398 direction and with consideration to the surrounding topography and road structure this is considered reasonable.
- 6.7.4 The Council's Highways Manager raises no objections to the proposed development recommending conditions with regards to carrying out road

improvements in accordance with the information as submitted in support of the application and internal parking and layout within the site.

6.7.5 It is concluded that the vehicle movements generated by the development can be accommodated on the existing highway network and that there will be limited impact of no significance in relationship to the existing public highways. The existing access subject to localised improvement will allow for all vehicles to safely turn on and off the highway network and will therefore reduce any impact on the flow of traffic on the highway and will also increase the safety conditions for all road users. As such the conclusions of the Highways Statement submitted in support of the application are shared by Officers who on balance consider the proposed development to be in accordance with Policies CS5 and CS6 of the Shropshire Core Strategy, the emerging SAMDev and the NPPF in relationship to highway and transportation matters.

**6.8 Historic environment considerations.**

6.8.1 Shropshire Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation Area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.8.2 A Heritage Impact Assessment has been submitted as part of the planning application. This concludes that the proposed development of the poultry units will have no impact on, or cause any harm to the character, setting or significance of any designated or non-designated heritage assets. The Council's Conservation Officer concurs with the conclusions of the Heritage Impact Assessment indicating that there will be no significant detrimental impact on heritage assets and it is likely that there will be less than substantial harm to the setting of the non-designated heritage assets (railway bridge and embankment).. As such it is considered that the proposal is acceptable in relation to Core Strategy Policy CS17 and the aims and objectives of the NPPF in relationship to the historic environment.

6.8.3 The County Archaeology Manager in his initial response requested further information in relationship to an archaeological field evaluation. The response indicating that this should include a geophysical survey of the site. The applicants submitted to the Council further information in relationship to a geophysical survey to which the County Archaeology Manager indicated that there is no requirement for any further pre-determination evaluation work on the site. Instead, and in relation to Paragraph 141 of the NPPF, the Archaeology Manager indicates that further archaeological mitigation can be secured via a pre-commencement condition for a phased programme of archaeological work. This should comprise an initial evaluation, consisting of targeted trial trenching of the anomaly on the western edge of the site and the palaeochannel, together with two trenches as controls in the quieter areas (e.g. four c.1.8m x 30m trenches), followed by further

mitigation as appropriate. As such if members are mindful to support the application, it is recommended that a condition in relationship to a phased programme of archaeological work is attached to any approval notice issued, as outlined in the list of recommended conditions as attached to this report.

## 6.9 Biomass Boiler

- 6.9.1 The application proposes construction of a biomass boiler building with a floor area of 22.46 metres x 17.69 metres in a scale and design considered acceptable in relationship to the rest of the proposed development on site. This building to be situated in the south east of the site will house the biomass boilers and associated equipment which will be used to heat the poultry houses. This building will accommodate a boiler room and fuel storage building. In accordance with information submitted in support of the application the boilers will run on virgin wood fuel such as wood chips. The boiler will meet the technical criteria to be eligible for Renewable Heat Incentive.
- 6.9.2 The biomass boiler and associated construction is considered acceptable and will produce an effective source of heat for the development concerned. Noise, waste and vehicle movements in relationship to the biomass boiler unit have also been taken into consideration. With consideration to the location and visual impact it is recommended that a condition is attached to any approval notice issued, in order to ensure timber in its raw form is not stored outside of the biomass building.

## 7.0 CONCLUSION

- 7.1 The proposal is for two intensive broiler units, a biomass boiler building and supporting infrastructure which will house up to 100,000 birds on site, as part of an appropriate farm diversification venture for the existing family farming business.
- 7.2 It is acknowledged that the development as proposed is significant in scale and will have an impact on the landscape, however it is considered on balance with consideration to the location, size and scale and cumulative impacts, that this will not be of an adverse effect and with consideration to the economic benefits to the business concerned and production of local food with further landscape mitigation in the form of native plantings and consideration to the external colour of all the development on site to be acceptable in principle.
- 7.3 The development raises no adverse concerns from any of the statutory consultees to the application, whilst it is acknowledged that the local Parish Council, and members of the public raise concerns as outlined in this report, it is considered that matters as raised are addressed satisfactorily with consideration to the detail submitted in support of the application and responses received from the statutory consultees. The applicants have obtained from the Environment Agency an environmental permit in order for the site to operate and it is considered that this will also address many of the concerns as raised by members of the public and the Local Parish Council, key issues of which are discussed in this report.
- 7.4 The findings and conclusions as indicated in the Environmental Statement submitted in support of the application are considered acceptable.
- 7.5 As such the proposed development is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the emerging

SAMDev, the National Planning Policy Framework and other relevant planning guidance. The recommendation is therefore one of approval subject to conditions as attached to this report.

