



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

Date: Monday, 28 November 2016

Committee:
South Planning Committee

Date: Tuesday, 6 December 2016
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

David Evans (Chairman)
David Turner (Vice Chairman)
Andy Boddington
Gwilym Butler
Nigel Hartin
Richard Huffer
John Hurst-Knight
William Parr
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Lee Chapman
Heather Kidd
Christian Lea
Cecilia Motley
Vivienne Parry
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 257716
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 10)

To confirm the minutes of the South Planning Committee meeting held on 11 October 2016.

Contact Linda Jeavons (01743) 257716.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 pm on Thursday, 1 December 2016.

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 Fox Studio, King Street, Much Wenlock (15/01850/FUL) (Pages 11 - 28)

Proposed extension and conversion of existing studio building to form two residential units and one commercial unit.

6 Manor House Farm, Abdon, Craven Arms, SY7 9HZ (15/05096/FUL) (Pages 29 - 48)

Conversion of 2No farm buildings to 1No dwelling and erection of link extension.

7 Proposed Dwelling Adjacent 22 Park Lane, Shifnal, Shropshire, TF11 9HD (16/03128/FUL) (Pages 49 - 68)

Erection of 1No dwelling and formation of vehicular access (revised resubmission).

8 Parking Bays At Woodberry Close, Bridgnorth, Shropshire (16/03288/FUL) (Pages 69 - 78)

Formation of new parking bays (fronting numbers 6 to 12 Woodberry Close) to include bollard security and landscaping.

9 Proposed Dwelling To The South Of Hopesay Farm Hopesay Shropshire 16/01597/FUL (Pages 79 - 104)

Erection of single dwelling and formation of vehicular access.

10 Wigley Farm, Ludlow, Shropshire, SY8 3DR (16/03014/EIA) (Pages 105 - 124)

Erection of 2 No. additional poultry buildings and associated feed bins and hardstanding.

11 Hurst Barn, Clunton, Craven Arms, Shropshire, SY7 0JA (16/03334/EIA) (Pages 125 -

184)

Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access.

12 Schedule of Appeals and Appeal Decisions (Pages 185 - 280)

13 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 10 January 2017, in the Shrewsbury Room, Shirehall.

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Committee and Date

South Planning Committee

6 December 2016

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 11 October 2016

2.00 - 5.58 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

Present

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Gwilym Butler, Nigel Hartin, Richard Huffer, John Hurst-Knight, William Parr, Madge Shingleton, Robert Tindall and Tina Woodward

40 Apologies for Absence

There were no apologies for absence.

41 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 13 September 2016 be approved as a correct record and signed by the Chairman.

42 Public Question Time

There were no public questions or petitions received.

43 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.

With reference to planning application 14/05151/OUT, Councillors Andy Boddington and Robert Tindall declared that they were members of The Shropshire Hills AONB Partnership.

With reference to planning application 14/05151/OUT, Councillor David Turner declared that he was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Transition Board.

44 **Change in Order of Business**

RESOLVED:

That agenda item 6 (Dun Cow Farm, Rocks Green, Ludlow, Shropshire, SY8 2DS – 14/05573/OUT) be considered as the next item of business.

45 **Dun Cow Farm, Rocks Green, Ludlow, Shropshire, SY8 2DS (14/05573/OUT)**

The Principal Planner introduced the application and with reference to the drawings displayed, she drew Members' attention to the location, layout and elevations. She confirmed that Members had attended a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area. She explained that the Environment Agency had subsequently withdrawn its objection, subject to an additional condition to ensure that the above ground tank compound was appropriately banded. She drew Members' attention to an extant planning permission for a hotel on this site.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Mr R Heighway, representing local residents, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Ms J Rowlett, a local business owner, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor J Smithers, representing Ludlow Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor P Lawley, representing Ludford Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

With the permission of the Chairman and in response to the number of speakers, the applicant was permitted to speak for up to six minutes. Mr S McGrath, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from Members.

(At this juncture, the meeting adjourned at 2.30 pm and reconvened at 2.44 pm.)

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Viv Parry, as local Ward Councillor, made a statement, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- The site was on a main busy A road where traffic did not keep to the 40mph speed limit. There was only one small road through to Dun Cow;

- There were other supermarkets in Ludlow so people of Ludlow did not object to supermarkets per se, but wanted them to be in the right place;
- There was no need for another supermarket selling the same merchandise as the other supermarkets; and
- There was no need for another petrol station and this one would cause congestion with traffic queuing onto the main road.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers and Officers. Members expressed concern with regard to the increased traffic and the detrimental impact this would have on Rocks Green. They noted that a screening opinion had been applied for with regard to LUD017 and they considered that the Transport Assessment submitted with the outline planning application 14/05573/OUT should have taken this into account. Some Members requested that, if approved at this stage, any future application should be considered by this Committee.

In response to comments, the Area Highways Development Control Manager (South) reiterated that a traffic assessment had been undertaken and Highways England had also been consulted and had raised no objections and provided clarification on the reasons for this. She further explained that the current owner of the Dun Cow Road was Shropshire Housing Group but in the event of a Reserved Matters application being submitted consideration would be given to the adoption of the Dun Cow Road. The A49 traffic island was well used and not just at peak times and the incremental impact of the proposed 200 homes (LUD017) on the A49 traffic island would be minimal. The Principal Policy Specialist Officer and the Principal Planner responded to questions and provided clarification on the issues and technical details regarding highways and retail evidence. They acknowledged that this application was for an 'out of town' development and fell outside the SAMDev boundary but explained that there was nothing to restrict this type of development outside the SAMDev boundary.

Prior to being put to the vote, the Solicitor referred Members to paragraph 17.4, Part 5, Shropshire Council's Constitution, which stipulated that, where the Planning Committee is minded to determine an application contrary to the officer recommendation, it may not continue to determine that application at that Planning Committee meeting if the application represents a significant departure from the Development Plan or where the Committee's resolution might not be defensible if challenged and result in compensation or damages being available to, or claimed by, the applicant under a statutory provision.

RESOLVED:

That consideration of this planning application be deferred to a future meeting with Members minded to refuse the application for the following reasons:

- The site is outside the Site Allocations and Management Development (SAMDev) boundary and the proposal will have a significant impact and will not help to maintain and enhance the vitality and viability of Ludlow Town Centre. Accordingly, the proposal will be contrary to SAMDev S10, paragraph 27 of the National Planning Policy Framework and Core Strategy Policy CS15. The development will be contrary to CS6 which requires that proposals likely to

generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced; and any development should contribute to the health and wellbeing of communities, including safeguarding residential and local amenity; and

- Insufficient information has been submitted relating to the traffic consequences of the scheme given other planned development in the area, including the housing site allocation LUD017.

(At this juncture, the meeting adjourned at 4.15 pm and reconvened at 4.24 pm.)

46 The Sidings, Snailbeach, Shrewsbury, SY5 0LT (14/05151/OUT)

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

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

In the ensuing debate, a Member commented that a statement setting out the number of affordable properties in the area and the local need for affordable housing would have been preferable in order to make an informed decision on whether or not to permit this proposal without securing an affordable housing contribution. He requested that such information be made available when any appropriate applications are considered by this Committee in the future.

RESOLVED:

That Outline Planning Permission be granted as per the Officer's recommendation, subject to no development taking place until a Stability Report in respect of the boundary wall and a Construction Method Statement has been submitted and approved in writing by the local planning authority as agreed and set out in the Minutes of the South Planning Committee meeting held on 3 November 2015.

47 Land Adjacent To Telephone Exchange, Lower Galdeford (16/01156/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area. Arising from the site visit, he informed the meeting that, in the interests of visual amenity, the applicant had agreed to cedar clad an existing building within the application site.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Ms J Hulley, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor C Sheward, spoke against the proposal in accordance with the 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 Viv Parry, as local Ward Councillor, made a statement, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- The existing stone boundary walls despite being in a poor condition and in need of re-pointing in places should be retained, reinstated and maintained;
- The site was situated next door to a medical centre which required some degree of quietness. In order to provide a quieter running surface and to protect the amenities of all those living/working close-by gravel should not be used and all surfaces should be tarmaced;
- There should be no early or late deliveries and no deliveries on Sundays and Bank/Public Holidays; and
- The layout of the road into the site was not good and large vehicles would find it difficult to manoeuvre and could cause damage to the two small mini roundabouts.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members generally welcomed an application for this site but as this was a prominent site and a gateway to the town centre expressed the importance of getting it right. Members expressed concerns regarding the detrimental noise impact caused by large vehicles manoeuvring on gravel and suggested the use of other appropriate materials; and also expressed concerns relating to the construction and delivery times and the impact of this on the surrounding area. In order to improve the outlook of the site it was suggested that the height of the railings be lowered.

RESOLVED:

That Planning Permission be granted as per the Officer's recommendation, subject to:

- The conditions as set out in Appendix 1 to the report, subject to:

Condition No. 13a to be amended to read:

"No deliveries in connection with the operations hereby approved shall take place before 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 Saturdays. There shall be no deliveries on Sundays and Bank/Public Holidays;

Condition No. 13c (marked 13b in the report) to be amended to read:

"Hours of working for the construction phase shall be restricted to 08.00 to 18.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays. There shall be no construction work on Sundays, Public or Bank Holidays; and

- An additional Condition to ensure that the existing building be cedar clad; and
- Planning Officers be granted delegated powers to reduce the height of the railings and to ensure the use of appropriate surfaces.

48 Proposed Affordable Dwelling To The North Of Green Lane, Onibury, Shropshire (16/02270/FUL)

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

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

Mr G Banks, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr D Francis, representing the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

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

- He was well acquainted with the area;
- He had helped to fight a successful campaign to retain the local school;
- The site fell within a settlement known as Brandhill Gutter;
- The application was supported by the Parish Council and the two local Shropshire Councillors; and
- Young people who have lived and worked in the area for many years should be given every opportunity and support to remain in the area.

At this juncture, the Chairman left the room and the Vice-Chairman took the chair for this item.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

RESOLVED:

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

- A Section 106 Legal Agreement to ensure the property remains an affordable dwelling in perpetuity; and
- That Planning Officers be granted delegated powers to attach appropriate conditions relating to materials, ground levels, landscaping, floor area, access, drainage (foul and surface water), ecology, and any other conditions deemed

necessary and to include Informatives relating to rights of way and a sustainable drainage scheme (SUDS).

(The Chairman returned to the meeting and resumed the chair.)

49 Land To West Of Callaughton Lane And To The South Of Oakfield Park, Much Wenlock, Shropshire (16/02910/FUL)

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

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Mrs L Durbin, a local resident, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr F Harrow, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor M Whiteman, representing Much Wenlock Town Council, spoke commenting on aspects of the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Turner, as local Ward Councillor, made a statement. He remained in the room but took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Much Wenlock was a popular tourist destination and was a much sought-after residential location. It had two good schools, both primary and secondary and there were good amenities within easy reach;
- The exercise of right to buy had stripped the community of much of its social housing;
- The average age in Much Wenlock was 49 – this compared with some Shrewsbury wards, for instance, where the average age was 37. The proportion of its population working locally is comparatively small. Public transport links were poor except for the Bridgnorth to Shrewsbury service and it was difficult to sustain local employment;
- The Much Wenlock Neighbourhood Plan's gestation period throughout 2012 and the early part of 2013 was characterised by continuous public consultation. Surveys, drop- in consultations throughout the parish, meetings, press articles, a website, social media and posters around the town ensured that there was wide awareness of the plan as it developed. A key aspect that emerged was the need for affordable housing for local people;

- The demand for social housing was borne out by the Housing Needs Survey and is evidenced by the bidding on HomePoint. This site, just off the lane to Callaughton, close to the primary school, the shops and public transport, was as good as any in the somewhat constrained topography of Much Wenlock. The proposal had been subject to well-publicised local consultation and comments that have been made had informed changes in the layout and design;
- As regards this application, it would provide a variety of accommodation. The plots would be large and the houses were imaginatively designed. The surface water management proposals were thorough and resilient;
- He expressed concerns regarding the pedestrian access arrangements along the lane from the Bridgnorth Road but was somewhat reassured given the view of the Highways Officer that this would be acceptable given the low volume of traffic using it. He expressed further concerns relating to the close proximity of the 30mph speed limit on the A458 to this junction and expressed his dismay with regard to the assertion that this development would not justify moving it further out of town or warrant the imposing of a 40mph step-down speed limit a few hundred yards before. He welcomed the Section 106 contribution to additional traffic calming measures along the A458; and
- In conclusion, he believed that the highways concerns would not be sufficient reason to warrant refusal of the application and urged the Committee to approve.

Mr P Neep, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members acknowledged the need for affordable dwellings as evidenced in the Much Wenlock Neighbourhood Plan. In response to questions, the Area Highways Development Control Manager (South) explained that the issue of the 30mph speed limit had been discussed with the Police and appropriate Shropshire Council Highways Officers and all parties had agreed that the present location of the 30mph speed limit was an appropriate location and in line with Department of Transport guidance. The warning signs were prominent with yellow backing boards and placed in a good location that could be seen at a distance by vehicles entering Much Wenlock. If any additional frontage development took place on the A458 heading south towards Bridgnorth then consideration might be given to the location of the 30mph speed limit signage. A vehicle activated sign had been proposed and this would add extra prominence to the speed limit and act as a reminder for drivers after they had entered the speed limit. It was considered best practice to keep any restriction close to the built-up area as an extension of a speed limit where it was not appropriate often led to a lack of respect and compliance.

RESOLVED:

That, as per the amended recommendation as set out in the Schedule of Additional Letters, planning permission be granted, subject to:

- Completion of a Section 106 Agreement in relation to traffic calming measures including the moving of the 30mph speed limit signs on Callaughton Lane; and
- The conditions as set out in Appendix 1.

50 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 11 October 2016 be noted.

51 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 8 November 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date

South Planning Committee

6 December 2016

Development Management Report

Responsible Officer: George Candler, Director of Place & Enterprise

Summary of Application

| | | |
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| <u>Application Number:</u> 15/01850/FUL | <u>Parish:</u> | Much Wenlock |
| <u>Proposal:</u> Proposed extension and conversion of existing studio building to form two residential units and one commercial unit | | |
| <u>Site Address:</u> Fox Studio, King Street, Much Wenlock, Shropshire, TF13 6BL | | |
| <u>Applicant:</u> Mr & Mrs Myers | | |
| <u>Case Officer:</u> Lynn Parker | <u>email:</u> planningdmse@shropshire.gov.uk | |
| <u>Grid Ref:</u> 362175 - 299856 | | |



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Recommendation: Grant Planning Permission subject to the conditions set out in the minutes to the Committee meeting of 11th August 2015, relating to materials, surface water drainage, programme of archaeological work, landscaping, construction method statement, parking and the removal of Permitted Development Rights.

1.0 Background & Principle of Development

- 1.1 The South Planning Committee resolved to approve the above application for the extension and conversion of an existing studio building to form two residential units and one commercial unit at their meeting on 11th August 2015, subject to the prior signing and completion of a Section 106 agreement to secure the affordable housing contribution and to planning conditions. A copy of the report to the August 2015 meeting is at Appendix A. The application is still pending as the Section 106 Legal Agreement for the provision of a financial contribution in relation to affordable housing in line with policy CS11 'Type and Affordability of Housing' of the Shropshire Core Strategy has not yet been completed.
- 1.2 Shropshire Council's Core Strategy was adopted in March 2011 with the founding principle of seeking to create the context for "A Flourishing Shropshire". The Shropshire Council policy requires anyone developing a new open market dwelling (subject to exceptions) to make an Affordable Housing Contribution (AHC), which depending on the development size and the prevailing target rate, could be a financial contribution and/or on site provision. In this case for two residential units, the contribution would be a financial one equating to £17,964.00.

2.0 Written Ministerial Statement

- 2.1 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28th November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas.
- 2.2 Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31st July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.
- 2.3 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on the 11th May 2016. Consequently the WMS still applies and is reflected in amended NPPG of the 19th May 2016.
- 2.4 In addition to this the Housing & Planning Act gained Royal Assent on the 12th May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.
- 2.5 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not automatically require an Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000m² floor area in the majority of cases where the site is not located in a designated rural area.

3.0 Conclusion

- 3.1 This development proposes a provision of two dwellings, a net gain of two small units. The affordable housing need in the Much Wenlock area, based on waiting list

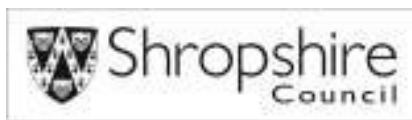
information as of 1st November 2016, indicates that there are 37 households on the waiting list with current Parish addresses and of these 26 households have expressed a first preference to remain living in the Parish. The need is for smaller sized dwellings and the decision at the October meeting to grant consent for 12 affordable dwellings off Callaughton Lane (Planning Ref: 16/02910/FUL) will take some of the identified need. While an unmet need would remain, it is not considered that this is sufficiently severe to outweigh the Government advice particularly as the proposed units are two bedroom and there is a need for such smaller properties in the town. Additionally, internal and external modification work and some extension is required to achieve the proposed one commercial and two residential units, and the total floor area does not exceed 1000m². The applicants have advised that they have now received tenders for the work, which are quoting in the order of £180,000 plus VAT, and consider that the Section 106 affordable housing contribution would make the project to deliver two units of residential accommodation and modernised office unviable. Therefore it is now considered that no affordable housing contribution is required in this case, having regard to the material change in national policy discussed above.

4.0 Recommendation

- 4.1 The application is recommended for approval and will not be subject to a Section 106 agreement in relation to the financial contribution for affordable housing. The Approval Decision can therefore now be released.

APPENDIX A

COPY OF OFFICER REPORT AND RECOMMENDATIONS - CONSIDERED 11th AUGUST 2015 SOUTH PLANNING COMMITTEE

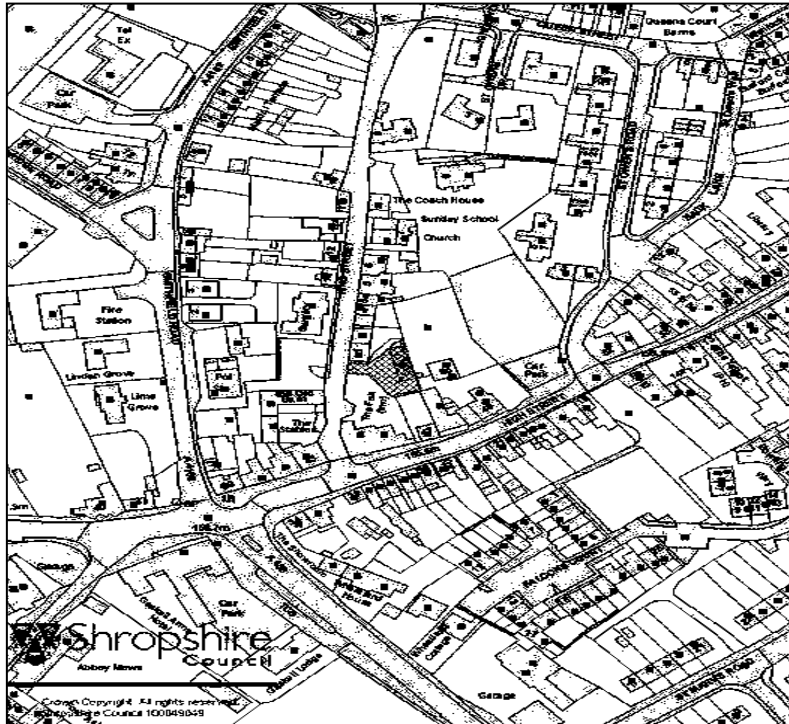


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| <p><u>Committee and date</u></p> <p>South Planning Committee</p> <p>11 August 2015</p> |
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Summary of Application

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| <u>Application Number:</u> 15/01850/FUL | <u>Parish:</u> Much Wenlock |
| <u>Proposal:</u> Proposed extension and conversion of existing studio building to form two residential units and one commercial unit | |
| <u>Site Address:</u> Fox Studio, King Street, Much Wenlock, Shropshire, TF13 6BL | |
| <u>Applicant:</u> Mr & Mrs Myers | |
| <u>Case Officer:</u> Thomas Cannaby | <u>email:</u> planningdmse@shropshire.gov.uk |

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| <u>Grid Ref:</u> 362175 - 299856 |
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Recommendation:- Grant Permission subject to the completion of a Section 106 Agreement in respect of an affordable housing contribution, and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application is for the extension to and conversion of the existing commercial building at Fox Studio, King Street Much Wenlock to form 2 apartments and an office unit. The units are proposed to be allocated as follows:

Fox Studio

- Ground Floor - Apartment 1 – lounge/kitchen, bathroom, 2 bedrooms
- Apartment 2 – Lobby and stairs up to first floor
- Office – lobby extension at front and office area and kitchenette

The Ground floor extension to the office would project out in line with the side elevations of this section of the building, and have a length of 2m past the line of the existing front elevation.