## 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.

## 10.0 Relevant Planning Policies

### 10.1 Shropshire Core Strategy

- Strategic Objective 9 seeks to promote a low carbon Shropshire by measures that include the generation of energy from renewable sources
- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)
- Policy CS19 (Waste Management Infrastructure)

### 10.2 Central Government Planning Policy and Guidance:

National Planning Policy Framework (NPPF): The NPPF: supports a prosperous rural economy, and states that plans should promote the development of agricultural businesses (Chapter 3); promotes good design as a key aspect of sustainable development (Chapter 7); supports the move to a low carbon future as part of the meeting of the challenges of climate change and flooding (Chapter 10); states that the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11). The NPPF states that local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and should approve applications for renewable or low carbon energy if its impacts are (or can be made) acceptable (para. 98).

### 10.3 Emerging policy:

Site Allocations and Development Management (SAMDev) document: Relevant draft Development Management policies include:

- MD2 (Sustainable Design)
- MD7b (General Management of Development in the Countryside)
- MD12 (Natural Environment)
- MD14 (Waste Management Facilities)

**RELEVANT PLANNING HISTORY:**

OS/01/11617/FUL Proposed portal framed building for storage and covered area for horses and livestock INSFEE 22nd August 2001

OS/03/12558/FUL Conversion of barns into a guest house WDN 19th October 2010

OS/96/09604/FUL Conversion of redundant farm buildings into stables, construction of menage for horse exercise and training, and provision of floodlights GRANT 20th March 1997

OS/07/15310/FUL Extension of indoor training centre for equine use GRANT 9th January 2008

10/04918/FUL Erection of a two storey rear extension GRANT 21st January 2011

PREAPP/14/00405 Proposed erection of poultry sheds and associated works PREAIP 12th November 2014

15/01557/EIA Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping. PDE

**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 Arthur Walpole
Appendices APPENDIX 1 – Habitat Regulations Assessment Appendix 2 - Conditions

**APPENDIX 1****HRA****Habitat Regulation Assessment (HRA) Screening Matrix**

Application name and reference number:

15/01557/EIA  
 Lower House Farm  
 Plas Cerrig Lane  
 Llanymynech  
 Shropshire  
 SY22 6LG  
 Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping.

Date of completion for the HRA screening matrix:

2<sup>nd</sup> 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	15/01557/EIA Lower House Farm Plas Cerrig Lane Llanymynech Shropshire SY22 6LG Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping.
Name and description of Natura 2000 site	<b>European Designated Sites within 10km:</b> SAC: <i>Tanat and Vyrnwy Bat</i> <i>Montgomery Canal</i> Ramsar: <i>Midland Meres &amp; Mosses Phase 2</i>
Description of the plan or project	Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping.
Is the project or plan directly connected with or necessary to the management of the site (provide	No

details)?	
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	Not Applicable – Where no likely significant effect of the proposals is noted on a European Designated Site (see modelling from the Environment Agency) then consideration of the in-combination effects test is not recommended by Natural England or Environment Agency. Shropshire Council is taking advice from EA and NE throughout the Habitat Regulation Assessment Process.

### Statement

SC Ecology has contacted the Environment Agency in order to receive a copy of their Ammonia Screening Assessment. Kevin Heede has provided this on the 18<sup>th</sup> May 2015.

The relevant thresholds have been agreed between Natural England and Environment Agency for use with the Environment Agency detailed emissions model:

- Emissions of ammonia under 4% of the critical level for a European Designated Site (within 10km)

If any emission on a European Designated Site is over these thresholds then a full appropriate assessment would be required. Any emission under these thresholds is not considered 'significant' by Environment Agency and Natural England and is considered to have no in-combination effects.

All European designated sites have screened out below the critical level of ammonia. The EA has stated that detailed modelling is not required to support this application.