- First Floor - Apartment 4 – lounge/kitchen, bathroom, 2 bedroom
- Office – two separate office rooms, and wet room.

The ground floor extension to the office would continue up to first floor level, expanding the larger office room and have a front window facing out over the parking

area. Externally this would involve the increase in the ridge height of the existing roof of what is currently the garage section, with a front gable projection being added to accommodate the new floor area. The existing ridge would have a small hip added in the upper area near the ridge to slope away from the boundary. Amended plans have been submitted which show hidden guttering to be used so as not to overhang the boundary. Other changes to the building include the insertion of roof lights on the front and rear roof slopes, and the insertion of two new first floor windows in the front elevation, located in the gaps between the existing windows.

- 1.2 Materials are proposed to match those of the existing building and white painted windows. Foul sewage and surface water are indicated to be disposed of via the main sewer. No alterations are proposed to the vehicular access and parking provision for 6 vehicles is indicated. No trees or hedges are affected by the development.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within the development boundary of the Key Centre of Much Wenlock on the south western periphery of the Town Centre and within Much Wenlock Conservation Area. It is accessed via King Street to the west via the High Street (B4378) to the south. The access point to the site is positioned between a single storey element of The Fox public house to the south west and a boundary wall abutting the road of Wenlock Stone approximately 3m high to the west. There are high gate piers either side of the access set back from the road, but no gate, beyond which is a tarmacked courtyard the usage of which is split between The Fox and Fox Studio. Access into/egress from the courtyard is comfortably achievable in a vehicle if taken slowly.

- 2.2 The building itself is of a north/south linear format with a west facing frontage into the courtyard. It is constructed in red brick with red roof tiles, a centrally placed entrance door and white timber openings which are unusually larger at first floor level. The existing first floor openings on the front elevation are currently obscure glazed, there are no windows on the east facing rear elevation. Formerly an outbuilding of The Fox (then the Wheatland Fox) public house, the first floor of the building has been used for office purposes since 1969 with a stable below, and the whole building as offices and a photographic studio since 1987. A single storey extension was added to the south side elevation of the property following permission granted on 1st March 2005 under planning ref: BR/APP/FUL/05/0049, to provide a storage area with 2 garage doors to the west facing elevation into the courtyard. This extension has a dual pitched roof with a side gable facing towards and adjacent to the rear boundary of no. 47 High Street.

- 2.3 There are neighbouring dwellings and commercial properties surrounding Fox Studio except to the south west where the courtyard extends towards The Fox public house, and west where King Street lies beyond the high boundary wall. The closest dwellings are nos. 48 and 50 High Street to the south east, sections of these properties being within metres of the boundary, and nos. 1 and 2 King Street to the north west where there is a distance of approximately 6m between their rear elevations and the corner of the Fox Studio building. There is a pitched roof single storey lean to extension on the rear of no. 1 King Street which forms the boundary with the courtyard at Fox Studio and covers most of the rear elevation allowing only

a doorway out into a yard which extends behind no. 2 King Street. There is a new build dwelling permitted under planning ref: 12/00240/FUL on 2nd January 2013 (amended under planning ref: 13/04730/AMP on 11th December 2013) to the north east with a south facing frontage and which is sited approximately 10 away from the existing north east corner of Fox Studio. There is a doctors' surgery across King Street to the north west which has its own dedicated car park, however vehicles also appear to park along King Street outside the site boundary wall.

2.4 A previous application (14/01397/FUL) for the conversion of the building was refused consent by committee on 29th October 2014, this scheme was for the conversion of the building into four residential units and one commercial units, and included the erection of a two storey extension off the north side elevation of the building, and an increase in height of the south side garage section of the building and the creation of a new pedestrian access through the stone boundary wall. The Committee refused the application on the following grounds:

1. The proposed development, by reason of increased scale through extension and the insertion of the proposed pedestrian access within the existing stone boundary wall would result in overdevelopment of the site and would have an adverse impact on the Conservation Area; neighbour amenity and public safety. The development would therefore be contrary to Shropshire Core Strategy policies CS6 and CS17, Much Wenlock Neighbourhood Plan policies H4 and GQD2 and paragraph 17 of the NPPF.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 This application is referred to committee for determination on the request of the Local Ward Member in accordance with the criteria for application call in set out in the Council's adopted scheme of delegation.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Much Wenlock Town Council – supports application

This application conforms with Neighbourhood Plan policies H2, H4, and H6 in Objective 1 of the Neighbourhood Plan for Much Wenlock.

4.1.2 SC Affordable Housing –

As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually. The current affordable housing contribution rate for this area is 20% and as such a proposal for 2 new open market dwellings would be liable to make a contribution equivalent to 2 x 0.20 of a whole affordable unit (2 x 20%). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing

provision elsewhere in the area.

4.1.3 SC Drainage - no objection, drainage details can be conditioned if permission granted.

4.1.4 SC Conservation – No objection subject to conditions.

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes the extension and conversion of this existing building to form two apartments and one studio/office unit. This proposal follows a previous refusal for the conversion and extension of the building. The site lies within the Much Wenlock Conservation Area.

The proposal has been significantly reduced from the previous scheme removing the two storey side extension and reducing the number of units proposed. The proposed pedestrian gate through the boundary wall has also been omitted. These changes are considered to have alleviated the previous issues from a conservation perspective and overall it is considered that the proposal will preserve the character of the conservation area in line with policies, guidance and legislation as outlined above.

Suggested Conditions: Joinery, External Materials, Roof Materials, Conservation Rooflights, Metal Rainwater Goods, Landscaping.

4.1.5 SC Archaeology – No objection subject to conditions

Background to Recommendation: The proposed development site lies on the edge of the Medieval urban form of Much Wenlock (HER PRN 05029) as defined by the Central Marches Historic Towns Survey and within a group of Tenement plots to north of High St, east of Smithfield Road (HER PRN 05041). More importantly it is also located immediately adjacent to the supposed site of St John's Leper Hospital (PRN 05010). An evaluation carried out on the Leper Hospital site in 2012 determined that significant archaeological features, deposits and structural remains of medieval date are present on the site. These are overlain by archaeological deposits of early post-medieval date which also have the potential to inform us about the development of this part of Much Wenlock during this period. Although the site has been built over during the Post Medieval period, the archaeological potential of the site, particularly at depth, remains moderate to high. Any below ground archaeological remains are likely to be affected by the construction of the proposed extension and any ground disturbance associated with the conversion of the existing studio.

RECOMMENDATION: In view of the above and in line with National Planning Policy Framework (NPPF), we would recommend that a programme of archaeological work be made a condition of any planning permission for the proposed development

comprising an initial evaluation of the site prior to construction commencing with further archaeological mitigation thereafter if deemed necessary. An appropriate condition of any such consent would be: Suggested Conditions:

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

4.2 - Public Comments

4.2.1 10 objectors:

- Inaccurate, vague drawings give no indication of the impact the development will have on surrounding properties.
- Boundaries are false and not accurate. Boundary with 48 High Street not shown correctly, rear garden boundary is in co existence with south elevation of the proposed structure.
- North boundary stone wall, boundary in question.
- Overdevelopment of site
- No pavement along King Street, houses open directly onto street, but still has a 30mph speed limit. This makes street hazardous for pedestrians. Development would increase traffic along King Street.
- Traffic particularly congested at 4-6pm
- Sky lights to east roof ignore concerns over noise and disruption raised during previous application, with regards to neighbour amenity
- 2 flats inappropriate, should be two traditional two up two down cottages more in keeping with conservation area.
- Existing obscure glazed window should be retained.
- Second storey would cause light obstruction
- Loss of two garages for parking.
- No amenity space for new properties.
- Impact of raising height of garage section and extension. Neighbouring property is set at lower level which increases impact.
- Disappointed with Parish Council support for application
- Contrary to policy EJ2 of the Neighbourhood Plan.

5.0 THE MAIN ISSUES

- o Principle of development
- o Design, scale and character
- o Impact on neighbours/residential amenity
- o Impact on the historic environment
- o Access/Parking
- o Drainage
- o Financial contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The proposed site falls within the Key Centre of Much Wenlock in which the principle of erecting open market dwellings is supported by LDF Core Strategy Policy CS3 – The Market Towns and Other Key Centres, as a more sustainable form of

development. Bridgnorth District Local Plan 'Saved' Policy H3 identifies Much Wenlock as a key settlement where residential development will be permitted provided the site is appropriate. The Market Towns and other key centres are identified in LDF Core Strategy Policy CS1 – Strategic Approach as maintaining and enhancing their traditional roles in providing services and employment and accommodating around 40% of Shropshire's residential development over the plan period. Greater self-containment is the key objective of the Market Town revitalisation programme.

- 6.1.2 In accordance with the LDF Core Strategy, the Much Wenlock Neighbourhood Plan is supportive of small scale infill sites and conversions within the Parish in order to provide for a limited amount of housing to meet local needs. As Much Wenlock is a highly desirable town in which to live, it is a challenge to provide housing to meet local needs in a way that respects the quality of the town and its rural setting against generally high house prices. Policy H2 of the Neighbourhood plan states that:

Housing developments within the development boundary of Much Wenlock will be permitted where they include a range of house type, including two and three bedroom dwellings. Housing developments will also be expected to include an element of single level dwellings and to meet the needs of the elderly and people with disabilities.

Policy H4 of the Neighbourhood plans states:

Housing infill development and the conversion of existing buildings to residential use will be supported where they contribute positively to local character and where they help to meet local housing needs. Within the conservation areas of Much Wenlock and Bourton infill development should conserve or enhance the special architectural and historic character of these settlements.

- 6.1.3 LDF Core Strategy Policy CS13 – Economic Development, Enterprise and Employment plans positively to develop and diversify the Shropshire Economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities, placing particular emphasis on amongst other criteria, supporting the revitalisation of Shropshire's Market Towns, developing their role as key service centres, providing employment.

- 6.4.4 Objective 2 of The Much Wenlock Neighbourhood Plan aims to help business create jobs by making sure that existing employment sites are kept for employment use where possible and appropriate. Policy EJ2 of the Neighbourhood plan states that:

Proposals for the use of land or buildings on existing employment sites for uses other than employment purposes will not be permitted unless:

- it can be demonstrated that the on-going use of the premises or land for employment purposes is no longer viable on the basis of the criteria in Appendix 1 of the Plan; or*
- the alternative proposal would provide demonstrable employment benefits to the local community and contribute to its long-term sustainability.*

Whilst this application includes conversion of part of a currently commercial building to residential, it also retains office space over 2 floors with the current business continuing to operate from the site with the business owners to move into the newly created residential units.

- 6.1.5 The National Planning Policy Framework (NPPF) is also committed to securing economic growth and boosting the supply of housing, two elements which are identified as contributing to ensuring the vitality of town centres. It is felt that this proposed development of mixed residential and office use will contribute positively to the vitality of Much Wenlock Town Centre and is considered to be an appropriate site due to the conversion of an existing building, its size and positioning.
- 6.1.4 The proposed conversion of an existing building in the town centre to a mixed residential and office use would in principle comply with policies CS1, CS3 and CS13 of the Shropshire Core Strategy, and also with policies H2 and H4 of the Much Wenlock Neighbourhood Plan, there is some conflict with policy EJ2 of the Neighbourhood Plan however the retention of the office use in part of the building and the continued operation of the business from this site if the development is permitted is considered to comply with the objectives of this policy, even though the overall floor area of the commercial use is decreased. The benefits of providing two small units of 2 bedroom accommodation in the Town centre is considered to outweigh the reduction, but not loss of, the commercial floor area. The principle of the development is therefore considered to be acceptable in accordance with these policies.
- 6.2 Design, scale and character
- 6.2.1 Both the National Planning Policy Framework (NPPF) and LDF Core Strategy Policies CS6 and CS17 direct that a high quality development should be created whilst contributing to local character, and protecting and enhancing the built and historic environment. These considerations should benefit for the lifetime of the development and provide positive improvements in people's quality of life.
- 6.2.2 The proposed conversion into a mixed residential and office use is accomplished with relatively little changes to the building, with the main alteration being the addition of a 2m two storey extension to the front of what is currently the garage section (to become offices) and the increase in height of this section of the building. The form of the main section of the building is unchanged with external alterations to this section consisting of the insertion of additional openings, most notably two new first floor windows in the front elevation and a number of roof lights. It is felt that the core form and character of the building will be retained.
- 6.2.3 The extension off the front of the garage section of the building to facilitate its conversion into office accommodation is considered to have a relatively minor impact on the overall character of the building, this section would remain subservient to the main building having lower roof ridges, and the character of the front elevation is not encroached upon, the building is set back from the front of the site, separated from the road by an area of car parking with views restricted by the prominent boundary wall along the site frontage which would be retained, although the building would be readily visible from users of the small garden area attached to the rear of the Fox Inn. The provision of the apartments that the extensions will facilitate is felt to

outweigh the limited harm that they will bring to the character of the existing building and surrounding Conservation Area.

6.2.4 The scale of the proposal is not considered to be overdevelopment of the plot as both the number of apartments and their internal capacity with the provision of two bedrooms each, combined with the office use which will be empty overnight, will not afford excessive occupation of the site.

6.3 Impact on neighbours/residential amenity

6.3.1 Queries have been raised with regards to the position of the boundaries in third party comment, however the agent has confirmed that the applicant has full and proper title to the development, and the development is completely within the applicant's ownership. The plans have been amended to show "hidden guttering" along the south side elevation to prevent any overhang of the boundary in this location. Building works are contained within the building envelop with the exception of the front extension off the garage section which projects directly forward in line with the existing side elevations of this section of the building, and does not encroach on the boundary of the site. Some areas of the existing structure which are to be altered, namely the side and rear elevations of the garage section which will be increased in height are located on the boundary of the development, and may require agreement under the Party Wall Act to be implemented, however this is a matter to be resolved between the applicant and the adjoining properties should permission be granted.

6.3.2 All new and existing first floor windows will overlook the courtyard at the front of the property, with no new windows in any side or rear elevations that face onto adjoining properties. The amended plans shows the northernmost first floor windows in the front elevation (one existing, one proposed), to be obscure glazed and fixed shut with the exception of top opening lights above eye level. This is considered to be sufficient in order to protect the amenities of number 1 King Street, which is located to the front of the applications site, and would otherwise potentially be overlooked by these windows. These details can be controlled by condition to ensure they are retained. There are no windows proposed to the north, east or south elevations. A condition can be applied to ensure that no windows are inserted into these elevations (nor further windows to the front elevation which could alter the character of the building).

6.3.3 The application shows a number of roof lights in the main roof of the building, and concerns have been raised over the impact of these on the amenities of neighbouring properties. The roof is sufficiently high above the floor levels of the rooms to which the roof lights would provide illumination so that there is no realistic possibility of overlooking of the neighbouring properties. The applicant has informed the Council that they would be willing to have these roof lights conditioned to be fixed shut so as to prevent disturbance through noise to the adjoining premises.

6.3.4 Whilst the proposed extensions to the southern section of the building would involve an increase in height and the extension of the building close to the boundary with the properties to the south, the adjacent properties to the south and south east of the building are unlikely to suffer from any loss of sunlight as Fox Studio is on their north side. The mass of the building along the boundary would be increased and so the impact of the development on these dwellings would be greater, however in terms of loss of amenity it is difficult to identify any harm that this impact would cause. There

would be a modest loss of outlook, but no overlooking or overshadowing, and as the height increase is considered to be minor, and the new extension would have a roof pitching up away from the boundary, it is not considered that the extension would have an overbearing impact on the occupiers of these properties.

6.4 Impact on the historic environment

6.4.1 In considering the proposal due regard should be had to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.4.2 The proposal has been significantly reduced from the previous scheme removing the two storey side extension and reducing the number of units proposed. The proposed pedestrian gate through the boundary wall has also been omitted. These changes are considered to have alleviated the previous issues from a conservation perspective and overall it is considered that the proposal will preserve the character of the conservation area in line with policies, guidance and legislation as outlined above. The materials and finishes of the building can be conditioned for approval to ensure no adverse impact on the conservation area.

6.4.3 The proposed development site lies on the edge of the Medieval urban form of Much Wenlock (HER PRN 05029) as defined by the Central Marches Historic Towns Survey and within a group of Tenement plots to north of High St, east of Smithfield Road (HER PRN 05041). More importantly it is also located immediately adjacent to the supposed site of St John's Leper Hospital (PRN 05010). An evaluation carried out on the Leper Hospital site in 2012 determined that significant archaeological features, deposits and structural remains of medieval date are present on the site. These are overlain by archaeological deposits of early post-medieval date which also have the potential to inform us about the development of this part of Much Wenlock during this period. Although the site has been built over during the Post Medieval period, the archaeological potential of the site, particularly at depth, remains moderate to high. Any below ground archaeological remains are likely to be affected by the construction of the proposed extension and any ground disturbance associated with the conversion of the existing studio. In view of these issues and in line with National Planning Policy Framework (NPPF), the Council's archaeologist have recommended that a programme of archaeological work be made a condition of any planning permission for the proposed development comprising an initial evaluation of the site prior to construction commencing with further archaeological mitigation thereafter if deemed necessary

6.5 Access/Parking

6.5.1 It is not considered that the level of development proposed here will significantly impact on the traffic levels in Much Wenlock more than currently exists at the site. The building is located in central Much Wenlock where public transport and everyday facilities are within easy walking distance. The development will not result in the loss of off street parking and will provide 6 parking spaces in a town centre area where access to public transport makes this provision not essential and sustainable for occupants without a vehicle.

- 6.5.2 Attention has been drawn to parking issues outside the site, however it is difficult to substantiate how the proposed development would exacerbate this problem given that generous on site parking is provided. The applicant has explained that the delivery aspect of the business is intended to be relocated away from the site, with the business administration being retained in the offices in the building. This would mean a reduction in delivery and dispatch vehicles from the site, with the applicant stating that:

The affect of our proposals will reduce commercial vehicle (mainly vans 3.5 tonne) movements to and from the site by about 50 a week, based on current levels of business. These movements occur throughout the day and into the early hours (6am to 2am). However, if our family is able to relocate to the new development flats, a further 80 vehicle (mainly cars) movements per week will be eliminated.

Whilst these figures are unsubstantiated, it is considered to be a reasonable assumption that should the delivery section of the business be relocated to another site, and the applicants move into the units which adjoin the offices they operate their business from, the number of vehicle journeys to and from the site will likely reduce substantially. Whilst the relocation of the delivery section would require car journeys to this new location, this would be offset by the reduction in larger delivery vehicles visiting the town centre site, and having to traverse the restricted access arrangements along Kind Street.

- 6.5.3 The vehicular access to the proposed dwellings is already in situ and in regular use. The change of the building to residential is not considered to have a greater impact on the access than its current use, and is likely to result in a reduced demand on this access with regards to both number of trips and type of vehicle, and it is therefore considered sufficient for purpose.

6.6 Drainage

- 6.6.1 Advice from the Councils sustainable drainage team is that the following drainage details, plan and calculations could be conditioned if planning permission were to be granted:

1. Prior to commencement of the development, details of how the proposed surface water drainage system accords with policy RF.2 of the Much Wenlock Neighbourhood Plan must be submitted for approval.

Reason: To ensure that the development will reduce the overall level of flood risk both to the use of the site and elsewhere when compared to current use.

2. Informative: The applicant should consider employing measures such as the following:

- a. Water Butts
- b. Rainwater harvesting system
- c. Permeable surfacing on any new driveway, parking area/ paved area
- d. Attenuation
- e. Greywater recycling system
- f. Green roofs

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

6.7 Financial contributions

6.7.1 Policy CS11 of the Core Strategy requires payment of a contribution towards affordable housing provision for all new residential units granted consent, which is secured via a S.106 legal agreement. The applicant has indicated a willingness to enter into such an agreement, should the committee resolve to grant permission for this application.

6.7.2 Officers note the Ministerial statement made on 28th November 2014 and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application which indicated that such payments should not be sought for sites of less than 10 dwellings. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15').

6.7.3 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

7.1 It is considered that this proposal is not contrary to adopted policies as the mixed development of office and residential is acceptable in this town centre location, and the contribution that the extensions make to the viability of the intended use will outweigh any minor harm to the character of the building and its historic environment. The overall design and scale of the scheme will mainly retain the character of the existing building and therefore largely protect the surrounding Conservation Area. Furthermore, the development would not adversely impact on the residential amenity of adjacent dwellings or exacerbate surface water flooding, and will provide associated parking to a level above the requirement for a town centre location.

It is recommended that the committee grant permission for the development for the reasons set out above, subject to the completion of a S.106 legal agreement to secure a payment towards affordable housing as required by policy CS11.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework
National Planning Practice Guidance

LDF Core Strategy Policies

- CS1 Strategic Approach
- CS3 Market Towns And Other Key Centres
- CS6 Sustainable Design And Development Principles
- CS9 Infrastructure Contributions
- CS11 Type And Affordability Of Housing
- CS13 Economic Development, Enterprise And Employment
- CS17 Environmental Networks

Bridgnorth District Council 'Saved' Local Plan Policies:

- H3 Residential Developments In Main Settlements
- D6 Access And Car Parking

Much Wenlock Neighbourhood Plan:

- H2 Housing developments
- H4 Housing Infill Development
- EJ2 Employment site development
- GQD2 Good Quality Design

RELEVANT PLANNING HISTORY

14/01397/FUL Proposed extensions and conversion of existing studio building to form four residential units and one commercial unit; including demolition of part of boundary wall (amended description). REFUSE 29th October 2014

BR/APP/FUL/07/0687 Construction of new vehicular access, entrance gates and boundary wall after demolition of part of existing boundary wall REFUSE 25th September 2007

BR/APP/FUL/05/0049 Erection of a single storey extension GRANT 1st March 2005

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

Design and Access Statement

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member
Cllr David Turner

Appendices
APPENDIX 1 - Conditions



Committee and date
 South Planning Committee
 6 December 2016

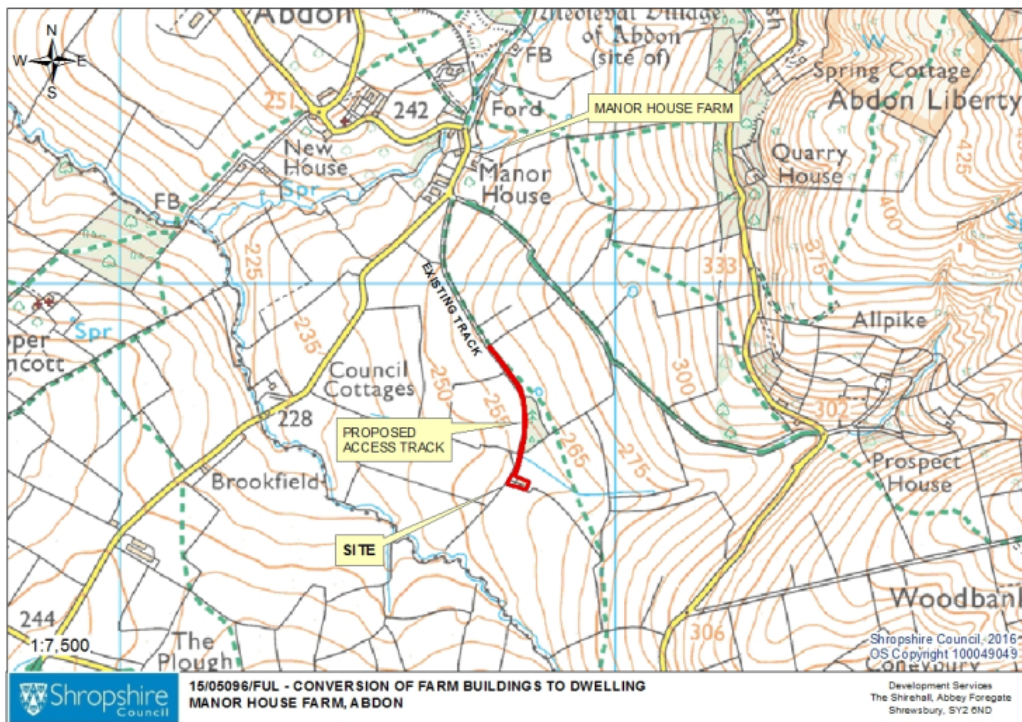
Development Management Report

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

Summary of Application

| | |
|---|---|
| <u>Application Number:</u> 15/05096/FUL | <u>Parish:</u> Abdon and Heath |
| <u>Proposal:</u> Conversion of 2No farm buildings to 1No dwelling and erection of link extension | |
| <u>Site Address:</u> Manor House Farm, Abdon, Craven Arms, SY7 9HZ | |
| <u>Applicant:</u> Mr Simon Wedgwood | |
| <u>Case Officer:</u> Grahame French | <u>email:</u> planningdmsw@shropshire.gov.uk |

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



REPORT

1.0 THE PROPOSAL

- 1.1 It is proposed to convert two traditional farm lambing buildings that formerly serviced a sheep fold at Manor House farm to a single dwelling. The buildings are in good structural condition and the quality of the facing stonework in both the buildings is high. The applicant states that any disturbance to the fabric of the building has been kept to the minimum necessary to facilitate the conversion.
- 1.2 The conversion is single storey which ensures no disturbance to the roof trusses and maximizes the floor space available on the ground floor for accommodation. Fenestration is introduced into the open sided structure on the south side of the building, disturbing the wall plate and stone work as little as possible.



Figs 1 and 2. Main building and outbuilding showing vernacular construction.

- 1.3 The second smaller building, set on the south western corner of the fold is also proposed for conversion to provide additional accommodation. These two

buildings will be linked by a narrow linear glazed linked structure which will unify the accommodation but is not provided to introduce additional accommodation.

- 1.4 The applicant states that use of a glazed link with a flat lightweight roof provides minimum visual intrusion and distraction from the main building conversion. No additional domestic buildings are proposed and the curtilage of the proposed development is closely defined by the existing sheepfold structure.
- 1.5 The proposal includes extending the existing hard cored farm track by about 75 yards. This would be done by forming two narrow wheel tracks with foundations but retaining the essential green character of the track. The applicant states that the residential traffic associated with a single dwelling would be less than the previous sheep management use based at the building.
- 1.6 Surface Water from the existing building would continue to be taken to a soakaway. It is intended that surface water from the proposed link building would be collected in rainwater butts and be utilized for gardening purposes. Foul Water would be taken to a new Bio disk treatment plant which will drain to soakaway.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in the higher reaches of the AONB at Abdon and is 600m from the cluster of buildings at Manor House farm. It is approached along a hard cored farm track running to the east off the rural lane, which stop short of the building by some 75 yards.
- 2.2 The walls of both the building and the sheep fold are stone. The roof is at a traditional pitch of 45 degrees and is supported by trussed rafters that are in sound condition.
- 2.3 A previous proposal for the buildings conversion was refused in July 2000 but the applicant advises that this was at a time when planning policy was less favourable for such conversions.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have submitted a view contrary to officers' recommendation for approval. The Area Planning Manager in consultation with the Local Member and the committee chairman agrees that the material planning issues have been raised and that the application should be referred to the committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1 Abdon and Heath Parish Council: Objection. The majority of councillors would not support the application for the following reasons:-
- The proposed dwelling is in an Area of Outstanding Natural Beauty in a field well away from any other cluster of properties;
 - The property is not for the use of local young persons living and working in the area as far as we can tell;
 - The planning application does not match up to the collective wishes captured in the Abdon and Heath Parish Plan in terms of the number of barn conversions already supported by the Parish Council as well as the possible potential use as holiday accommodation.
- 4 2 Historic England: No objection.
- 4 3 AONB Partnership: No objection subject to comments relating to the need to protect the AONB.
- 4 4i. SC Ecology: No objection. Conditions and informative notes are recommended. An initial bat survey was carried out on this site in February 2016 by Star Ecology. No evidence of bats was observed but potential roosting opportunities were identified in both buildings. A re-entry survey was carried out on 1st August 2016 and an emergence survey was carried out on 3rd October 2016. Four static bat detectors were also deployed around the buildings during both surveys. No roosting activity was recorded during either survey. The second activity survey was not carried out within the survey season and the report does not provide any justification for this. However, because no evidence of roosting was recorded during the initial survey or during the re-entry survey, no further survey work is considered necessary.
- ii. The site is likely to be used by foraging bats (The report does not state whether any foraging or commuting behaviour was observed during the activity surveys). New lighting on the site should be sensitive to bats and follow the Bat Conservation Trust's guidance. Bat boxes should be erected on the site to enhance the roosting opportunities available for bats.
- iii. Swallow nests were recorded within the buildings. Alternative roosting opportunities should be erected on the site to enhance the nesting opportunities available for birds. Conversion works should be carried out between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check should be carried out and if any active nests are present, no works can commence until the young birds have fledged.
- 4 5 SC Archaeology: The proposed development site lies c.810m north north east of Nordy Bank: a slight univallate hillfort 400m north east of New House Farm (National Ref. 1008390). It is recommended that Historic England is consulted.
- 4 6a SC Conservation (23/12/15): The proposal affects an undesignated heritage

- i. asset which has local historic and archaeological interest. The construction of the existing building mainly consists of stone with some brick in the local vernacular and is a good example of a rural agricultural building. There are no records of the building on the Historic Environment Record. In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable including policy CS6 'Sustainable Design and Development' and CS17 'Environmental Networks' of the Shropshire Core Strategy, policy MD13 'The Historic Environment' of SAMDev, as well as with national policies and guidance, National Planning Policy Framework (NPPF) published March 2012. Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
 - ii. The proposed conversion is supported in principle, however the proposed fenestration is inappropriate in terms of the amount of glazing as well as the loss of existing openings. New windows should be accommodated mainly in the existing doorways where the lower sections of the openings could be weatherboarded over or constructed in a slightly recessed matching brick. There is no principle objection in having a one storey glazed link but the existing openings should be retained so that there is a clear definition between the new section and the existing historic structure. There is an objection to this proposal unless the suggested amendments as recommended above are taken into account.
- 4.6b SC Conservation (3/05/16): The renovation proposals for the reuse of this isolated complex of historic vernacular buildings in the Shropshire Hills AONB still appear to be unnecessarily intrusive despite recent improvements in a design review to reduce the impact of contemporary residential elements on the traditional form and fabric of this non designated heritage asset. A relatively well preserved example of the economic tradition of the hill farm, it is now seemingly inevitable that the original purpose of these buildings as a sheepfold has been lost due to the decline of such farming practices. A suitable economic use would at best preserve them from further deterioration and at worst result in their loss to the historic farm unit through division and sale of title.
- i.
 - ii. With the additional information provided by the structural engineer's report, and in the context of policy MD13 of SAMDEV, it is apparent that the structures are capable, with minor works, to be sensitively converted into an alternative use, which is in accord with the landscape management plan and policies of the AONB and with the relevant paragraphs of NPPF, particularly those which enable heritage assets to be preserved and enhanced as a catalyst for sustainable development.
 - iii. The proposal for conversion is acceptable in principle, yet the isolated nature of the buildings mean that the proposals for access, hardstanding and landscaping as a permanent residential unit have a more significant impact on the character and appearance of the heritage asset than would be desirable in this sensitive context. It is advisable that the proposals have as low an impact as possible due to its setting and relatively intact historic character and fabric, and that the end use is limited to provide eco-friendly accommodation

for the significant numbers of tourists looking to visit such a beautiful, historic and precious part of Shropshire. This means that the massing and design of additions will better respect the plan form of the existing buildings, and the existing elevations of the historic sheepfold and its character will be inherently legible. New introduced materials should be kept to a minimum, and be sympathetic, in order to avoid excessive harm to the historic fabric and any unnecessary visual intrusion in its sensitive landscape setting.

- iv. The economic, social and environmental balance has governed this advice, with the hope that a scheme will be devised that gives the heritage asset a sustainable and appropriate future, sitting quietly within its outstanding natural landscape.

4.7 Affordable Housing: Following a change in national policy an affordable housing contribution is not required.

4.8 Highways: No objection subject to the access, parking and turning facilities being constructed in accordance with the submitted/approved plans. The proposed development is considered acceptable in highway safety terms, as the existing private accommodation track and its junction with the public highway are adequate to serve this barn conversion. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

4.9 Drainage: No objection subject to informative notes on flooding.

4.2 Public Representations:

4.2.1 The application has been advertised in accordance with statutory provisions. No representations have been received from the public.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design
- Highways and access
- Visual impact and landscaping
- Other considerations

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Consideration needs to be given to this presumption in favour of sustainable development in determining whether a site is suitable for release.

- 6.1.2 The location of new-build residential development is strictly controlled under national and local planning policy. Such development is focused towards market towns, key centres, and identified hubs and clusters. However policy CS5 of the Shropshire Local Development Framework Adopted Core Strategy advises that proposals for the conversion of existing rural buildings, particularly those which are of some historic merit may also be acceptable. This is also reinforced by policies MD7a and MD7b of the Site Allocations and Management of Development (SAMDev) plan and the Supplementary Planning Document – Type and Affordability of Housing.
- 6.1.3 The development plan gives equal priority in the countryside to small-scale economic/employment-generating uses, affordable housing to meet local needs, and other appropriate rural uses. However, the policy also advises that open market residential conversions will be considered where buildings are judged to be 'heritage assets'. The Type and Affordability of Housing SPD defines heritage assets as buildings that: -
- Pre-date 1950;
 - comprise traditional materials and building methods;
 - are of permanent and substantial construction;
 - are of local significance and add value to the landscape.
- 6.1.4 The current proposals relate to two traditional farm buildings which are of high quality traditional design and have been confirmed as non-designated heritage assets by the Council's Historic Environment team. A structural survey submitted in support of the application confirms this designation and the generally good state of condition of the buildings. The buildings have a strong local presence and make a positive contribution to the appearance of the area. However, with changes to of traditional sheep farming practices there is no longer an agricultural need for buildings of this nature.
- 6.1.5 Core Strategy Policy CS5 supports the preservation of heritage assets in order to maintain countryside vitality and character. The Policy facilitates conversion of existing heritage assets to a residential use where such development achieves a high standard of sustainability. Additionally, the local planning authority also has a duty to preserve buildings with special architectural or historic interest under Part 12 of the National Planning Policy Framework (NPPF), Core Strategy Policies CS6 and CS17 and SAMDev Policy MD13. The current proposal to secure the preservation and future use of a non-designated heritage asset would in principal be encouraged by these policies.

6.2 Siting, scale and design

- 6.2.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, this is supported by SAMDev policy MD2, and in the case of the conversion of existing buildings policy MD7a, which expects minimal alteration or rebuilding to be required for conversions and that such developments should respect the significance of the heritage asset, its setting and the local landscape character.

- 6.2.2 Design guidance on the conversion of historic buildings is contained in the Historic England document 'The Conversion of Traditional Farm Buildings: A Guide to Good Practice'. Generally, alterations and additions to traditional former agricultural buildings should be minimised in order to maintain their vernacular character and avoid confusing their form or introducing an overly domestic appearance.
- 6.2.3 In this case, the proposed floorplans indicate that the room layout has been informed by the position of existing internal walls and openings. This enables the scheme to keep the amount of external alterations to a minimum, utilising existing openings, retaining the majority as windows. The council's conservation section initially expressed concerns about the amount of glazing in the proposed link block and the applicant has responded by amending the design of the scheme. The submitted block plan shows additionally that the proposed unit will have ample private amenity space, and parking provision.
- 6.2.3 The application is supported by an illustrated structural survey in accordance with Historic England guidelines which provides a thorough record of the current form of the sheepfold buildings. Overall the proposed alterations are considered to preserve the character, appearance, fabric and agricultural 'feel' of the building. The design can therefore be supported, subject to appropriate conditions.

6.3 Highways and access

- 6.3.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people but that: "development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe." Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.
- 6.3.2 However, the proposals would not generate significant traffic and levels would be much less than for the previous agricultural use. The Councils highways team raise no objections and are satisfied that the proposed scheme would not result in detrimental harm to the users of the highway.
- 6.3.3 It is proposed to utilise an existing farm track from the minor road at Abdon and to extend this by 300m in order to provide access. The track extension would however be 'rural' in nature with 2 metalled parts and a grassed centre.
- 6.3.4 The site is in a remote location where permission for a new open market dwelling would not normally be supported by planning policy as occupants would be entirely dependent on use of the private motor vehicles. However, the proposals relate to the conversion of an existing building which is a non-designated heritage asset and there is general policy support for such

residential conversions as a way of preserving heritage assets. In this particular case the officer considers that the benefits of securing the future of the heritage asset through its conversion significantly outweigh the disadvantages of the location. It is not considered that refusal could be justified on access grounds.

Fig 3 - Farm track (left) and track extension (right)

6.4 Visual impact and landscaping

- 6.4.1 Policies CS17 and MD12 seek to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. The site is located in an elevated location but is single storey and is well screened by existing vegetation. Where the buildings are currently visible it is considered that they add to the character of the local countryside. Visually there would be limited change from any external viewpoints relative to the current situation so officers consider that the development would continue to make a positive landscape contribution.
- 6.4.2 Conditions can be attached to ensure any boundary treatments reflect the rural character of the area. The alterations to the buildings itself are considered to be sensitive and would not result in any material loss of agricultural character. Permitted development rights would be removed by condition to accord with SAMDev policy MD7b, this would also enable a degree of control to be retained over the level of domestic paraphernalia, this in turn helping preserve the agricultural character and mitigate any visual impact from the proposed conversion.
- 6.4.3 The proposed conversion would enable the most efficient use of a building which is considered to be a local heritage asset and makes a positive contribution to the local area. The alterations proposed to enable the conversions would not detract from the visual amenity of the area and the setting of the Shropshire Hills AONB would be preserved.

6.5 Other considerations

- 6.5.1 Affordable Housing: A Written Ministerial Statement (WMS) was issued in November 2014 by the then the Minister of State for Housing and Planning. This stated that planning obligations should not be used to secure affordable housing contributions in connection with developments of 10 units or less (and with a maximum combined gross floor space of 1,000sqm), or 5 units or less in Designated Rural Areas, such as within the AONB. Reading and West Berkshire Councils sought to challenge the WMS at the High Court and it was quashed in July 2015 when the Government subsequently withdrew its associated Planning Practice Guidance (PPG). From this point Shropshire Council continued to apply its own affordable housing policy.
- 6.5.2 The Government subsequently challenged the High Court decision through the Court of Appeal, which overturned it on 11th May 2016. Consequently the WMS still applies. Furthermore the Housing and Planning Act gained Royal

Assent on 12th May 2016, giving the Government power to achieve the same result via secondary legislation. The Planning Inspectorate has also taken the stance that the WMS is a significant material consideration. At this juncture Shropshire Council accepts this position, despite the development plan remaining the starting point for planning decisions. Therefore, the Council will not generally now require an affordable housing contribution in connection with schemes where the above thresholds are not exceeded. In this case the proposed conversion falls below the relevant thresholds and so an affordable housing contribution is not required.

- 6.5.3 The Parish Council has objected on the grounds amongst other matters that the proposals would not deliver housing suitable for local young people. Reference is also made to the Parish Council's concerns regarding barn conversions. However, it is considered that the form of the existing agricultural buildings would not lend itself to the provision of an affordable dwelling or dwellings. The smaller building is too small to be converted as a separate residential unit without significant and inappropriate structural intervention. The two buildings have always been integrated within a central courtyard and the current proposals would maintain this coherent relationship.
- 6.5.4 Biodiversity: National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Bat surveys have been carried out at the site. The Council's Ecologist has considered these reports and is content that ecological interests can be safeguarded by condition and informative notes.
- 6.5.5 Residential Amenity: The site is 5-600m from the nearest residential properties and there is no overlooking. As such, the proposed conversion could be carried out without any significant harm to residential amenity.
- 6.5.6 Public right of way: The existing agricultural access track and the first 100m of the proposed track extension is also a public right of way. It is not considered that there would be any permanent impact on the right of way given that levels of traffic would be less than for the current agricultural use. Given the proposal to lay the access track extension as two metalled strips with a grassed area in the centre it is considered that any effects to the existing rural character of the track would be minimised. An advisory note regarding the need to keep the right of way open during the development works or secure a suitable temporary diversion is recommended in Appendix 1.
- 6.5.7 Drainage: In common with many equivalent upland areas in Shropshire the Council's land drainage team has advised that the site is at potential risk from surface water flooding and has recommended an advisory note on flood prevention. A small brook runs across the line of the proposed access track some 50m to the north. However, the buildings themselves are 3-4m above the line of the brook and have never been subject to any flooding.