Based on the above, SC Ecology is satisfied that the proposed application is unlikely to have a significant effect on the internationally important interest features of the sites, alone or in combination with other plans or projects.

### The Significance test

Based on the Ammonia Screening output which has been provided by the Environment Agency, and using the modelling and thresholds agreed by Environment Agency and Natural England, there is no likely significant effect of the proposed activity under planning application 15/01557/EIA at Lower House Farm, Plas Cerrig Lane, Llanymynech, Shropshire SY22 6LG for the Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping on any European Designated Site.

### The Integrity test

There is no likely effect on the integrity of any European Designated Site from planning application 15/01557/EIA at Lower House Farm, Plas Cerrig Lane, Llanymynech, Shropshire SY22 6LG for the Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping.

### Conclusions

The Habitat Regulation Assessment screening process has concluded, supported by the evidence from Environment Agency, that there is no likely significant effect and no likely effect on integrity of the European Designated from planning application reference 15/01557/EIA at Lower House Farm, Plas Cerrig Lane, Llanymynech, Shropshire SY22 6LG for the Construction of two poultry sheds and feed bins, ancillary works, access improvements, erection of biomass building and associated landscaping on any European Designated Site.



## 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.

**APPENDIX 2****Conditions****STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

4. Prior to commencement of works on site a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The works shall be carried out as approved. The submitted scheme shall include:

- a) Planting plans, including wildlife habitat and features
- b) 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).
- c) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works and this will include vegetation surrounding the application site as referred to in condition number 11 below.
- d) 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**

5. Prior to the development hereby permitted being brought into use the access and road improvements layout details as shown on Drawings No.LH-RI-301 & LH-SA-302 shall be fully implemented in accordance with engineering/specification details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

6. Prior to the development hereby permitted being brought into use the internal hardstanding vehicle parking and manoeuvring layout details as shown on Drawings No.SA16158/02 shall be fully implemented in accordance with engineering/specification details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7. A total 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

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. Manure will be removed off the application site, (as outlined on the site plan submitted in support of the application), in sealed and covered trailers.

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

10. No feeding stuffs will be delivered to the site outside the hours of 8am - 6pm Monday - Saturday or at any times during a bank holiday.

Reason: In the interests of surrounding residential amenity.

11. No timber to be used in relationship to the biomass boiler on site will be stored outside of the biomass boiler building.

Reason: In consideration of the visual and amenity impact.

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

12. Work shall be carried out strictly in accordance with the Ecological Assessment Report conducted by Turnstone Ecology (March 2015) submitted in support of the application.

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

13. All building development on site, (including all the feed silo's and the feed operations room), are to be all externally to colour code BS12B29, (juniper green).

Reason: In consideration of the visual impact and to mitigate the development into the surrounding landscape.

14. None of the existing trees and native hedgerows on the application site, (other than that as indicated on the plans submitted in support of the application), and surrounding the site in the applicants control will be removed or chopped other than for routine maintenance, detail of which will be submitted to the Local Planning Authority as part of the pre-commencement to condition number 9 as attached to this approval notice.

Reason: With consideration to the surrounding landscape and visual impact.

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<u>Committee and Date</u>
North Planning Committee
27 October 2015

<u>Item</u>
<b>10</b>
Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### SCHEDULE OF APPEALS AS AT 27<sup>TH</sup> OCTOBER 2015

#### Appeals Lodged

<b>LPA reference</b>	14/00536/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	R F Trustee Co Ltd
<b>Proposal</b>	Outline application for the erection of twelve dwellings (to include access)
<b>Location</b>	Land North of Whitridge Way, Trefonen, Oswestry, SY10 9FD
<b>Date of appeal</b>	01.10.2015
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

#### Appeals Decided

<b>LPA reference</b>	14/03268/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Moorland Property Lt d- C/O Les Stephan
<b>Proposal</b>	Outline application (all matters reserved) for the erection of five pairs of semi-detached dwellings
<b>Location</b>	Land Adjacent Ash Grove Wem Shropshire
<b>Date of appeal</b>	02.07.15
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	23.09.15
<b>Costs awarded</b>	
<b>Appeal decision</b>	ALLOWED – Corrected decision 27.10.15





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## Appeal Decision

Site visit made on 2 September 2015

**by Mark Dakeyne BA (Hons) MRTPI**

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

**Decision date: 08 October 2015**

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**Appeal Ref: APP/L3245/W/15/3029727**

**Land adjacent to Ash Grove, Wem, Shropshire SY4 5RW**

- 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 Moorland Property Ltd against the decision of Shropshire Council.
  - The application Ref 14/03268/OUT, dated 21 July 2014, was refused by notice dated 30 January 2015.
  - The development proposed is the erection of five pairs of semi-detached dwellings.
- 

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 23 September 2015.