- 6.5.8 The application does not give details of any proposed arrangements for crossing the brook where intersected by the access track though currently this is understood to be un-culverted. An advisory note has been recommended to confirm that any planning permission for the conversion and track would not confer approval for construction of a culvert / bridge. It should however be noted that the proposed extended access track would also be likely to retain some agricultural use for field access and certain limited culverting works could therefore be undertaken in principle under agricultural permitted development rights.
- 6.5.9 Planning history: Two previous applications by the same applicant to convert the barns to residential use were refused in 2000 and 2001 respectively (SS/1/00/11196/F and SS/1/00/11753/F). These previous proposals involved a very similar type of conversion. The refusal reasons were based on impact on the AONB from introducing a domestic structure and associated road and to the remoteness and lack of sustainability of the location.
- 6.5.10 These applications were submitted at a time when different planning policies applied. There was no equivalent to the current 'exceptional circumstance' which supports residential conversions in order to preserve historic assets (CS5, MD7b, MD13 etc.).
- 6.5.11 Whilst it is recognised that the sheepfold buildings remain in relatively good condition it is clear now, some 15 years down the line from the previous applications that they no longer have a viable agricultural use due to changes in sheep farming practice. At the same time, additional information has been submitted this time which confirms that the buildings have significant heritage asset value. As such, it is considered that the only way of protecting them in the longer term is to allow conversion to an alternative use.
- 6.5.12 With respect to the previous refusal reasons concerning the impact on the AONB it is considered that this must be weighed against the very real possibility that the historic structure of the buildings may be lost in time through neglect if they have no productive use. Hence, the positive contribution which they make to the AONB landscape would also be lost.
- 6.5.13 The previous refusal reasons also refer to the disturbance caused by introducing a domestic use in this location. However, in practice, the two buildings would face inwardly around a courtyard space with no appreciable overlooking of the surrounding landscape. The only significant views towards the site would come from a public right of way which passes some 120m to the east on the opposite side of the small stream valley. External facades would appear very similar to the current situation. The agricultural origin of the buildings would still be clearly perceived. The proposed access track would also have an agricultural appearance with its central grassed strip and so would not look out of keeping in the opinion of this officer.
- 6.5.14 The agent has been asked whether an alternative use as holiday accommodation could be considered instead. This is on the basis that such a

seasonal use would potentially align more favourably with relevant policies and guidance relating to sustainability, given the remote location and would also align more with the scenic nature of the location. However, the agent has advised that such a use may not be economically feasible, although no viability appraisal to demonstrate this has been submitted. Either way, the current application must be considered on its own merits. It must be recognised in this respect that that national and local policy on heritage and conversion of agricultural buildings has changed materially since the previous applications were refused.

7.0 CONCLUSION

7.1 The proposals raise issues which pull in different policy directions. On the one hand the site is in a remote location where any occupant would be entirely dependent on use of the private motor car and this conflicts with policies regarding access and locational sustainability.

7.2 On the other hand, the buildings are clearly fine example of their type and function, and have an important heritage value in this nationally designated landscape. National and Local Development Plan policy positively encourages the retention and adaptation of such buildings to alternative uses to ensure their longevity subject to design and sustainability criteria.

7.3 The proposed design respects the character and appearance of the existing structure. Any disturbance to the building fabric has been kept to the minimum necessary. The proposals would secure the future use of the sheepfold buildings, allowing them to continue to make a positive contribution to the local landscape. The works can also be carried out without undue harm to visual or residential amenity, ecology or highway safety.

7.4 The officer concludes that in this case the benefits of securing the future of these non-designated heritage assets outweighs the concerns regarding lack of sustainability of the location. On balance therefore the proposals are considered to be compliant with the development plan as a whole and approval is therefore recommended, subject to the conditions listed in appendix 1.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the

authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

- 8.1.2 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

- 8.2.1 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

- 8.3.1 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

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

10.0 BACKGROUND

Relevant Planning Policies

Central Government Guidance:

- National Planning policy Framework

Shropshire Core Strategy:

- CS3 The Market Towns and other Key centres
- CS4 Hubs and Clusters
- CS5 Countryside and Greenbelt seeks to limit development in the countryside to that which needs to be there and makes it clear that in

assessing proposals account will be taken of the impact on the character of the countryside.

- Policy CS6: Sustainable Design and Development Principles is concerned, amongst other things, with ensuring new development protects, restores, conserves and enhances the natural, built and historic environment. The policy also seeks to ensure that there is sufficient infrastructure capacity to cope with any new development.
- CS11 Type and affordability of Housing;
- Policy C17: Environmental Networks endeavours to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

SAMDev Plan:

- MD1 – Scale and Distribution of Development allocates sufficient land in the period up to 2026 to enable the delivery of the amount and distribution of housing development set out in Policies CS1 and CS2 and in the SAMDev site allocation policies including S10 (Ludlow).
- MD2 – Sustainable Design is concerned, amongst other things, with respecting locally distinctive or valued character, including the historic context.
- MD3 – Delivery of Housing Development;
- Policy MD8: Infrastructure Provision specifies that new development will only take place where there is sufficient existing infrastructure capacity or where development includes measures to address a specific capacity shortfall which it has created.
- MD12: The Natural Environment indicates that proposals that are likely to have a significant adverse effect, directly, indirectly or cumulatively on a range of matters, including visual amenity or landscape character and local distinctiveness, will only be permitted if there is no satisfactory alternative and the social and economic benefits of the proposal outweigh the harm.
- MD13: The Historic Environment
- S10: Ludlow Area

Relevant Planning History:

- SS/1/00/11196/F - Conversion of barns to a dwelling. Refused 06.09.2000;
- SS/1/00/11753/F - Conversion of barn to dwelling and formation of vehicular and pedestrian accesses. 08.02.2001.

11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Nv567QTDIAF00>

List of Background Papers: Planning application form for application reference 15/04158/OUT

and accompanying design and access statement and plans

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member: Cllr. Vivienne Parry

Appendices: APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITIONS

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

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

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

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

3. Prior to the first use or occupation of any part of the development hereby permitted a scheme confirming details for surface and foul water drainage systems shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in complete accordance with the approved plans and particulars prior to the first occupation of the development and shall be maintained thereafter in the absence of any further specific permission in writing from Authority.

Reason: To ensure that the development is provided with satisfactory means of drainage and sewerage to avoid increasing the risk of flooding or pollution.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES / PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

4. Prior to first occupation / use of the building, details for the provision of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 external bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited in accordance with the latest

guidance (currently http://www.bats.org.uk/pages/bat_boxes.html) and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

5. Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 swallow nesting cups shall be erected on the site. The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

6. 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's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

7. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include:
 - i. Details of any means of enclosures
 - ii. Details/schedules of any proposed planting scheme
 - iii. Timetables for implementation

The works shall be completed in accordance with the approved details and, in the case of any means of enclosures, maintained thereafter in the absence of any further specific permission in writing from the Local Planning Authority. In the case of soft landscaping, any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To safeguard the setting of the converted barn and preserve the visual amenities of area. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

8. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery, including details of the colour/finish shall be submitted to and approved in writing by the Local Planning Authority.

These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the architectural and historic interest and character of the non-designated Heritage Asset.

9. No development shall commence until a scheme confirming details for the construction of the access track from the site to the existing hardcore farm track has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed to preserve the rural appearance of the area and shall be implemented in accordance with the approved details.

Reason: To safeguard visual amenities within the AONB.

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

9. Any work of making good shall match existing original work adjacent, in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved.

Reason: To ensure satisfactory preservation of this local Heritage Asset.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- Extensions;
- Additions or alterations to the roof, including dormer windows and rooflights;
- Erection of porches;
- Insertion of any new window or door openings;
- Satellite antennas;
- Chimneys and Flues;
- Free standing buildings within the curtilage;
- New fences, gates or walls

Reason: To maintain the scale, appearance and character of the development and to safeguard the character and setting of the converted barn and visual amenities of area and comply with policy MD7b of the Site Allocations and Management of Development (SAMDev) Plan.

Informative Notes:

Drainage

- i. *On the Surface Water Flood Map, the site is at risk of surface water flooding. The applicant should ensure that the finished floor levels are set above any known flood level and must not be lower than the floor level of the existing building in order to minimise the risk of surface water flooding.*
- ii. *The applicant should consider employing measures such as the following to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner:*
 - *Surface water soakaways (Designed in accordance with BRE Digest 365)*
 - *Attenuation ponds*
 - *Water Butts*
 - *Rainwater harvesting system*
 - *Permeable surfacing on any new access, driveway, parking area/ paved area*
 - *Attenuation*
 - *Greywater recycling system*
- iii. *The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.*

Ecology:

- iv. *Construction and wildlife:* *All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*
- v. *Nesting Birds:* *The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of birds 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.*

Right of Way:

- vi. *The definitive line of the public right of way which runs along the existing access track from the public highway, continuing along part of the proposed new access track must remain open and unobstructed with safe access for the public*

at all times. This is unless the applicant has first obtained a formal temporary diversion order to facilitate the proposed access track extension.

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Committee and date
 South Planning Committee
 6 December 2016

Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

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| Application Number: 16/03128/FUL | Parish: Shifnal |
| Proposal: Erection of 1No dwelling and formation of vehicular access (revised resubmission) | |
| Site Address: Proposed Dwelling Adjacent 22 Park Lane Shifnal Shropshire TF11 9HD | |
| Applicant: Mr Tim Jordan | |
| Case Officer: Richard Fortune | email: planningdmse@shropshire.gov.uk |

Grid Ref: 374980 - 306770



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

REPORT

1.0 THE PROPOSAL

1.1 This is a revised submission following the refusal of application 15/01497/FUL for the following reasons:

“1.The proposed development, by reason of its individual scale and design when compared with the uniformity of Lodge Close with which it would be visually associated, does not take account of the local character and context introducing an incongruous element which would detract from the street scene. The proposal is therefore contrary to Local Development Core Strategy Policies CS6 and CS17, SAMDev Policy MD2 and the Natural Planning Policy Framework.

2.The proposed division of the plot which significantly reduces the amount of rear garden provision to the enlarged dwelling at no. 22 Park Lane, Shifnal and allows for only limited outside amenity space for the new dwelling will result in two cramped plots which will not function well as a sustainable form of development. The proposal is therefore contrary to Local Development Core Strategy Policies CS6 and CS17, SAMDev Policy MD2 and the Natural Planning Policy Framework”.

This application is for the erection of 1 no. dwelling on garden land to the rear of no. 22 Park Lane, Shifnal. The dwelling is conceived as 2 interlinked elements, resulting in a 1” storey bungalow with accommodation over 2 floors. The ground floor is proposed to comprise a hallway, living room, kitchen/dining area WC and bedroom with ensuite, the first floor a bathroom and further bedroom. It is proposed with an irregular shaped footprint of approximately 106m², and a height of 6.5m to ridge, 2.3m to eaves. Design features include a centrally positioned chimney, 3 roof lights on the north west facing roof slope and 1 either side on the dual pitched roof above the living room, a triangular feature window on the south west facing elevation serving the upstairs bedroom, and a catslide porch over the front door on the south east facing elevation. The site measures approximately 16m wide x 20m in depth, the proposed outside amenity space therefore equating roughly to 200m².

1.2 The proposed dwelling would be of a similar form to that in the previous application, comprising of two interlinked elements, resulting in a dwelling where the first floor accommodation comprising of a single bedroom and a bathroom would be wholly contained within the roof space of the taller element. The ground floor accommodation would comprise of a hallway, living room, kitchen/dining area, WC and a bedroom with ensuite. The lower element of the proposed dwelling would be on its southern side and would contain the living room: This element would have a dual pitched roof, with an eaves height of some 2.4m and a ridge height of some

4.4m, with the latter on a northwest-southeast alignment. The other, larger element of the building would contain the rest of the accommodation and would have an eaves height of some 2.4m on its southern side, an eaves height of some 3.3m on its northern side and a ridge height (aligned on a southwest-northeast axis) of some 6.35m. The design would feature a centrally positioned chimney, three rooflights on the northwest facing roof slope and one either side on the dual pitched roof above the living room, triangular high level feature windows on the southwest (front) and northeast (rear) gable elevations to serve the first floor bedroom and bathroom in addition to the roof lights. The porch over the front door would be in the form of a catslide element to the main roof. External materials would comprise of facing brick with tile hanging to the triangular gable areas of the taller element of the dwelling, with the lower living room element rendered above a brick plinth. The roof tiles would be plain tiles. The proposed plot boundary treatments would comprise of the retention of existing boundary hedging with the addition of a close boarded fence to the rear. Foul sewage is proposed to be disposed of via the mains sewer, surface water to SUDs. A new vehicular and pedestrian access is proposed onto Lodge Close to the south west onto which the dwelling's frontage will face. Parking to accommodate 4 vehicles is shown to be provided within the frontage. No trees or hedges are affected by the development.

- 1.3 The principle differences between the development as now proposed compared to that refused under reference 15/01497/FUL are a reduction in the depth of the proposed dwelling achieved by a smaller lounge area, which results in a corresponding lowering of the ridge height of the living room area, eliminating the 'top-heavy' appearance to this section of the dwelling and making it clearly subservient to the main body of the dwelling. There is a reduction in the footprint of the kitchen dining area to allow for an external door on the kitchen projection on the elevation facing the chimney stack, one as opposed to two kitchen windows in the north west side elevation; a re-orientation of the dwelling so that the dwelling would be positioned parallel to the south eastern site boundary. This re-orientation and reduction in the footprint of the proposed dwelling increases the size of the outdoor amenity area that would be available to the dwelling and also increases the size of the off-road parking area, giving a less cramped appearance in the streetscene.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within the development boundary for the Market Town of Shifnal close to the southern boundary and is surrounded by residential development. It is currently garden land to the rear of no. 22 Park Lane and accessed via that property, although there is a pedestrian gate through the rear boundary from Lodge Close. The properties in Lodge Close, a cul-de-sac, are predominantly two storey semi-detached dwellings of latter half 20th Century construction set back from the estate road with their own drives and integral garages. No. 22 Park Lane is of inter war construction with a typical 1930s design. It faces north east onto Park Lane and has been generously extended to the rear. The rear garden is currently laid to lawn with mature hedging around its perimeter and a detached outbuilding located in the western corner. No. 22 is the most southerly of a line of dwellings which form ribbon development along the western side of Park Lane, whereas the pattern of development on Lodge Close is less rigid although there is a parallel line of dwellings behind those on Park Lane. The proposed plot is approximately 1' down

the cul-de-sac, beyond the end of which to the south is agricultural land.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Shropshire Division Member has requested that the application be determined by the South Planning Committee. The Area Planning Manager in consultation with the Committee Chairman agree that the site in history in this case and the material planning considerations raised warrant the application being determined by Committee.

4.0 Community Representations

- Consultee Comments

- 4.1 Shifnal Town Council – Comment asking for the following points to be taken into consideration:

1. Vehicle parking in Lodge Close - is there sufficient room to allow for another dwelling? - will Fire engines and Ambulances be restricted?
2. Design - is the design sufficient in character for this area to comply with applicable policies?
3. Has the size of the property been reduced in the resubmission to make it acceptable?
4. Members agreed that "loss of light" complaints were not justified due to the proposed dwelling being part two storey and part single storey.
5. Members agreed the size of the site was large enough for the dwelling to be accommodated.
6. Can this application be decided by Shropshire Council Planning Committee?

- 4.2 SC Highways Development Control – No Objection:

The proposal is to build a dwelling in the rear garden, creating a vehicular access onto Lodge Close which will be in line with the houses which lead up to the rear of the property. This will entail having to apply for a change in pavement levels and a dropped kerb.

The hedge to the south of the proposed driveway should finish 2.4m back from the back edge of the footway to allow an emerging driver a view of any pedestrians and vehicles approaching from the south.

It should be noted that there is a telegraph pole on the south corner of the property with cables criss-crossing the site which will need to be taken into consideration during construction.

It is considered that it is unlikely that the addition of this dwelling will significantly adversely affect highway safety or local conditions.

Recommends condition that any gates to the proposed access be set back a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards.

- 4.3 SC Drainage - No Objection:

The proposed drainage details, plan and calculations should be conditioned if

planning permission
were to be granted.

1. On the planning application, it state that the surface water from the proposed development is to be disposed of directly to a main sewer. Such a connection must not be made, as it can result in increased flood risk elsewhere. SuDS Applicability for the site is Infiltration. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

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

Should soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slope towards the highway, the applicant should submit for approval a surface

water drainage system to intercept water prior to flowing on to the public highway.

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

3. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

Reason: To ensure that the proposed surface water drainage systems for the site

are designed for any future extensions of impermeable surfaces.

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

Water Butts

Rainwater harvesting system

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

Attenuation

Greywater recycling system

Green roofs

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

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

4.4 SC Ecology – No Objection:

Recommend informative in relation to nesting wild birds.

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one that is being built, containing eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of 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.

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

-Public Comments

4.5 8 Objections, which are summarised below. The full text of the comments may be viewed on the Council's website.

-In December 2003 application BR/APP/FUL/03/0767 for a single dwelling was withdrawn because he was advised by the Council that a single dwelling was not in keeping with the current style of houses already in Lodge Close. In its place an application for 2 semi-detached houses was submitted and approved (ref BR/APP/FUL/04/0220). Cannot therefore understand how the Council can approve this application.

-Would change the character of the street and be detrimental to street scene.

- Out of keeping with the rest of the houses in the area.
- Overbearing for the size of plot.
- Narrow part of street where neighbours already park outside their houses along with visitors and proposed driveway entrance would cause a major problem for service and emergency vehicles.
- Would reduce the amount of safe and available on-road parking.
- Already insufficient parking in the street; not safe or beneficial to add to the existing situation.
- Access to the proposed dwelling should be from Park Lane.
- If application goes through it will open up a whole can of worms.
- Too many properties being built in Shifnal at the moment.
- Cul-de-sac will become a more dangerous place.
- Should visit cul-de-sac after 5.00pm to see the extent of congestion.
- How can a property in one street apply to build a house in their back garden bringing problems to the residences in another street?
- Would decimate the only greenery in the Close.

5.0 THE MAIN ISSUES

Principle of development
 Design, scale and character
 Affordable Housing
 Impact on neighbours/residential amenity
 Access/parking
 Drainage
 Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 A key objective of both national and local planning policy is to concentrate new residential development in locations which promote economic, social and environmental sustainability. Specifically, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within Market Towns, other 'Key Centres' and certain named villages ('Community Hubs and Clusters') as identified in the Council's SAMDev Plan.

6.1.2 Shifnal is identified within Core Strategy Policy CS3 as one of the Market Towns and other Key Centres in Eastern Shropshire which will maintain and enhance its role in providing a focus for development and for providing facilities and services to its rural hinterland. New housing provision of a scale and design that respects each town's distinctive character is one of the types of development potentially acceptable within the development boundary of a CS3 settlement. Levels of housing development in Shifnal are informed by CS3 and Settlement Policy S15 of the SAMDev. A number of specific sites are allocated to accommodate the majority of housing development required within Shifnal over the Plan period. As this proposal is not one of these, it would be regarded as a windfall site. Policy CS15 of the Core Strategy supports development which positively contributes to the delivery of wider investment, regeneration and town centre management and the

appropriate re-use or regeneration of land and premises.

6.1.3 Therefore, within the current policy framework there is a presumption in favour of the development as it is considered to be a sustainable location for new housing development, unless other material considerations indicate otherwise. The question for this application is rather if the site is appropriate, not whether the principle of residential development in this location is sound.

6.2 Design, scale and character

6.2.1 The 'appropriateness' of the site can be considered as the perceived interaction between the proposed and existing visual and physical factors involved. Both the National Planning Policy Framework and Policies CS6 and CS17 direct that a high quality development should be created to benefit for the lifetime of the development and provide positive improvements in people's quality of life. Policy CS6 states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved.

6.2.2 There are two main material considerations relating to this development as follows:

- 1) Its scale and design in relation to local character and context.
- 2) The relationship between no. 22 Park Lane and the proposed dwelling.

6.2.3 Consideration 2) is examined in the Residential Amenity section of this report below. With regard to 1) above, it is acknowledged that the revised proposal follows the same design concept as the original scheme, but to a reduced scale. It is considered that a re-appraisal of the impact of the scale and design in relation to the local character and context is therefore warranted.

6.2.4 The planning history of a nearby site referred to by neighbours has been reviewed. The withdraw of planning application 03/0767 for a detached dwelling on the opposite side of the turning head to this application site appears to have been influenced by a 1991 decision on an outline application for a detached dwelling on the land (ref. 91/0570), refused on the basis that it would be detrimental to the open plan character of the street scene and to the amenities of adjacent properties. The semi-detached dwellings subsequently permitted on that land and built (ref. 04/0220) were permitted on the basis that they matched the size and closely reflected the appearance of the existing houses on the Close. These decisions were made in the context of the Planning Policies applicable at that time.

6.2.5 The National Planning Policy Framework (NPPF) at paragraph 60 advises that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It adds, however, that it is proper to seek to promote or reinforce local distinctiveness. At paragraph 65 the NPPF advises that local planning authorities should not refuse applications for buildings which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have

been mitigated by good design, unless there would be material harm to a heritage asset or its setting which outweighs a proposals economic, social and environmental benefits.

6.2.6 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 says that developments should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policy MD2 provides further guidance in relation to Core Strategy policy CS6. The proposed development would be a structure of traditional, dual pitch roofs construction employing a materials palette to be found in existing residential developments across Shifnal. While the architectural form would be different to the semi-detached dwellings found on Lodge Close, it would not be incompatible with the more varied mix of architectural styles found in the wider locality. The removal of the hedge on the site boundary with Lodge Close did not form part of the refusal reason in January 2016 and, as a garden boundary hedge, could be removed at any time by the applicant. It is considered that this hedge does not make a significant positive contribution to the character of the area.

6.2.7 The Shifnal Neighbourhood Plan has been approved by the local referendum and is to be formally adopted by Shropshire Council in December 2016 as part of the Development Plan. It has therefore reached an advanced stage and can be attached significant weight as a material planning consideration. Policy HG1 seeks to ensure that, where residential development is permitted in line with policy SL1 (Which allows the principle of development within the Town's development boundary), that a number of criteria be met. It seeks high quality design that is in keeping with the scale and character of buildings and layout in the area, but also seeks to provide variety in house design and elevation treatment. This aspiration is applicable to infill plots as well as larger housing sites. This proposal is not out of scale with the surrounding properties, would have a plot size comparable in area to other plots in the locality and would introduce variety into the street scene. Policy HG2 of the Neighbourhood Plan has identified a need to increase the supply of one and two bedroomed properties in Shifnal and this two bedroomed dwelling proposal would assist in addressing that identified need, and would thus satisfy this social dimension of sustainability.

The application site does not fall within a conservation area and is not part of the setting to either a designated or non-designated heritage asset. In the present national planning policy and Development Plan policy context, with the latter reinforced by the soon to be adopted Shifnal Neighbourhood Plan, and taking account of the revisions made to the scheme since the January 2016 refusal, it is considered that a refusal on the grounds that the design of the dwelling is different to the semi-detached form of other dwellings on the close could not be sustained at appeal.

6.3 Affordable Housing

6.3.1 In order to meet the diverse housing needs of Shropshire residents now and in the future and to create mixed, balanced and inclusive communities, Policy CS11 seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing having regard to the current

prevailing target. However account must now be taken of the Written Ministerial Statement relating to affordable housing contributions and smaller developments.

- 6.3.2 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28th November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas.
- 6.3.3 Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31st July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.
- 6.3.4 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on the 11th May 2016. Consequently the WMS still applies and is reflected in amended NPPG of the 19th May 2016. In addition to this the Housing & Planning Act gained Royal Assent on the 12th May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.
- 6.3.5 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not automatically require an Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000m² floor area in the majority of cases where the site is not located in a designated rural area.
- 6.3.6 This development proposes a provision of one dwelling. A significant number of new affordable dwellings are being delivered through the large housing developments currently underway in Shifnal. Therefore it is considered that no Affordable Housing Contribution could be justified in this case, having regard to the material change in national policy discussed above.

6.4 Impact on neighbours/residential amenity

- 6.4.1 Core Strategy Policy CS6 seeks to safeguard residential amenity. The design of the proposed dwelling has been formulated to minimise any overlooking, overshadowing and overbearing impacts on neighbouring properties, and it is considered that in this respect its configuration and scale would be acceptable. Daylight analysis drawings were submitted with the previous application to demonstrate the potential overshadowing impacts on nearby dwellings which demonstrate that due to the relatively low profile of the building, its position and orientation, that any such impacts would be minimal. These impacts would be further reduced with the smaller massing and revised orientation of this amended proposal. The shadow of the proposed building would be mainly overlaid by the larger two storey dwelling to the south.
- 6.4.2 The proposals show that the existing high hedges on the northern and southern site

side boundaries would be retained. The proposed dwelling has been designed to ensure that there would be no mutual loss of privacy for neighbours and the occupants of the proposed dwelling in terms of the fenestration, but the maintenance of a high means of enclosure on these boundaries to the rear of the line of the proposed front elevation would be beneficial to ensure this privacy. The triangular plot shape to 13 Lodge Close is unusual in terms of the limited frontage direct onto the highway. It is considered therefore that any planning permission granted in this case should be conditioned to ensure that the side boundary hedges are maintained at a minimum height of 1.8metres and, in the event of the hedges being removed, that they are replaced by fencing to a design and height which has been approved in writing by the local planning authority.

- 6.4.3 The second reason for refusal of application made reference to that proposal significantly reducing the amount of rear garden provision for the existing dwelling at 22 Park Lane. This matter has been re-appraised and in this proposal the depth of the rear garden to 22 Park Lane would remain comparable to that of other Park Lane properties immediately to the north of it. The reduced footprint of the dwelling now proposed, together also with the adjusted positioning on site compared to the refused scheme, would also provide the two bedroomed accommodation with an adequate area of outdoor amenity space that would not be cramped. It is considered that a refusal on the grounds of creating two cramped housing plots could not be sustained at appeal.

6.5 Access/parking

- 6.5.1 Core Strategy policy CS6 seeks to secure safe developments and the soon to be adopted Shifnal Neighbourhood Plan policy HG1 relating to the design of residential development includes a criterion that traffic generation and parking should not adversely affect road and pedestrian safety. The proposal demonstrates how sufficient parking and turning space could be provided within the plot for 4 vehicles. A new access is proposed from the plot onto Lodge Close to serve the new dwelling to which SC Highways raise no objection.
- 6.5.2 With regard to neighbour concerns about the loss of on-road parking space, it would be possible for an access to be formed onto the unclassified Lodge Close to serve a hardstanding for use by the existing dwelling without the need to obtain planning permission. (Schedule 2, Part 2, Class B of the GPDO 2015), which would have the same impact if obstruction of the new access is to be avoided. Any obstruction caused to the highway is a police matter. The National Planning Policy Framework (NPPF) at paragraph 32 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It is considered that there would not be such severe impacts in the case of this cul-de-sac. The proposal would have off road parking and the traffic generation and parking associated with an additional dwelling served by Lodge Close would not warrant a refusal on road or pedestrian safety grounds.

6.6 Drainage

- 6.6.1 Core Strategy Policy CS18 requires all new development to integrate measures for sustainable water management to reduce flood risk. The development will connect to the mains sewer for the disposal of foul drainage. SC Drainage have raised no

objection to the proposal as suitable surface water drainage can be secured through the agreement of further details, plans and calculations obtained through appropriate conditions.

6.7 Ecology

6.7.1 Core Strategy policies CS6 and CS17 seek to protect, conserve and enhance the natural environment. SC Ecology are content that ecological interests can be safeguarded satisfactorily in this case by an informative relating to nesting wild birds for the applicant's information.

7.0 CONCLUSION

7.1 The site falls within the development boundary of Shifnal where there is no in-principle planning policy objection to the erection of open market housing on appropriate sites. The application proposal follows the same design concept approach to the dwelling in refused application 15/01497/FUL, but with changes that include a reduction in the size/massing of the dwelling. It is considered that, with the changes made, a re-appraisal of the impact of the scale and design in relation to the local character and context is warranted. The policies set out in the soon to be adopted Shifnal Neighbourhood Plan are also now at the stage where they can be attached significant weight in appraising the material planning issues.

7.2 It is acknowledged that in considering planning applications on Lodge Close some 13 to 15 years ago a new housing proposal was required to conform to the semi-detached form of all other dwellings on the Close. However different planning policies applied at that time and account must be taken of current Development Plan policies and national planning policy guidance. The NPPF advises at paragraph 60 that planning policies and decisions should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. The site is not within a heritage asset conservation area and, while the architectural form would be different to the semi-detached dwellings found on Lodge Close, it would not be incompatible with the more varied mix of architectural styles found in the wider locality. The materials palette proposed may be found in existing residential developments across Shifnal. The Shifnal Neighbourhood Plan policy HG1 contains a number of criteria, including one which seeks to provide variety in house design and elevation treatment, and this is applicable to infill plots as well as larger housing sites. The proposal is not out of scale with the surrounding properties, would have a plot size comparable in area to other plots in the locality and would introduce variety into the streetscene. It would be a two bedroomed dwellings and policy HG2 of the Neighbourhood Plan has identified a need to increase the supply of one and two bedroomed properties in Shifnal.

7.3 The residential amenities of adjacent dwellings would not be unduly harmed by the proposed development and the adjustments made to the design compared to that refused (15/01497/FUL) have ensured that it would have adequate outdoor amenity space. A re-appraisal of the outdoor amenity space that would remain with 22 Park Lane has established that this would be comparable with that of other Park Lane properties to the north.

- 7.4 The site is in a location where the dwelling occupants would not be dependent upon the car to access services. The proposed access arrangements onto Lodge Lane would not be detrimental to road and pedestrian safety. Drainage and ecological interests can be safeguarded through planning conditions and informatives.
- 7.5 Assessed against the three dimensions of sustainable development set out in the NPPF, it is considered that the proposal would satisfy the environmental role for the reasons set out in sections 6.2 to 6.7 above. The social role would be fulfilled particularly through the proposal delivering a two bedroomed dwelling in line with a priority identified by the Shifnal Neighbourhood Plan. The economic role would be satisfied through the creation/sustaining of employment during the build process and the subsequent use of local services/facilities by the occupants. It is considered that the revisions made in comparison with that in application 15/01497/FUL are cumulatively significant and sufficient to overcome the previous refusal reasons.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS3 Market Towns and other Key Centres
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

SAMDev Plan:
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Delivery of Housing Development
MD12 Natural Environment
S15 Shifnal Area

Shifnal Neighbourhood Plan

SPD on the Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

15/01497/FUL Erection of 1No dwelling and formation of vehicular access REFUSE 7th April 2016
 BR/APP/FUL/04/0341 Erection of a two storey rear extension GRANT 4th June 2004
 BR/APP/FUL/02/0077 Erection of first floor rear extension REFUSE 5th March 2002
 BR/APP/FUL/01/0849 Erection of a first floor rear extension REFUSE 8th January 2002
 BR/APP/FUL/07/0136 ERECTION OF A SINGLE STOREY REAR EXTENSION GRANT 16th April 2007

Appeal

BR/APP/FUL/02/0077 Development Appeal DISMIS 12th December 2002

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

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

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

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

3. 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. Before above ground works commence details of the proposed finished ground floor level of the dwelling relative to existing site ground levels shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the area and to safeguard neighbour amenity.

5. Before the dwelling hereby approved is first occupied the garden area shall be enclosed in accordance with details which have first been approved in writing by the Local Planning Authority.

Reason: To safeguard neighbour amenity.

6. The existing hedges to the northern and southern site side boundaries shown on the approved block plan shall, for the extent of the boundaries to the rear of the line of the front elevation closest to the highway, be maintained at a minimum height of 1.8 metres. In the event of this hedging dying or being removed, it shall be replaced by walls or fencing to a design and height, and in accordance with a timetable, all of which shall have been approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard neighbour amenity.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 classes A to E ; shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenities.

8. The access and parking area shall be constructed and surfaced in accordance with details which have been submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the dwelling. The parking area shall thereafter be kept available for the parking of vehicles. No gates shall be provided to the access without the prior written approval of such gates by the Local Planning Authority.

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

9. No development shall take place until a scheme of 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 (whichever is the sooner).

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

10. Construction (and/or demolition) works shall not take place outside the following times:
- Monday to Friday 07:30hrs to 18:00hrs
 - Saturday 08:00hrs to 13:00hrs
 - Nor at any time on Sundays, Bank or Public Holidays

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

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

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

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 by the National Planning Policy Framework, paragraph 187.

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

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

3. Mud on highway: The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway: Drainage arrangements shall be provided to ensure that surface water from the driveway and or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

4. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one that is being built, containing eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy and egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of 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.

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

5. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If

you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

6. 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:
CS3 Market Towns and other Key Centres
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

SAMDev Plan:
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Delivery of Housing Development
MD12 Natural Environment
S15 Shifnal Area

Shifnal Neighbourhood Plan

SPD on the Type and Affordability of Housing

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Committee and date

South Planning Committee

6 December 2016

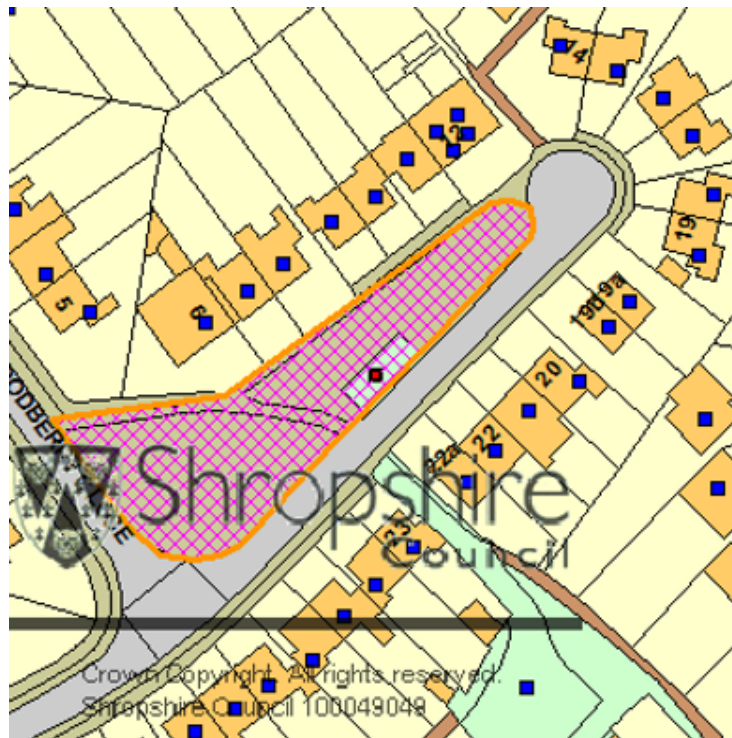
Development Management Report

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

Summary of Application

| | | |
|---|---|-------------------------|
| <u>Application Number:</u> 16/03288/FUL | <u>Parish:</u> | Bridgnorth Town Council |
| <u>Proposal:</u> Formation of new parking bays (fronting numbers 6 to 12 Woodberry Close) to include bollard security and landscaping. | | |
| <u>Site Address:</u> Parking Bays At Woodberry Close Bridgnorth Shropshire | | |
| <u>Applicant:</u> Shropshire Council | | |
| <u>Case Officer:</u> Sara Jones | <u>email:</u> planningdmse@shropshire.gov.uk | |

Grid Ref: 370806 - 293478



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

1.0 THE PROPOSAL

1.1 This application is a resubmission of a planning application which was originally submitted in January 2014 (application reference No. 14/00199/FUL refers.) The application was consulted upon locally during the course of the formal planning process and was reported to South Planning Committee on 1st April 2014. At that meeting the planning committee resolved that the determination of the application be deferred in order for the applicant to give consideration to submitted a different and improved scheme and to providing an alternative form of access for residents to access their frontages and for consultation to be undertaken with those residents to see if they would be willing to make a contribution towards any improvements. The original application was subsequently withdrawn.

1.2 Since the original application it is understood that the applicant has undertaken work to consider revisions to the original scheme and to consult further with local residents on the matter. Costings were prepared for alternative proposals and these were shared with local residents in March 2015. The applicant has confirmed that a small number of responses were received and that they indicated that they were unable to contribute financially to the alternative scheme. Accordingly the applicant has decided to resubmit the original proposal and considers that this scheme represents the best achievable option.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site refers to a large area of grass located within an established residential estate in Bridgnorth. The amenity space provides a barrier to the frontages of a number of dwellings (No. 6 -12) which do not have authorised vehicular access and have pedestrian access only. The Council has previously inserted five parking spaces using grasscrete.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council Constitution applications made by the Council or in relation to land owned by the Council which are not in-line with statutory functions shall be determined by the relevant committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Bridgnorth Town Council – Recommend approval.

4.1.2 SC Highways – No objection, recommend that the contractor contacts SC Streetworks team to obtain the necessary permissions to work on the Highway.

- 4.1.3 SC Drainage – No objections, recommend conditions.
- 4.2 - Public Comments
- 4.2.1 Site notice displayed/dated 05.08.2016 and 30.08.2016. Nineteen letters sent 05.08.2016.
- 4.2.2 Six representations received objecting to the application which may be summarised as follows:
- 4.2.3 Concern that Shropshire Council is re-submitting the same plans it was asked to amend. This application is neither "different" nor "improved" nor is it "providing an alternative form of access for residents to access their frontages".
- 4.2.4 The ground needs to be left as the status quo or access to the frontages provided, anything else will cause more problems than it supposedly aims to solve.
- 4.2.3 There is no parking problem within the Close. If the proposed extra spaces and bollards are put in then these 'extra' spaces will immediately be taken up by displaced cars from those properties no longer able to access their driveways. This means that in reality there will be no extra spaces. Where will visitors to the Close then park?
- 4.2.4 This plan will cause parking issues rather than alleviating any perceived issue.
- 4.2.5 With concrete bollards installed emergency services would not have direct access to the houses.
- 4.2.6 How could 40+ industrial bollards be in keeping in a close with all brick built houses.
- 4.2.7 Questions whether if the ordinary bays are to be designated to each of the houses affected by the proposed blocking of access to their frontages i.e. numbers 6 to 11 and why it is necessary to have 4 disabled bays. Consider that there are two people who could benefit from this but both houses have frontages that open onto the road. These bays would therefore stand empty for the vast majority of the time, if not always and as such are a waste of space.
- 4.2.8 The supporting statement for the application states "a small number of responses were received" for the costings for alternative proposals. This is highly misleading because only numbers 6-12 were asked for payment anyway so of course the number of respondents was few. In addition it states that "the best option was to resubmit the original proposal for determination, which meets with the support of the majority of residents in the Close." This is highly misleading as the majority of residents have said nothing (neither supporting nor opposing) the Council appear to be choosing to regard this silence as support.
- 4.2.9 Question why the public asked to contribute towards one scheme (access to frontages) when they are not being asked to contribute towards another (extra parking spaces)? It seems that the Council is using this obligation to pay to suit

itself in order to put one planning application over the other. It is unreasonable to ask anyone to hand over £10k per property.

- 4.2.10 Concern that the site notice dated 16th August in the planning application is nowhere to be seen (correct as of 21st August). This goes against the Council's own application process that states "site notices will be displayed for all applications except householder development proposals". Also did not receive any letter from the council either, happening only to hear of this re-application for planning permission through a chance conversation with a neighbour.
- 4.2.11 Considers that the Town Council should be asked as to why it has changed its recommendation without explanation.
- 4.2.12 Notes that the location plan submitted contains inaccuracies. House number 12 was extended a few years ago to twice its size and converted into 4 flats - all with parking on their frontage. Both sets of council garages have been demolished, the land sold and two houses built on each of the sites, with frontage parking. Another house has been added to the side of house number 22 again with its own frontage parking.
- 4.2.13 Consider that if the Council insists on blocking vehicular access, across Council property, to the frontage of houses 6 to 11 they should also be insisting that access to all house frontages should be legal i.e. where they cross footpaths they should have the relevant planning permission and the approved installation of dropped kerbs.
- 4.2.14 The best solution would be to install an access road to the affected properties. This need not be a fully tarmacked but could in fact be laid in a way similar to the existing parking bays thereby keeping the 'green' feel of the close. Looking at the plans the areas involved appear to be very similar, and the existing bays would still be available for all.
- 4.2.15 Acknowledge that parking in the close has never been ideal for those of us living in numbers 6 to 11, but consider that the Council's decisions and actions have made the situation much worse. Their decisions to allow further house building in the Close while at the same time taking away garages and land have significantly increased the number of cars and decreased the amount of parking space available. Therefore propose that the money raised from the sale of the garage land be used to help rectify the problem through the building of a slip-road to give access to house numbers 6 to 11.
- 4.2.16 The plans will stop residents parking on their drives. People have spent money putting drives in which they will no longer be able to use. We rented the property because it has a drive. We have four nearly five young children so it is important we can park outside our house. Our car insurance would also go up. The plans don't have enough parking spaces for the amount of cars which causes a big problem, where do the cars park that can't get a space? What about large vehicles? Ours is bigger and longer than a 4x4 so would it fit in a space? People also come home in work vehicles which won't fit so where do they park these? On bin day will the bins be left blocking spaces or the footpath once emptied? It's already a nightmare as it

is. The plans will cause chaos and arguments in what's normally a quiet friendly place to live.

5.0 THE MAIN ISSUES

Principle of development
Visual impact and landscaping
Highway Safety

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Core Strategy Policy CS6 seeks to ensure development is designed to a high quality using sustainable design principles. All new development should achieve applicable national standards; be in accessible locations and protect, restore, conserve and enhance the natural, built and historic environment and be appropriate in scale and design taking into account local character. New development should also contribute to the health and wellbeing of communities, including safeguarding residential and local amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities. This reflects the guidance set out in the National Planning Policy Framework which seeks to promote healthy, safe, inclusive communities.

6.1.2 It is noted that residents over time have created drives that would not have originally existed and have used the green to access the drives, without highway permissions or easements. This has caused and continues to cause damage to the grass and requires drivers to drive across pedestrian footways. In addition vehicles parking on the grassed also cause an obstruction and interfere with maintenance operations (grass cutting). In addition it is noted that there have been complaints to local ward Councillors over a period of time regarding the mud caused by the vehicles covering both footways and carriageway causing health and safety concerns for users locally.

6.1.3 The proposal would increase the number of communal parking spaces available for all local residents from 6 to 19 spaces and as a consequence of the installation of bollard security stop vehicular encroachment onto the green space. Whilst it is acknowledged that the proposal would disadvantage the occupiers of those residents who have benefited from unauthorised access to the frontages of their properties, the proposal would make a positive contribution to the overall residential amenity of the area by providing additional communal parking spaces available to all on a first come first served basis.