### Decision

1. The appeal is allowed and planning permission is granted for the erection of five pairs of semi-detached dwellings at land adjacent to Ash Grove, Wem, Shropshire SY4 5RW in accordance with the terms of the application, Ref 14/03268/OUT, dated 21 July 2014, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis.
3. The appellants put forward a revision to the proposal before it was determined by the Council, indicating that the scheme could be considered under the Government's starter home initiative set out in the Written Ministerial Statement dated 15 December 2014. The Council determined the appeal on the basis of the original submission – open market housing with an element of affordable provision.
4. The appellants have reiterated at appeal stage that the proposal should be considered on the basis of the starter homes proposal, their preferred position, but have also indicated that the open market housing proposal with an element of affordable provision could also be considered as an alternative. Whilst the substance of the proposal – an outline application for 10 dwellings – would not change with either of the schemes, the Government's Planning Practice Guidance indicates that the starter homes exception sites policy applies to under-used or unviable industrial and commercial land. The site does not fall into this category of site so the proposal would not fit with the Government's policy as it currently stands. As such my consideration of the appeal is limited to the proposal for open market housing as originally submitted to the Council.

5. The appellants have submitted two Unilateral Undertakings under Section 106 of the Town and Country Planning Act 1990 (S106) both dated 1 September 2015. The obligations deal with the alternative submissions of starter homes and open market housing with some affordable provision. I will refer to the obligation dealing with open market housing later in this decision.

### **Main Issues**

6. The main issues are:
- (i) whether the proposal would result in a sustainable pattern of development; and,
  - (ii) the effect on the character and appearance of the area.

### **Reasons**

#### *Sustainable Pattern of Development*

7. The appeal site lies about 1km to the east of the centre of the market town of Wem. The site is outside the settlement boundary of the town as defined by the North Shropshire Local Plan (LP). The emerging SAMDev Plan<sup>1</sup> which is currently subject to examination also shows the site as beyond the town development boundary albeit close to its eastern limits. As such the proposal would be contrary to Policies CS3 and CS5 of the Council's Core Strategy<sup>2</sup> (CS). The former refers to housing development taking place within the town's development boundaries or on allocated sites whereas the latter strictly controls new development in the countryside. New housing is limited by Policy CS5 to that which is needed to house essential rural workers, affordable housing to meet local needs or through conversion of existing buildings. The proposal is for new build open market housing and, therefore, would not be the type of scheme that would normally be permitted under the policy.
8. However, the development plan anticipates that additional housing will take place in Wem. Policies CS1, CS3 and CS4 of the CS indicate that as a market town Wem will provide balanced housing and employment development to strengthen its economic role, support its community assets and maintain its role as a sustainable place. The CS suggests indicative levels of housing development for Wem during the period of 2006 and 2026 of between 500 and 1000 dwellings. Wem is clearly considered to be a sustainable location for development. In this context the impact on infrastructure such as schools and health services from a modest development is not a reason to withhold permission.
9. The SAMDev, through Policy S17, suggests a housing growth for Wem of around 500 dwellings. It is indicated that some 370 homes have been built or have been committed since 2006. It is stated that the remainder of the requirement would be met by two housing allocations which would provide about 110 dwellings and windfall sites within the development boundary. That said Policy S17 needs to be read alongside Policy MD3 of the SAMDev (Managing Housing Development). Policy MD3 is proposed to be modified<sup>3</sup> such that sustainable housing development other than allocated housing sites will be granted planning permission having regard to other policies of the development plan. The explanation is also proposed to be changed to recognise that windfall development on both brownfield and sustainable greenfield sites is important<sup>4</sup> in order to meet the CS requirement.