6.2 Visual Impact and Landscaping

6.2.1 As stated above this area of grass has suffered from extensive damage and problems with its maintenance as a consequence of the unauthorised vehicles driving across and parking on it. It is accepted that the introduction of the parking spaces would reduce the overall size of the grassed area but it is considered that the formal arrangement and restrictions on access would have an overall benefit to the visual amenity of the area. Furthermore the introduction of additional planting of soft landscaping would help to soften the additional hard landscaping. Concern has

been expressed regarding the appearance of the bollards and in particular the use of concrete. This issue has been raised with the applicant and they have stated that the material used may be reviewed however given the challenging economic climate the costs of the project are a significant consideration. The detailed design of the bollards may be the subject of an appropriately worded condition; however it is considered that the use of concrete may not necessarily be inappropriate in the context of this location.

6.3 Highway Safety

6.3.1 The applicant confirms that the scheme has been brought forwards as a result of a number of highway and traffic issues locally. The Highways Development Control Team has been consulted. Initially improvements to the scheme were recommended including the use of tarmacadam for the disabled user bays and the amendments to the layout so that these are grouped two together either side of the footpath to keep them as close as possible to the commenting footpath. Amended plans have been received and overall it is considered that the proposal would represent a highways benefit as it would reduce the obstruction of the highway and improve access for all highway users, particularly emergency vehicles into all parts of this cul-de-sac.

6.4 Other Issues Raised

6.4.1 In terms of refuse collection, bin collection and storage the applicant previously confirmed that the refuse collectors would still be required to collect and return the wheeled bins to and from the curtilage of properties.

7.0 CONCLUSION

7.1 It is considered that the proposal would make a positive contribution to the overall residential and visual amenity of the area by providing additional communal parking spaces and protecting the amenity space from unauthorised access which serves to damage its surface. As such the proposal would meet the aims of Core Strategy policy CS6 and SAMDev policy MD2.

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:

NPPF: National Planning Policy Framework

Core Strategy Policies:

CS6: Sustainable Design and Development Principles

CS17: Environmental Networks

CS18: Sustainable Water Management

SAMDev Policies:

MD2: Sustainable Design

RELEVANT PLANNING HISTORY:

14/00199/FUL Formation of additional parking bays (from 6 to 19) to include bollard security and landscaping WDN 2nd June 2014

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=makeComment&keyVal=OAVU0VTDfWR00>

| |
|--|
| List of Background Papers |
| Cabinet Member (Portfolio Holder) Cllr M. Price |
| Local Member Cllr John Hurst-Knight Cllr Les Winwood |
| 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 amended plans and drawings.

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

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

Reason: To ensure the provision, establishment and maintenance of landscaping in accordance with the approved designs and to protect the visual amenity of the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
Planting plans
Written specifications (including cultivation and other operations associated with plant and grass establishment)
Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
Implementation timetable

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

5. No development approved by this permission shall commence until details of the bollards, including material, design and finish, 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.

6. No development approved by this permission shall commence until details of the specification for the parking construction, surfacing and drainage arrangements 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.

Informatives

1. POLICIES MATERIAL TO THE DETERMINATION OF THE APPLICATION:
In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
NPPF: National Planning Policy Framework

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

SAMDev Policies:
MD2: Sustainable Design

2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
3. Any alterations to the highway kerbing or footway, required to facilitate vehicular access to the parking areas, shall not commence until the applicant has obtained a Highways Act, Section 184 licence issued by the Highway Authority to undertake the works. Details of how to obtain this licence, the fee charged and the specification for the works are available on the Councils web site.
4. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties. Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.



Committee and date
 South Planning Committee
 6 December 2016

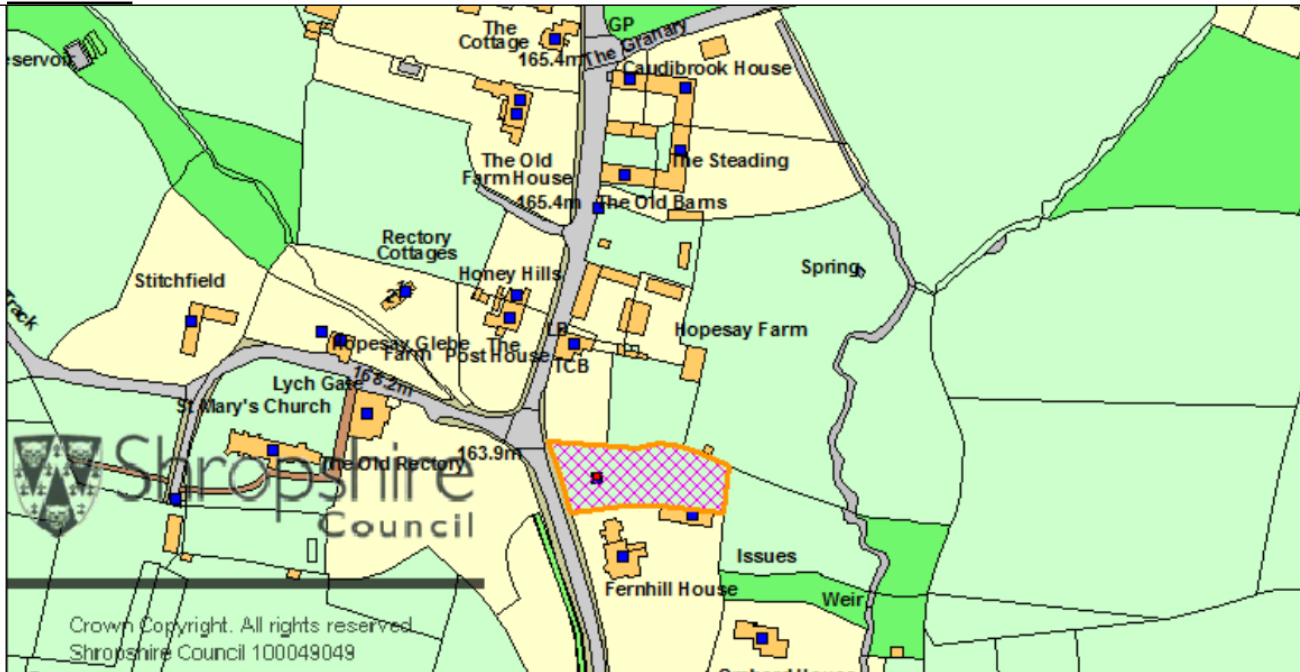
Development Management Report

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

Summary of Application

| | | |
|--|--|---------|
| Application Number: 16/01597/FUL | Parish: | Hopesay |
| Proposal: Erection of single dwelling and formation of vehicular access | | |
| Site Address: Proposed Dwelling To The South Of Hopesay Farm Hopesay Shropshire | | |
| Applicant: Mr & Mrs Bowen | | |
| Case Officer: Heather Bradley | email: planningdmsw@shropshire.gov.uk | |

Grid Ref: 339048 - 283268



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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission for the erection of a detached dwelling.

1.2 The scheme proposes a four bedroom detached dormer dwelling, constructed in brick, with a slate tiled roof. Following discussion with Council Officers the scheme was amended to reduce the size of the rear projecting element and amend the porch design to a smaller canopy design.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site forms a roughly rectangular parcel of land on the east side of the village of Hopesay. The land sits between Hopesay Farm to the north and Fernhill House and Fernhill Cottage to the south. Hopesay Farmhouse is itself a grade II listed building.

2.2 The site is currently a field, open to views of the wider landscape to the west. Existing vehicular access is situated along the north end of the low stone boundary wall which separates the site from the main road running through the village. A public bench abuts this boundary wall sitting on the grass verge and facing the mature hedge boundary of the property to the east known as The Old Rectory.

2.3 The site is within the Hopesay Conservation Area, the Shropshire Hills Area of Outstanding Natural Beauty (AONB) and the catchment of the River Clun which is a designated Special Area of Conservation (SAC).

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council have provided views contrary to the Officers recommendation. This has been discussed with the Local Member and the Chairman and Vice Chairman of the South Planning Regulatory Committee. The Chair and Vice Chair requested that the application should be determined by planning committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Hopesay Parish Council –objects to this application on the grounds that:

- A previous application for this site (SS/1/02911/0) was declined (Oct 92), went to appeal, and was dismissed (Mar 93) by the Planning Inspector and the primary basis for declining the application and dismissing the appeal remains valid: "the proposed development will have a detrimental effect on the visual amenities of the Shropshire Hills Area of Outstanding Natural Beauty and the (then proposed) Conservation Area and would set a

precedent for other inappropriate development". The Planning Inspector: "I consider that the main issue in this case is the effect of the proposal on the character and appearance of the area.." and "Hopesay is a particularly unspoilt hamlet which has undergone very little development..and its character derives..from its informal dispersed layout where open fields are intermingled with buildings. The appeal site is centrally located within the hamlet and.. its openness makes a very important contribution to the rural character of the settlement" and "The erection of a new dwelling on the site would be very harmful to the open rural character of Hopesay and would detract from the natural beauty of this part of the AONB". The Planning Inspector also did not consider that the proposal could be regarded as infill because of the substantial gap between the adjacent dwellings and the particular character of the surroundings.

- The application is inaccurate because it states that there is no planning history whereas the previous application and decision (as stated above) is actually on Shropshire Council's Online Register.
- This area is now a Conservation Area. The proposed application is not in keeping with existing dwellings within the Conservation Area. The application attempts to make similarities with brick built dwelling in the hamlet whereas the existing brick dwellings are over 100 years old, and made of hand made mellow terracotta bricks from local clay or of Victorian bricks, with original clay tiled roofs.
- The application states that the proposed new property 'represents careful and proportionate infilling' and will have 'little impact on the character or significance of the Conservation Area' and implies that the visual impact will be slight. However the visual impact will be enormous due to the unsympathetic design and materials, and the proposed dwelling will have a significant adverse impact on the Conservation Area and the listed buildings nearby, as it is in the heart of the hamlet. Council argues that far from 'careful and proportionate infilling', the proposed dwelling is inappropriate, jars with surrounding buildings, is unattractive, and has no merit. It does nothing to preserve or enhance the Conservation Area, and in fact will have the opposite effect.
- The proposed dwelling is 4 bedrooms. There are already more than enough 4 + bedroomed dwellings in the area. More are not needed. The local market requires smaller, more affordable dwellings for young families and for older persons downsizing.
- The site has always been a field and is an integral part of the Conservation Area. Furthermore, the environmental appraisal submitted is inaccurate (we note it was carried out in February, when much flora and fauna is invisible).
- There are Great Crested and other newts in the hamlet and in that part of the hamlet, there are water voles in the stream that runs through the field, there are several species of bats, as well as numerous frogs, toads, slow

worms, hedgehogs, stoats, and various other fauna. There are reportedly 130 species of flora in the field, some unusual.

Hopesay Parish Council – Response to amended plans and additional information – Objections remain as originally submitted.

4.1.2 SC Drainage (SUDs) - 19th April 2016 - No objection subject to conditions regarding surface and foul water drainage and use of permeable surfacing to driveway and access Recommend informative regarding the design of Sustainable Urban Drainage Systems (SUDs).

SC Drainage (SUDs) – 12th July 2016 - The proposed surface water drainage is acceptable. The proposed foul water drainage details should be conditioned if planning permission were to be granted. The Foul Drainage Assessment Form (FDA1 Form) should be submitted for approval.

4.1.3 SC Historic Environment (Conservation and Design) – 10th May 2016 – Amendments requested.

- No principle objections to the construction of a detached dwellinghouse on this site as it will be located within its own plot where the existing conservation area is characterised by detached properties set into spacious plots.
- The proposed dwelling will broadly follow the building line to that of Ferndale House to the south.
- Hopesay Farmhouse is set a little distance away to the north where overall the proposal would have little overall impact upon the setting of these heritage assets including that of the wider conservation area.
- However there are some proposed design features that could cause harm to setting including the scale where the side elevation profile into the plot is too large - could this be replaced by a simple timber framed sunroom type structure?
- The porch that is somewhat incongruous, where the porch detailing is too large in terms of its span and it over dominates the front elevation. A simple timber post tiled porch would suffice.
- The proposed front rooflight to the side set down section should be removed and placed on the rear facing plane of the roof.
- The Planning Statement states that the dwelling will be constructed in red brick but what about the other facing materials? The Conservation Area Statements states other materials including timber framing and slate roofs, so the proposed materials palette needs further explanation.
- Details on how the existing stone wall will be managed as the structure currently makes a positive contribution to the setting of the conservation area.

Overall it is considered that the proposal is not in accordance with policy MD13 of SAMDev or in accordance with the design principles set out in the Hopesay Conservation Area Statement (paragraph 7.4). There is objection to this proposal until the above recommended amendments are undertaken to the proposed drawings.

SC Historic Environment (Conservation and Design) – 25th July 2016 –
These comments supplement those originally submitted on 10th May 2016 –
Amendments to design acceptable, however additional heritage impact assessment
required.

- Rear projecting sunroom - This has been reduced to a more acceptable scale, where it should be more ancillary to the principal section of the proposed dwellinghouse. It should also mitigate views looking north and southwards.
- The porch has now been amended to a smaller scaled porch that is a timber framed ancillary structure that tiled pitched. This amendment is welcomed.
- Front facing rooflight has been moved to the rear – this is therefore OK
- Status of existing boundary front wall - updated block plan has been noted and agree that a method statement to its reconstruction can be conditioned accordingly.

Whilst the above considers specific details of the proposed dwellinghouse, the Inspector's Report dated from 1993 is noted where he expresses concern over the proposed dwellinghouse's potential impact on the openness of the site, as well as relevant views of the hills and rural hinterland beyond and therefore the overall setting of the Shropshire Hills AONB. It is noted that this report was issued pre-designation of the Hopesay Conservation Area.

This is a significant consideration where many of the existing factors are still relevant, especially now that the conservation area has now been designated. It is noted from the submitted Heritage Statement that there would not be any impact from the proposal. There is disagreement with this statement, as any structure on this site will have some degree of potential impact with regards to open views as well as conservation area and listed building setting impact. Notwithstanding the Inspector's view on having a built structure on the site, it is imperative that if the principle of development of this site for a structure is accepted, then further setting assessment work should be required to assess the impact of the proposal on relevant views/vistas within the settlement of Hopesay, that could be in the form of photographic visuals of the proposal from the relevant vantage points, that include short and long-term views south, north, east and west. The view along the west and eastwards axis is perhaps the most critical in terms of assessing setting of the grade I St Mary's Church to the west as well as the view of the hills in the background.

SC Historic Environment (Conservation and Design) - 19th September 2016 -
These comments supplement previous comments submitted on 10/5/16 and
25/7/16 respectively – No objection, subject to conditions.

The main objection was the lack of heritage assessment with regards to how the new dwelling would impact upon the overall character, appearance and setting of Hopesay Conservation Area. Whilst a Heritage Assessment was submitted, it did not include photo visuals in order to aid the overall assessment of the potential impact of the setting of the site. The main concern was immediate views of the site from the immediate highway (photo 8) as well as views from St Mary's Church to the west (photo 1) and whether the proposal would impact on the setting of that heritage asset. The submission of the Conservation Area Viewpoints was made on

16/8/16 that has been helpful in order to make a better assessment of the site and supplementing the Heritage Assessment in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 128 of the NPPF and policy MD13 of SAMDev. The proposed amendments to the proposed dwellinghouse in the latest submitted drawing is supported where it reduces its overall width and therefore allowing views to the hills either side of the building within its plot that should be retained. The presence of existing mature hedgerows and planting also mitigates the impact of the proposed building from other immediate views within the conservation area, where the previous objection is now withdrawn subject to appropriate conditions including facing vernacular materials (bricks, oak timber frames, slate tiles etc), conservation specification rooflights and an appropriate recess for the proposed casement windows.

- 4.1.4 SC Historic Environment (Archaeology) – No objection subject to condition requiring secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI).
- 4.1.5 SC Highways – No objection subject to conditions and informatives regarding the new access, visibility splays and gates.
- 4.1.6 SC Ecology – 9th May 2016 - Additional drainage information has been requested and is awaited to enable Shropshire Council to complete a Habitat Regulations Assessment in order to assess any potential impact on the River Clun SAC.

SC Ecology – 25th July 2016 - No objection subject to conditions and informatives regarding bats, wild nesting birds and trenches.
- 4.1.7 Shropshire Hills AONB – Standing advice regarding policies affecting the Shropshire Hills AONB and the statutory duty of the Local Planning Authority to consider the AONB when determining a planning application.
- 4.1.8 SC Affordable Housing – 05th May 2016 - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing

4.2 - Public Comments

4.2.1 17 Objections received to original consultation –

4.2.2 Design

- A new build in standard red brick – out of character with the village.
- The dwelling is too large and imposing - not in character with the village.
- The proposed frontal design is of little architectural merit, but the design and proportions of the rear ground floor structure are certainly not in keeping with the surrounding dwellings and the setting of the village when viewed from the Hill.
- Development is non-compliant with the NPPF in respect of design. The plans submitted are for an "off the shelf" executive home which might be suitable for the commuter belts surrounding the West Midlands.

- The design is alien to Hopesay and more suited to an executive development in a large town.

4.2.3 Visual Impact

- Site provides the only place in the village where there is an uninterrupted view of Hopesay Common and Hill.
- Harm the AONB
- Spoil the aesthetic view of this part of the village.
- The design is unsympathetic with the look and feel of the village.
- Any development on the site would not preserve or enhance the character of Hopesay and conflicts with CS6 and CS7.
- Loss of the open character of the village.
- The proposed development would bring nothing of value to the settlement of Hopesay except architectural banality.
- The Shropshire Way was rerouted to improve views for walkers and runs alongside the site – view would be lost by the development.

4.2.4 Heritage Assets

- Detrimental harm to the setting of nearby listed buildings.
- Heritage Statement. Section 7.1.2 concentrates on the impact of the proposed dwelling on the main vista along the axial lane through the village but makes no mention of the view of the proposed property from the path along the bottom of Hopesay Hill.
- Visually intrude on the Conservation Area.

4.2.5 Principle

- Proposal is not sustainable development.
- In this part of Hopesay parish there must be a presumption against a new-build residential development. The case could be considered purely speculative in nature.
- The proposal doesn't provide affordable housing to meet community needs;
- Four bedroom house is not needed, the priority is for smaller more affordable housing.

4.2.6 Planning History

- Applications have been refused on this site previously and dismissed at appeal – the circumstances of the village have not changed.
- The conclusions of the Inspector in their appeal statement are directly relevant to the proposal.
- Even if the planning environment had changed so drastically since 1993 as to diminish the Planning Inspector's overall findings, it wouldn't detract from his considered judgement as to what does or does not constitute infilling.

4.2.7 Ecology

- Adverse impact on biodiversity
- The survey doesn't take into account wildlife activity at different times of the year.

4.2.8 Residential Amenity

- Loss of privacy and outlook.

4.2.9 Highway/Access

- The village would not cope with the impact on construction traffic as a result of the development
- The field opening has always been in the current location and there is no reason why a new entrance should be made when the current gateway is adequate.

4.2.10 Drainage

- No investigation has been done into drainage from neighbouring septic tanks and sewerage systems – The soakaway is into the land under the proposed site.

4.2.11 Procedure

- Decision should be made by planning committee due to importance of this application to Hopesay, and its contentious nature.
- Concerned that most parishioners are unaware of the proposed new dwelling as no notice has yet been displayed on the site.
- The description of this application is not correct. The proposed dwelling is not to the South of Hopesay as the location is within Hopesay but should be described as Land adjacent to Fern Hill House Hopesay.
- Block Plans – the block plans have been drawn to avoid showing the sites proximity to The Old Rectory and its grounds.

4.3 2 comments received –

- The correct building materials will be critical to ensuring the building fulfils its stated ambition to remain subservient to existing village buildings and in line with the 19th Century properties.
- If permitted the development should be subject to certain specifications: -
- Samples of materials should be pre-approved by the Conservation Officer as some modern bricks would be inappropriate.
- Proposed hardstanding for cars should be restricted to the south side of the proposed building – to help the view from the village to the hills beyond to remain open to some extent.
- The low stone wall separating the site from the pavement should be retained (and replaced and rebuilt where the proposed opening is moved)
- Community bench should remain in situ (or a closely adjacent to its current location as possible)
- In considering the application, Shropshire Council should take note of the need highlighted in the Parish Plan, the Housing Needs Survey and the Place Plan for affordable or low cost housing for young people and older people wishing to downsize rather than for more large executive style properties.

4.4 7 objections received on amended plans and photographic survey: -

4.5 Photographic Survey – is inaccurate and misleading

- The photographs were taken with the foliage in full bloom, they give a wholly misleading impression of how the site will look in the autumn, winter and spring

- months when most of the deciduous trees will not be in leaf.
- The photographs omit the bench which was put there to allow walker a place to sit and refresh themselves and admire the view from that spot.
- Do not show how The Old Rectory holds a prime position towering over the height of the church and over the development site..
- No need to move the entrance to the field from a position that has existed for over 200 years.
- The bench will sit in the middle of the proposed new entrance.
- Changing the design detail cannot alter the whole architectural ethos.
- Little importance is attached to the design and materials specification.
- The scheme continues to harm the AONB, character and appearance of the Conservation Area.
- Adding the word "vernacular" to describe the brickwork, reducing the size of the rear of the property and redesigning the front porch do not mean that the house would now enhance the character of Hopesay.
- The amended plans do not take into account the harm to wildlife and ecosystems on the site.
- The small size and shape of the plot next to listed properties makes development unsuitable.

5.0 THE MAIN ISSUES

Principle of development
 Affordable Housing Contribution
 Siting, scale and design of structure
 Visual impact and landscaping
 Shropshire Hills AONB
 Conservation Area
 Archaeology
 Biodiversity
 Highway Safety
 Residential amenity
 Procedural matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 A key objective of both national and local planning policy is to concentrate new residential development in locations which promote economic, social and environmental sustainability. For Shropshire, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other

‘key centres’ and certain named villages (‘Community Hubs and Clusters’) as identified in policy CS3; CS4 and set out in detail in the Council’s SAMDev Plan Policy MD1. Sporadic development in open countryside (i.e. on sites outside the named settlements) is unacceptable without special justification.

- 6.1.2 Hopesay is part of a Community Cluster with Aston on Clun, Broome, Horderley, Beambridge Long Meadow End, Rowton, and Round Oak. The SAMDev settlement policy S7.2(i) sets the housing guideline for the cluster seeking to deliver around 15 additional dwellings in the plan period (up to 2026) in the form of infilling and conversions on small scale sites. The policy also states that housing development in the form of single plot developments would be preferred to enable a slow, cumulative growth. To date Hopesay has delivered no housing development under this policy. Its inclusion as a component of a Community Cluster under SAMDev Policies MD1 and S7 implies that the location in general *is* sustainable, and carries significant weight (NPPF Paragraph 14 states that proposals which accord with the development plan should be approved without delay).
- 6.1.3 The existing development in Hopesay tends to be focused along the unclassified C road which runs through the village and along the spur road which leads to the village church. The pattern of the built development is made relatively informal and dispersed due to the presence of open fields and mature landscaped areas which intermix between the built structures. The Planning Inspector in the appeal decision issued in 1993 (SS/1/2911/O/) and which has been referenced by the Parish Council and third party objectors confirms that the site is centrally located. The SAMDev Plan does not define development boundaries around these Cluster settlements and provides no definitive definition of infilling, the question of whether or not specific schemes constitute infilling is a matter for judgment in each case, although the explanatory text accompanying Core Strategy Policy CS4 confirms that windfall development *adjoining* the settlements is unacceptable. The dictionary defines ‘infill’ as ‘the act of filling or closing gaps’.
- 6.1.4 In this case built development sits to both the north and south sides of the application site. In Paragraph 4 of the appeal decision the Inspectorate considers that the proposal couldn’t be regarded as infilling due to the substantial gap between the adjacent dwellings and the character of the surroundings. In terms of the weight which this previous appeal decision carries in considering this current planning application it should be noted that the decision made on 24th March 1993 is now 23 years old and Hopesay was considered countryside in planning policy terms where no new open market housing was accepted by the adopted development plan at that time. The scheme now before the Council has to be considered in the current planning policy context set out above and has significantly changed compared to the plan context in 1993, particularly with the adoption of the SAMDev plan which identifies Hopesay as part of a community cluster. As a result it has to be accepted that Hopesay will have a degree of housing development, and the character of Hopesay will be likely to evolve as a result. This change of policy context has to be given significant weight in assessing both whether the scheme represents infill and on the character and appearance of the settlement, Conservation Area and Shropshire Hills AONB (a matter which is considered later in this report).

- 6.1.5 In terms as to whether the application site could be classed as infill, as noted above there is built development to the north and south sides of the plot and the site is clearly within the central part of the settlement. It is noted that the inspector considers there is a substantial gap between adjacent dwellings, and this would mean the site isn't not infill, however it also has to be noted that existing development in the settlement is sited in generous plots, with gaps between, which the Inspectorate also identifies. It is therefore considered given the above that the application site would represent infilling for the purposes of adopted planning policy.
- 6.2 Affordable Housing Contribution
- 6.2.1 On 28th November 2014 the Minister of State for Housing and Planning, Brandon Lewis MP, issued a Written Ministerial Statement (WMS) announcing that planning obligations should not be used to secure affordable housing contributions in connection with developments of 10 units or less (and with a maximum combined gross floor space of 1,000sqm), or 5 units or less in Designated Rural Areas. The latter are defined under Section 157 of the Housing Act 1985, and now include many rural parishes in Shropshire as well as the Shropshire Hills Area of Outstanding Natural Beauty (AONB).
- 6.2.2 Reading and West Berkshire Councils sought to challenge the WMS at the High Court. On 31st July 2015 it was quashed by Mr Justice Holgate, and the Government subsequently withdrew its associated Planning Practice Guidance (PPG). From this point Shropshire Council continued to apply its own affordable housing policy.
- 6.2.3 The Government challenged Mr Holgate's decision through the Court of Appeal, which overturned it on 11th May 2016. Consequently the WMS still applies. Furthermore the Housing and Planning Act gained Royal Assent on 12th May 2016, giving the Government power to achieve the same result (i.e. to set minimum thresholds for requiring affordable housing contributions) via secondary legislation.
- 6.2.4 In addition the Planning Inspectorate had already taken the stance that the WMS was a material consideration to be given significant weight in planning appeals, in accordance with the Secretary of State's position. The Court of Appeal confirmed this view that, like the National Planning Policy Framework (NPPF), the WMS constitutes policy as opposed to mere guidance, and that the Secretary of State is entitled to give greater weight to his policy if it conflicts with a development plan.
- 6.2.5 At this juncture Shropshire Council accepts that, despite the development plan remaining the starting point for planning decisions, the WMS is a significant material consideration and one which is more up-to-date than its own policies. The Council will not generally require an affordable housing contribution in connection with schemes where the aforementioned thresholds would not be met.
- 6.2.6 Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG. On balance, therefore, and at the time of writing, it is considered that there are no

specific circumstances which would justify giving greater weight to the latter and requiring an affordable housing payment in this particular case, with the relevant thresholds not being met, and it having been established above that the development is sustainable in any event.

6.3 Siting, scale and design of structure

6.3.1 Paragraph 55 of the NPPF advises that the design of developments, particularly in rural communities should:

- Be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
- Reflect the highest standards in architecture;
- Significantly enhance its immediate setting; and
- Be sensitive to the defining characteristics of the local area.

6.3.2 Paragraph 60 of the NPPF however states that:

'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness'

6.3.3 This national guidance is reflected and supported at the local level through Core Strategy policy CS6, which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev policy MD2 expands further on this and expects development to contribute to and respect locally distinctive or valued character and existing amenity value by:

- i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and
- ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
- iii. Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; and
- iv. Enhancing, incorporating or recreating natural assets in accordance with MD12.

6.3.4 The Hopesay Conservation Area was designated on 16th December 1993. Paragraph 4.4 of the Conservation Area Statement (last revised in March 2008) identifies a main feature of the area to be the large Victorian dwellings in their own grounds. Paragraph 4.11 states that brick and render alongside timber framing and limestone are identified as the main materials found in the settlement. Dormers and projecting gables are another feature existing on the housing in the settlement.

- 6.3.5 In terms of scale the scheme as amended is considered to sit comfortably within its plot, providing generous amenity space. The proposed dormers, and projecting pitched roof gables all pick up on features existing within the settlement, whilst the proposed glazed gabled to the rear introduces a modern feature and gives the property an individual character.
- 6.3.6 Brick and slate are the material proposed in the construction of the dwelling. Such materials are considered to reflect the local vernacular. Concerns are raised with regard to the type of material, however the precise details of the materials, to include matters such as jointing width and pointing can be dealt with via planning condition.
- 6.3.7 Overall the design of the proposed scheme as amended is considered to reflect the character of the settlement and contributes towards preserving the local distinctiveness of the area.
- 6.4 Visual impact and landscaping – Shropshire Hills AONB and Conservation Area
- 6.4.1 Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that local planning authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. It also requires that the LPA should have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Part 12 of the NPPF and CS17 and SAMDev MD13 supports the above.
- 6.4.2 Part 11 of the NPPF places great weight on conserving landscape and scenic beauty Areas of Outstanding Natural Beauty. Policies CS17 and MD12 support these national policies seek to protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment.
- 6.4.3 The application site sits to the south of Hopesay Farm, the house of which is designated as a grade II listed building. To the west around 85m from the site lies the Grade I listed St Marys Church. The Councils Conservation Officer has considered the proposed scheme as amended alongside the heritage impact assessment and the photographic survey submitted as requested and is content that the proposed development would not be of detriment to the setting of these heritage assets.
- 6.4.4 Paragraph 4.7 of the Hopesay Conservation Area Statement, notes that the dwellings set in large grounds combined with other open spaces in the settlement are an important part of the character of Hopesay and should be retained. It is accepted that the site forms one of these open gaps which contributes to the character of the village and the impact of development of such a gap needs to be carefully considered.
- 6.4.5 In terms of visibility, the location of the application site is such that any development here would be visible from public view points along the highway when travelling immediately past this part of the settlement. The rear of the site is more exposed to wider views from the surrounding landscape, with public rights of way

running through the landscape on the east and along which, at points, looks down onto the settlement. As a result of this the rear of the proposed dwelling would be visible, however the rear of existing properties along this side of the village are currently also visible and the proposed property would be viewed as part of this group rather than as an isolated feature.

6.4.6 The dwelling is proposed to sit along the same building line as the adjacent neighbouring property to the south (Fernhill House) and in general the plot size is considered to mirror existing plot patterns within the settlement. It is acknowledged that the development of the plot would result in the loss of an existing vista and this in turn would alter the character of this part of the settlement and Conservation Area. The block plan however indicates that some space will remain between the boundaries of the site and the proposed dwelling, and this would allow for some views, albeit limited, to the natural landscape beyond. It is considered that the harm caused by the loss of the vista to the character of the settlement and in turn to the character and appearance of the Conservation Area and Shropshire Hills AONB is less than substantial when considering the proposal against the current policy context on development in this settlement. Overall, the character and appearance of the wider conservation area would be preserved.

6.5 Archaeology

6.5.1 The proposed development is located within the historic core of Hopesay. The village is understood to have early medieval origins and the proposed development site has remained undeveloped since at least the 19th century, as indicated on historic editions of the Ordnance Survey maps. It is therefore possible that the archaeological features and deposits relating to the medieval and later development of the settlement may survive on the proposed development site. As a consequence, it is considered to have moderate archaeological potential.

6.5.2 In view of the above, and in line with Paragraph 141 of the NPPF, it is recommended that a programme of archaeological work, to comprise an archaeological watching brief during all ground works, is made a condition of any planning permission.

6.6 Biodiversity

6.6.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible.

6.6.2 In this case the application has been accompanied by a Phase 1 Environmental Survey conducted by Greenscape Environmental Ltd (February 2016). The Council's Ecologist has considered the survey and is content that ecological interests can be safeguarded by conditions and informatives.

6.6.3 The site lies within the catchment of the River Clun which is a designated SAC, as such the Council's Ecologist has carried out an Habitat Regulations Assessment

Screening Matrix (Attached as appendix 2 to this committee report). In summary the report concludes that the proposed development is unlikely to lead to increased levels of nutrients reaching the River Clun SAC and therefore the scheme will not adversely affect the integrity of the European Designated Site at the River Clun SAC.

6.7 Highway Safety

6.7.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

6.7.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.

6.7.3 The site is situated on a ‘C’ class road, whilst there is an existing field gate to the north end of the site frontage, the proposal seeks to close this opening and form a new access to the south end of the boundary. The Councils Highways team consider that the proposed relocation of the access would have a degree of benefit to highway safety as it would move the access further away from the bend in the road and the road junction which leads to St Marys Church, thus negating the potential of conflicts at the current location. The amended block plan indicates the visibility splays for the proposed access and it is considered the formation of the new access would not result in serve harm to highway safety.

6.7.4 The Highways Officer notes that the existing bench would no longer be in the most suitable place should the proposed access be built. Following discussion with the applicant’s agent it has been confirmed that the application is willing to relocate the bench to in front of the new part of the wall proposed following the blocking up of the north access point. This is a matter which could be secured by condition.

6.8 Residential Amenity

6.8.1 Core Strategy Policy CS6 requires all development to safeguard the amenities of neighbouring residents. In this case the closest neighbouring properties are to the south of the site. The block plan indicates there would be a distance of around 11m between the side elevation of the proposed dwelling and the side elevation of Fernhill House. The majority of the amenity space serving the neighbouring properties is set to the south away from the application site. Openings proposed in the ground floor of the property could be screened by boundary treatments. The closest first floor window is shown to serve an ensuite, and it is considered the window can be conditioned to be obscure glazed. It is considered that the development of this site with one detached dwelling would not unduly harm residential amenity.

6.8.2 Hopesay Farm to the north of the site is around 35m from the application site, a small field would separate the sites, the boundaries of which are defined by mature tree and hedging. Opposite the site, the grounds of The Old Rectory run up to the western boundary of the road. The land on this side is set at a higher ground level and the existing mature landscaping screens these grounds from the application site. The dwelling itself is set some 60m away. At such distances and given the nature of the land levels and mature landscaped boundaries between the application site and these neighbouring properties, it is considered that the proposed scheme would not unduly harm expected levels of residential amenity.

6.8.3 It is almost inevitable that building works anywhere will cause some disturbance, however this is a temporary feature and given the scheme is for one dwelling only, it is not considered that the scheme would result in a significant level of disturbance to justify refusal of this planning application.

6.9 Drainage

6.9.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in existing runoff rate and not to result in an increase in runoff. The Councils drainage officer is satisfied that the development can be adequately drained without causing or exacerbating flooding in the site or vicinity.

6.10 Procedural Matters

6.10.1 The site notice was sent out to the applicant's agent to be displayed at the site for 21 days as per Council procedure when the application was validated. However following notification from the parish and the local community that the site notice had not been displayed, the Council Officers displayed a site notice on the existing field gate at the time of their site visit.

6.10.2 The objections regarding the quality of the photographic survey submitted is noted, however the photographs form just part of the overall assessment of the impact of the proposal and the Councils Conservation Officer has raised no objections to the quality of the survey.

7.0 CONCLUSION

7.1 The application site is situated within the settlement of Hopesay which is part of a nominated community cluster, the principal of open market housing development is therefore acceptable on suitable sites in accordance with policies CS4 and MD1. It is judged that the plot represents infill development and the design and scale of the amended dwelling would not adversely harm the character of the settlement, picking up on detailing already existing on properties within the area.

7.2 The loss of the vista is acknowledged however given the current policy context it is considered the harm created on the character and appearance of the settlement and the Conservation area is less than substantial. The character and natural beauty of this part of the Shropshire Hills AONB would not be significantly harmed.

7.3 The proposal can be carried out without harm to highway safety, or the biodiversity of the area and the impact on residential amenity would be negligible.

7.4 The scheme as amended is considered to comply with the main objectives of the relevant development plan policy and it is recommended that planning permission is granted subject to conditions.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework
National Planning Practice Guidance

Core Strategy:

CS1 Strategic Approach
CS4 Community Hubs and Community Clusters
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Supplementary Planning Document (SPD) on the Type and Affordability of Housing

Site Allocations and Management of Development (SAMDev) Plan:

MD1 Scale and Distribution of Development;
MD2 Sustainable Design
MD3 Managing Housing Development
MD12 Natural Environment
MD13 Historic Environment

Settlement Policies

S7 Craven Arms

Other Documents:

Hopesay Conservation Area Statement.

RELEVANT PLANNING HISTORY:

SS/1/2911/O/ Erection of a dwelling and formation of a vehicular and pedestrian access.
REFUSE 15th October 1992

Appeal

SS/1/2911/O/ Erection of a dwelling and formation of a vehicular and pedestrian access.
DISMIS 24th March 1993

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O5L3DETDLQ300>

| |
|--|
| List of Background Papers |
| Cabinet Member (Portfolio Holder) Cllr M. Price |
| Local Member Cllr. Lee Chapman & Cllr David Evans |
| 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 amended plans and drawings

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

3. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Phase 1 Environmental Survey conducted by Greenscape Environmental Ltd (February 2016).

Reason: To protect features of recognised nature conservation importance.

4. Prior to the first use or occupation of any part of the development hereby permitted, the drainage system hereby approved shall be installed in complete accordance with the approved plans and particulars:-

Drainage Layout Plan, drawing number HS-DL-500 Rev A
Soakaway Calculations Rev A, and Porosity Graph.

These shall be maintained thereafter in the absence of any further specific permission in writing from the local planning authority.

Reason: To ensure that the development is provided with satisfactory means of drainage, avoid increasing the risk of flooding at the site or elsewhere, and safeguard the ecological interest of the River Clun Special Area of Conservation, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

6. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

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

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

7. Prior to the above ground works commencing samples and/or details of the following shall be submitted to and approved in writing by the Local Planning Authority.

- Roofing materials;
- External walls materials, including pointing, jointing width, bond and mortar mix.

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 in the interests of the Shropshire Hills AONB and Heritage Assets.

8. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the amenity of the area and character of the Heritage Asset and Shropshire Hills AONB.

9. Prior to their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

Reason: To safeguard the character and appearance of the surrounding Heritage Asset.

10. Prior to the first occupation of the dwelling hereby approved the existing field access shall be blocked with reclaimed stone from the creation of the new access hereby permitted and the existing bench re-sited to the land in front of the new stone wall. Before this work commences details of the stone work, to include a sample panel of approximately 1m square to show the character of coursing and joining width, mortar mix, pointing profile and finish, shall be erected on site. No work requiring the use of those materials shall be started until approval has been received in writing by the Local Planning Authority. The work shall be carried out in accordance with such details.

Reason: To define the permission for avoidance of doubt, in the interests of highway safety and protecting the visual amenity of the area, Shropshire Hills AONB and Heritage Assets .

11. A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

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

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

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

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

14. The first floor window in the south side elevation shown on the approved floorplans to serve an ensuite shall be obscure glazed prior to the first occupation of the dwelling and shall be permanently maintained as such thereafter.

Reason: In the interest of residential amenity.

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

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

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

16. Notwithstanding the provisions of the Town and Country General Development Order 2015 (or any order revoking or re-enacting that order with or without modification), any fence or other means of enclosure at the road junction/access shall be set back to the approved sight lines and those areas shall thereafter be kept free of any obstruction at all times.

Reason: In the interest of highway safety.

Informatives

1. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- o construct any means of access over the publicly maintained highway (footway or verge) or
- o carry out any works within the publicly maintained highway, or
- o authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- o undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

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

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

- ' Greywater recycling system
- ' Green roofs

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

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

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

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

4. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
5. 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.

6. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email:

snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

7. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to discharge conditions. If a fee is necessary this will be required per request. The required forms are available from www.planningportal.gov.uk or from the Local Planning Authority.

Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given. Failure to discharge pre-commencement conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

8. 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.