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<sup>1</sup> Site Allocations and Management of Development Plan

<sup>2</sup> Shropshire Local Development Framework: Adopted Core Strategy March 2011

<sup>3</sup> Main Modification MM14

<sup>4</sup> Main Modification MM15



10. Although the SAMDev is close to adoption, the Inspector's report into the examination of the SAMDev has yet to be published. The final form of policies such as MD3 is not certain. Therefore, only moderate weight can be attached to them. At the same time it seems to me that sustainable windfall development outside existing and proposed settlement boundaries will inevitably be required to meet the housing requirements of the CS. In these circumstances reduced weight should be attached to the 'saved' LP settlement boundary and by inference Policies CS3 and CS5 and their application to sites on the edge of or close to settlements where development can take place.
11. In terms of the site itself it lies adjacent to a cul-de-sac of 8 semi-detached ex-army houses, Ash Grove, and would be served by the same vehicular access. Immediately to the west of Ash Grove is a recently completed estate of some 23 semi-detached and terraced shared ownership houses. The latter development is across from the proposed SAMDev settlement boundary on the opposite side of Soulton Road, the B5065. Therefore, the site is not isolated from neighbouring development or the town.
12. Moreover, there would be an almost continuous line of development between the appeal site and the centre of Wem. The only gap is that created by the road frontage to the cricket ground. There would also be a footway linking the site with the town centre, albeit that pedestrians would need to cross the main road. It would be reasonably safe to walk to the centre and the distances involved would be manageable on foot or by cycle. Similarly access on foot or cycle to the large employment site to the north would be feasible. The accessibility of the site is directly comparable with the recent nearby development.
13. The site previously formed part of a munitions depot. Concrete bases are clearly visible towards the front and in the middle of the site. There is evidence that building structures were removed around 2012 due to concerns about the presence of asbestos. Although undergrowth has partially hidden some of the bases, it seems to me that the site falls within the definition of previously developed land (PDL) as set out in Annex 2 to the National Planning Policy Framework (the Framework). This was the view of the Inspector who considered an appeal relating to the site in 2008<sup>5</sup>. The Framework encourages the effective use of PDL. The site is not of high environmental value.
14. Bringing all these strands together I conclude that the proposal would result in a sustainable pattern of development. There would be conflict with Policies CS5 and CS3 but the policies should not be given full weight in this appeal for the reasons given. Moreover, I consider that this conflict would be outweighed by the fact that the development would make use of PDL close to the town and would be in a relatively accessible location. The proposal would have a reasonable degree of consistency with emerging Policy MD3 as sustainable windfall development on brownfield land.

#### *Character and Appearance*

15. The site is currently overgrown with brambles and other undergrowth but also contains various trees which have colonised the site, particularly silver birch and willow. However, despite the presence of vegetation, the site is clearly distinguishable from the woodland to the east of the site because of the concrete bases and the more limited tree cover.

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<sup>5</sup> Appeal decision ref: APP/N3210/A/08/2069358 dated 25 June 2008

16. Although there are open fields to the south of the B5065 and agricultural land to the north between the site and the large industrial estate, the site is contained by Ash Grove to the west and the woodland to the east. Development with 10 houses with a semi-detached form would relate well to the existing developments to the west and would be a logical extension of the enclave of development with well-defined boundaries.
17. The presence of the woodland would limit views of the development on the approach along the B5065 from the north-east such that the proposal would only become readily visible when close to its road frontage when it would be seen alongside Ash Grove. The development would be softened by those trees to the front and rear of the site which are to be retained as part of a woodland management plan and through new planting. In relation to the latter I noted at the site visit that a hawthorn hedge had recently been planted to the site frontage.
18. Accordingly the proposal would have an acceptable impact on the character and appearance of the area. There would be compliance with Policies CS3 and CS6 of the CS in this regard as the development would be of appropriate scale taking into account the local context and the town's character.

#### *Other Matters*

19. As I have found that the scheme is acceptable judged against the main issues it is not necessary for me to consider the issue of the 5 year housing land supply. The provision of housing, including the affordable homes contribution, is a positive factor whether or not there is a 5 year supply of housing land. New housing would bring economic and social benefits through providing new homes, increased local spend, construction jobs and Community Infrastructure Levy (CIL) contributions. The benefits of the provision of housing is in the context of the Government's policy to significantly boost the supply of housing; the Council's housing figures showing that the supply is only marginally above the 5 year requirement; and that there is a significant challenge for the Council in delivering the total CS housing requirement by 2026. Meeting the requirement appears to be heavily dependent on windfalls such as the appeal site. In these respects the policy position is significantly different to that faced by the Inspector in 2008.
20. The ecological assessment that accompanied the application and the update of 9 May 2015 indicate that the site has limited biodiversity value. Mitigation proposed within the assessment could be controlled by condition. There would be no material conflict with Policy CS17 of the CS in that the site's ecological assets would be protected.
21. Ash Grove would provide an acceptable vehicular access for 10 further dwellings. Visibility at the junction of Ash Grove with Soughton Road is good. Although I note that Policy S17 of the SAMDev refers to congestion concerns at the railway crossing to the east of the town centre this small scale development could not be resisted on such grounds. It is indicated that drainage would be via a sustainable system so surface water flooding would be unlikely to occur.
22. I noted intermittent noise emanating from the nearby industrial estate at the site visit but the development would be separated by an intervening field. The Council has not raised concerns about the living environment and have recently allowed housing with the same relationship.

23. The increased use of Ash Grove would change the environment for existing residents but the impacts would not be significant. The site is large enough to accommodate 10 houses such that they would not unacceptably impact on the privacy or outlook of neighbouring residents. Construction impacts would be temporary and could be mitigated by condition.

#### *Obligations*

24. So far as the obligation that facilitates the affordable housing provision is concerned, it would be in accordance with Policy CS11 of the CS and the relevant Supplementary Planning Document (SPD)<sup>6</sup>. The affordable housing obligation would meet the policy and legal tests set out in the Framework and the CIL Regulations. I note the Council's comments on the detail of the undertaking but consider that the document as worded would be effective in achieving what is intended.

#### **Conclusions and Conditions**

25. I have found the development acceptable against the main issues. There are economic and social gains arising from the scheme and no significant environmental impacts. Although there are tensions with some policies of the development plan and conflict arises, this would be outweighed by other considerations including the fact that Policies CS3 and CS5 of the CS should not be given full weight.
26. For the above reasons the appeal should be allowed.
27. In granting planning permission I have considered the conditions suggested by the Council and referred to elsewhere in the appeal documentation. A condition requiring the submission of reserved matters is required in view of the outline nature of the application. As all matters are reserved a condition referring to the application plans is not needed. The Council suggests that the reserved matters should be submitted within 12 months of this decision but I see no justification for departing from the normal timescale of 3 years. The details of landscaping required as a reserved matter should be based on the landscape management plan submitted with the application and conditioned as such.
28. Construction method statement and contaminated land conditions are required due to the proximity of existing residential development and the nature of the previous use as recommended by the Council's Public Protection Officer. A condition is also necessary to implement the ecological mitigation recommended in the assessment (paragraph 20 refers). Surface water drainage details need to be controlled by condition as recommended by the Council's Drainage Engineer.

*Mark Dakeyne*

INSPECTOR

#### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and

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<sup>6</sup> Shropshire Local Development Framework – Type and Affordability of Housing SPD adopted 12 September 2012

- 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) The details of landscaping required by condition no 1 shall be based on the Landscape Management Plan dated March 2015 including Drawing No SR4.
  - 5) No development shall take place, including site clearance, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
    - i) the parking of vehicles of site operatives and visitors;
    - ii) loading and unloading of plant and materials;
    - iii) storage of plant and materials used in constructing the development;
    - iv) construction and delivery times;
    - v) the erection and maintenance of security fencing;
    - vi) wheel washing facilities;
    - vii) measures to control the emission of dust and dirt during construction; and,
    - viii) a scheme for recycling/disposing of waste resulting from site clearance and construction works.
  - 6) No development shall commence until:
    - (i) a scheme for the investigation and recording of contamination and remediation objectives has been submitted to and approved in writing by the local planning authority;
    - (ii) detailed proposals for the removal, containment or otherwise rendering harmless any contamination (a Remediation Method Statement) have been submitted to and approved in writing by the local planning authority;
    - (iii) the works specified in the Remediation Method Statement have been completed and a Verification Report submitted to and approved in writing by the local planning authority in accordance with the approved scheme; and,
    - (iv) if during remediation works, any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing by the local planning authority.
  - 7) The development shall be carried out and incorporate the recommendations and mitigation set out within Sections, 8, 9 and 10 of the Ecological Assessment dated 6 October 2014 (Ref: LSP/1240/14.1) unless the local planning authority approve in writing any variation.
  - 8) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.

**END OF SCHEDULE OF CONDITIONS**