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Committee and date

South Planning Committee

6 December 2016

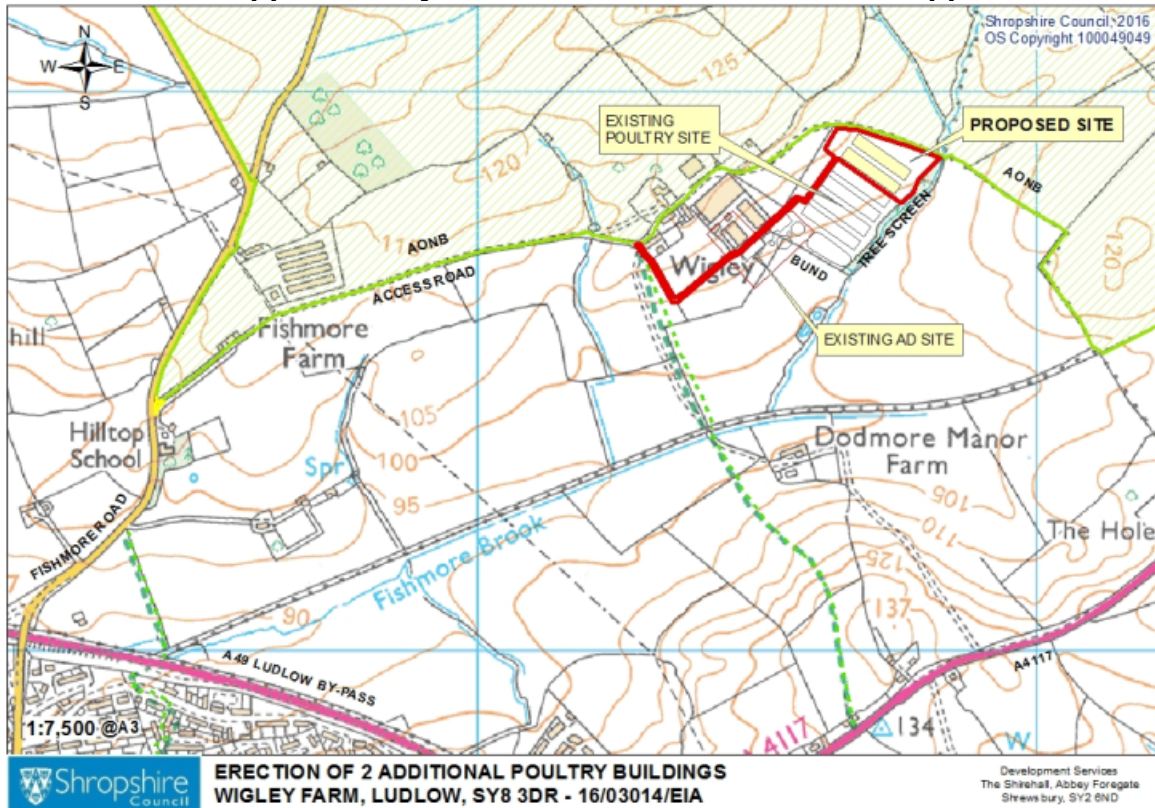
Development Management Report

Responsible Officer: Tim Rogers

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

| | |
|---|--|
| Application Number: 16/03014/EIA | Parish: Bromfield |
| Proposal: Erection of 2 No. additional poultry buildings and associated feed bins and hardstanding | |
| Site Address: Wigley Farm, Ludlow, Shropshire, SY8 3DR | |
| Applicant: Mr Robert Gough | |
| Case Officer: Grahame French | email: planningdmc@shropshire.gov.uk |

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



REPORT

1.0 THE PROPOSAL

Contact: Tim Rogers (01743) 258773

- 1.1 The applicants operate an existing broiler rearing unit at Wigley farm which consists of 4 broiler sheds with a total capacity of 220,000 birds. The existing units were granted permission in September 2012 under reference number 12/02438/EIA and were developed during early 2014.
- 1.2 The applicants are now seeking to expand the poultry enterprise through addition of 2 further poultry sheds which would be located to the immediate north of the existing sheds. The proposed buildings are similar in design to the existing buildings, and measure 116.424m x 21.9m with an eaves height of 2.74m and a ridge height of 5.7m. The proposed poultry buildings include a control room and canopy protruding from the north-west elevation, extending to 13.47m x 3.05m and a dust baffle protruding from the south-east elevation extending to 17.75m x 4.16m.
- 1.3 The development includes 4 No. additional feed bins and a feed mixing room extending to 2.2m x 3.56m. The proposed buildings will each house 55,000 birds, increasing the total capacity of the site to 330,000 birds. The applicant holds an IPPC permit for the additional poultry sheds and the associated increase in bird numbers (permit reference: EPR/BP3434FX).
- 1.4 The proposed poultry units would be of steel portal frame construction, with the walls being precast concrete to 300mm with Polyester coated profile sheeting above in Juniper Green BS12B29. The roof covering would also be polyester coated profile sheeting in slate blue. These Colours match the existing units on the site. The buildings will be fitted with high velocity roof mounted ventilation fans and Side inlet vents together with fans on the eastern gable for hot weather. Internal equipment includes heaters, pan feeders and non-drip nipple drinkers. Hot water for the heating system would be provided by the adjacent AD plant.
- 1.5 The control room would include a specialist computer system which is thermostatically controlled to maintain the desired temperature within the bird housing area, using the heating and ventilation systems. Feeding and lighting would also be controlled by the computer system.
- 1.6 The proposed unit will operate with 7 flocks per annum. Each rearing cycle takes 49 days including 42 days for broiler rearing and 7 days for cleaning out and preparation. At the end of each flock cycle the poultry manure is removed from the buildings by mechanical loader. All manure will be loaded into trailers which will be sheeted and transported away from the site for disposal through spreading on agricultural land in accordance with the applicants manure management plan.
- 2.0 SITE LOCATION / DESCRIPTION
- 2.1 Wigley Farm is situated on a south facing slope at an elevation of some 110m AOD, and 0.6 mile north-east of the A49 Ludlow bypass. Access to the farm is via a 0.6 mile long access drive linking to Fishmore Road, north of Ludlow. The application site adjoins a gently sloping arable field and is located immediately east of the main group of large modern farm buildings.
- 2.1 The site is surrounded by existing hedges, with a belt of trees along its south-east side. The application site's north-east boundary abuts the Shropshire Hills Area of Outstanding Natural Beauty, although the site itself lies outside this designated area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is referred to committee under the Council's Scheme of Delegation as the proposals relate to development under Schedule 1 of the Environmental Impact Assessment Regulations 2011.

4.0 COMMUNITY REPRESENTATIONS

4.1 Bromfield Parish Council: No comments received.

4.2 Shropshire Hills AONB Partnership: No objection. The need to protect the AONB is emphasised.

4.3 Environment Agency: No objection subject to the following comments:

- i. Environmental Permitting Regulations: The proposed development will provide accommodation for up to 110,000 birds, taking the total onsite to approximately 330,000. This is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed. Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be 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 a permit we will take action in-line with our published Enforcement and Sanctions guidance. For your information Wigley Farm currently operates under a Permit for its intensive poultry operations (Ref: EPR/BP3434FX) and a variation to the Permit, in consideration of the increased bird numbers, was issued on the 23 June 2016. For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.
- ii. Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance.
- iii. 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.
- iv. All pollution prevention guidance (PPGs) that was previously maintained by the Environment Agency has been withdrawn from use and can now be found on The

National Archives (<https://www.gov.uk/government/collections/pollution-preventionguidance-ppg>) but may still be of assistance to inform the above. Pollution prevention guidance contained a mix of regulatory requirements and good practice advice. The Environment Agency does not provide 'good practice' guidance. Current guidance explains how to: report an environmental incident, get permission to discharge to surface or groundwater, manage business and commercial waste, store oil and any oil storage regulations, discharge sewage with no mains drainage, work on or near water and manage water on land.

4.4 Natural England: No objection subject to the following comments:

- i. Internationally and nationally designated sites: The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Downton Gorge Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as Downton Gorge Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features. In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.
- ii. The consultation documents do not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:
 - the proposal is not necessary for the management of the European site
 - that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment. This is because emissions relating to the proposed poultry units are below the levels considered significant by the Environment Agency.
- iii. This application is in close proximity to a number of Sites of Special Scientific Interest (SSSI) including Downton Gorge, Temeside, River Teme and Cuckoopen Coppice. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites have been notified. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.
- iv. Other advice: We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:
 - local sites (biodiversity and geodiversity)
 - local landscape character
 - local or national biodiversity priority habitats and species.

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

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

4.5 SC Highways: No comments received.

Note: No highway objections were received in relation to the original poultry application on the basis that access improvements were undertaken in connection with the permission for an anaerobic digester on adjacent land. Highway officers also noted at that stage that the AD plant would benefit the poultry proposals because manure would be introduced to the AD plant rather than much of it being transported off-site on the public highway.

4.6 SC.Ecology: No objection subject to conditions and informative notes. A Habitat Assessment Matrix has been provided.

- i. The applicants operate an existing broiler rearing unit consisting of 4 broiler sheds which house 55,000 birds each with a total capacity of 220,000 birds. The proposal is to extend the existing poultry unit by adding 2 additional sheds increasing the site capacity to 330,000 birds. The design and access statement that the applicant holds an EA permit for the additional poultry sheds and associated increase in bird numbers.
- ii. Designated Sites: Kevin Heede (Environment Officer at the Environment Agency) has provided the Ammonia Screening Assessment output via email dated 28th July 2016. The screening shows that all Local Designation in 2km, National Designations in 5km, and European Designations within 10km have screened out below the threshold considered to have a negative impact by Natural England and the Environment Agency. SC Ecology has confirmed that all sites have been covered in the assessment. No further assessment of impacts on designated sites is required.
- iii. Ecology Appraisal: An Ecological Appraisal has been conducted by ACD Environmental. Hedgerows and mature trees are to be retained and protected during development. The woodland edge which lies adjacent to the proposed development (and not within the red line boundary) is to be retained and unaffected by development. It is recommended that the woodland should be buffered with a minimum 30m length –

this area should be temporary fenced to ensure no disturbance during construction works.

- iv. Great Crested Newt Reasonable Avoidance Measures have been put forward to ensure the risk of impacting newts is lowered. If a great crested newt is found then works must stop and Natural England should be contacted for advice.
 - v. A badger sett is located within the woodland belt to the east of the application site. A pre-commencement check must be undertaken to determine if badgers have moved within 30m of the proposed works.
 - vi. Lighting on the site should be designed to take into consideration foraging and commuting bats.
 - vii. No vegetation should be removed if there are nesting birds present, a pre-commencement check should be undertaken.
- 4.7 S.C.Drainage: No objection. The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted. The title for the Flood Risk Assessment is incorrect. It refer to Residential Development. The Environment Agency has updated the guidance on Climate Change in March 2016 and 25% should be used for commercial development in the Severn catchment. The proposed drainage strategy in the FRA is acceptable in principle.
- 4.8i. S.C. Public Protection: No objections. Having considered the proposed development it is noted that odour is not anticipated to cause any issues at non-linked properties. In relation to noise there are no concerns regarding on site noise generated by equipment and plant. The noise assessment does not predict significant increases in noise. In addition the site is controlled by an Environmental Permit which will control noise from on-site operations.
- ii. In respect of noise generated from off-site noise sources e.g. vehicles tracking in and out of the site it is noted that on application 12/02438/EIA for 220,000 birds over four sheds a condition was placed to ensure no night time HGV movements and therefore no night time depopulation. Time restrictions on other vehicle movements were also proposed and conditioned on the decision notice. The agent highlights no traffic movements at night (between 2300 hours and 0700 hours) in the environmental statement submitted as part of this application, page 29. As a result I propose a condition to protect residential properties which are situated in close proximity to the access road.
- 4.9 Rights of Way: No objection. No public rights of way are affected.
- 4.10 Public representations: The application has been advertised in accordance with relevant provisions. No representations have been received.
- 5.0 THE MAIN ISSUES
- Policy context and justification for the development;
 - Environmental effects of the development (odour, noise, traffic, drainage, pollution, visual impact, heritage and ecology).

6.0 OFFICER APPRAISAL

Policy context:

- 6.1 Development should be in accordance with the Development Plan unless material factors indicate otherwise. The development plan for the site comprises the Shropshire Core Strategy and the SAMDev Plan as informed by the National Planning Policy Framework (NPPF).
- 6.2 National Policy: The National Planning Policy Framework 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). This means “approving development proposals that accord with the development plan without delay” and supporting sustainable economic growth (para 18). There are three dimensions to sustainable development: an economic role, a social role and an environmental role (para 7). Significant weight should be placed on the need to support economic growth through the planning system (para 19). Paragraph 28 states that “planning policies should support economic growth in rural areas in order to create jobs and prosperity...”.
- 6.3 The proposed development performs an economic role because it involves further investment and economic diversification of an existing business which will sustain local rural jobs. It also performs a social role as the continued employment supports a strong local community. The applicant states that in addition, the development performs an environmental role because it is an environmentally efficient system of farming with associated landscaping to protect the local natural and built environment and will not give rise to any significant environmental or heritage impacts. Specifically, the applicant states that there would be no significant adverse effects on health and quality of life due to the separation distance between the site and places where people live.
- 6.4 The application site is located just south of the margin of the AONB and the NPPF advises that great weight should be given to conserving landscape and scenic beauty in such areas (115). Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Whilst the area of the proposed buildings (5081m²) exceeds the threshold for major development the application site is not within the AONB.
- 6.5 Notwithstanding this, it is considered that the economic benefits of the proposals are capable of qualifying in principle as exceptional circumstances which would justify development on this margin of the AONB. It is not considered that there would be a valid option for developing the proposals elsewhere due to the functional links with the existing poultry business and AD facility.
- 6.6 Core Strategy: Policy CS1 of the Core Strategy sets out in general terms that Shropshire will support investment and new development and that in the rural areas outside of settlements this will primarily be for “economic diversification”. Policy CS5 (Countryside and Green Belt) supports agricultural development, provided the sustainability of rural communities is improved by bringing local economic and community benefits. Proposals should however be “on appropriate sites which maintain and enhance countryside vitality and character” and have “no unacceptable adverse environmental impact”. The policy recognises that “the countryside is a ‘living-working’

environment which requires support to maintain or enhance sustainability”. Paragraph 4.74 states that: “Whilst the Core Strategy aims to provide general support for the land based sector, larger scale agricultural ...related development, including ... poultry units ... can have significant impacts and will not be appropriate in all rural locations.”

6.7 It is considered that the proposed development is capable of conforming in principle with CS1 and CS5 because:

- Its primary purpose is economic diversification;
- It will provide local employment and associated economic benefits for local communities;
- It assists in achieving the aim of local food production and also food traceability and security, reducing the UK's reliance on imported food sources including poultry;
- It will enhance the vitality and character of the living working countryside by sustaining the local community and bringing local economic benefits.
- The applicant advises that the environmental reports accompanying the application demonstrate that the proposals have no unacceptable impact on the environment. This is supported by the lack of objection from technical consultees and the fact that officers are not aware of any objections or issues raised with regard to the operation of the existing poultry units.

6.8 The proposal incorporates sustainable design measures in accordance with Policy CS6 including considerations including:

- Sustainable drainage, water and energy efficiency systems;
- Sustainable construction methods (modern poultry shed design).
- The proposal does not propose significant increases in existing traffic levels. The site is accessible via the established access and the junction with the public highway has been improved.

6.9 Policy CS13 states that “Shropshire Council will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth ... In so doing, particular emphasis will be placed on ... supporting the development and growth of Shropshire's key business sectors ... particularly food and drink production ... [and] ... in the rural areas, recognising the continued importance of farming for food production”. The proposal accords with this Policy as it delivers economic growth within the rural economy and the food and drink industry, which is one of Shropshire's key business sectors.

6.10 Need: The Environmental Statement contains a document from DEFRA which confirms the continuing high demand for UK sourced poultry and that this has increased since 2015. At a local level the applicant has an existing contract to provide poultry meat and there is capacity to meet increased demand within this.

6.11. Justification for location: The proposed poultry units are located immediately adjacent to the existing units and adjoin the existing farm buildings which are the main hub of activity for the farm unit. As such, the proposed location is able to benefit from the existing infrastructure and access provisions. Extension of the existing poultry unit onto into a well-contained area immediately adjoining the existing buildings is also

considered preferable to establishment of a new greenfield site in this location on the edge of the AONB.

- 6.11 In summary, it is recognised that the proposals would help to deliver economic growth, rural diversification and improved food security and the operational benefits of the proposed location are also acknowledged. To be sustainable however the proposals must also demonstrate acceptability in relation to environmental considerations and the policies which cover these matters. This includes CS7 (Transport), CS8 (local amenities), CS13 (economic development), CS17 (Environmental Networks) and CS18 (Water Resources).

Environmental implications of the proposals

- 6.11 Transport: Policy CS7 requires sustainable patterns of communications and transport. The Environmental Statement indicates that there are currently 63 HGV movements per cycle and 441 deliveries per year (14% less than quoted in the transport statement for the original poultry application 12/02438/FUL). This would increase to 94.5 per cycle and 661.5 per year under the current proposals (a total of under 2 per day). The current proposals would generate 220 additional vehicles annually, averaging less than 1 per day. Highway officers have not objected to the proposals. It is concluded that the proposals are capable of complying on balance with Policy CS7.
- 6.12 Noise: Core Strategy Policy CS8 seeks to maintain and enhance existing facilities, services and amenities and to contribute to the quality of life of residents and visitors. The proposed building will be fully insulated to assist in control of the internal environment and to minimise noise. A noise impact assessment concludes that the proposals would result in at most a 2dB increase above existing noise levels and that this would not be discernible at the nearest dwellings.
- 6.13 Odour: There may be smells when the manure is being removed from the building although this would be for short periods of time. An odour assessment submitted with the application assess odour at the nearest sensitive receptor properties not associated with the farm. This is a cumulative assessment which takes account of the existing operations. This predicts that the maximum annual 98th percentile hourly mean odour concentration would fall below the benchmark level identified by the Environment Agency.
- 6.14 Planning officers have not received any odour complaints with respect to the existing poultry operation and the proposed units would be further from the nearest residential properties. Public Protection and the Environment Agency have not objected. Odour emissions within the site would be subject to detailed controls under the Environment Agency's permitting system. It is not considered on this basis that the proposals can be accepted in principle in relation to odour issues. To provide added reassurance however a condition providing a procedure for dealing with amenity based complaints has been recommended in appendix 1.
- 6.16 Dust: Internally, a dust laden atmosphere must be prevented for health reasons. The contained nature of the operation precludes the emission of significant amounts of dust particles to the atmosphere.
- 6.17 Public Health: The operation of the site is subject to the rigorous controls of the Environment Agency's IPPC permitting regime. The site is required to operate to Best

Available Techniques and the conditions of the permit require the site to be free from pollution. Public Protection has not objected.

- 6.18 Drainage: Core Strategy Policy CS18 requires sustainable water management to reduce flood risk and avoid an adverse impact on water quality. A detailed Flood Risk Assessment and Surface Water Management Strategy for the proposed development has been provided. The site is not within a flood plain. The surface water drainage scheme proposed is to a SuDS system and therefore mitigates the potential surface water runoff and downstream flood consequences. The Council's Drainage section has not objected. Appropriate conditions and advisory notes are recommended in Appendix 1.
- 6.19 Ammonia deposition: Poultry units generate ammonia which can impact on the local environment. However, the conditions in modern units are designed to minimise such emissions and such operations would be controlled under the Environment Agency's permitting system. The units would conform with the code of good practice issued by DEFRA. Proposed cleaning out procedures would be the same as for the existing poultry houses. The proposed development has been assessed by the Environment Agency for ammonia and nitrogen deposition levels. In terms of the EA criteria for significant effects, the proposals screen out and no further study is required. Impacts are assessed as of minor significance.
- 6.20 Ecology: Policy CS17 states that "development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources, and should not adversely affect visual, ecological, heritage or recreational assets. An ecological survey confirms that the development is unlikely to impact on protected species or associated habitats subject to the above mitigation measures. Natural England and the Ecology team have not objected. The latter has recommended some conditions and advisory notes to protect and enhance biodiversity. It is concluded that the proposals would not impact adversely on ecological interests and the proposals are compliant with Policy CS17.

Viewpoint 2: View from PRow from Wigley Drive to Rocks Green



View from public right of way 500m west. Existing poultry buildings are to right centre.

- 6.21 Visual impact: The site is located on the edge of the AONB where there is a particular requirement in policies and guidance to safeguard landscape quality. A landscape and visual appraisal concludes that the scale and nature of the development and its juxtaposition to other agricultural development will have little landscape character impact. Limited views are afforded towards the proposed development site and the development would be seen in the context of the existing larger farm buildings complex.

- 6.22 Whilst relatively large structures, the proposed poultry houses would be of low profile design and it is proposed to use materials which match the existing buildings on the farmstead. An area of existing vegetation is located to the immediate east and further landscape planting has been undertaken or is scheduled within the wider farm buildings complex as a requirement of the applicant's permission for an anaerobic digester.
- 6.23 It is concluded that the proposals would not give rise to an unacceptable visual impacts on this margin of the AONB, provided they are subject to appropriate landscaping and surface treatment conditions. Any residual visual effects would be limited and outweighed by the benefits of the scheme to agriculture and the rural economy (Core Strategy Policy CS17, SAMDev Policy MD12).
- 6.23 Manure management: The proposals will lead to an increase of 1/3 in the volume of poultry manure generated by the farm. Manure from the existing poultry sheds is introduced to the applicant's AD facility. The applicant states that manure from the proposed sheds would either spread directly onto surrounding arable farmland or placed into storage heaps prior to spreading on the land.
- 6.24 Manure spreading has the potential to cause an odour nuisance. This can however be mitigated however by ploughing promptly. A manure management plan forms part of the applicant's environmental permit. Sufficient land is available to the applicant to spread the additional manure which would be generated by the poultry operation. It is considered that odour from manure spreading can be controlled within acceptable limits provided the proposed management measures continue to apply.

7. CONCLUSION

- 7.1 The proposals represent an appropriate way of expanding the existing poultry use. This would ensure the future profitability / robustness of the business whilst continuing to contribute to the local economy and employment. It would also provide locally sourced food as part of a key industry in Shropshire, supplying a strong national demand for poultry products. The proposals therefore comply with Core Strategy policies CS1(sustainability), CS5 (Countryside) and CS13 (economy).
- 7.2 The proposed site is located on the edge of the AONB where special safeguards apply (e.g. NPPF para 116). It is considered however that the details accompanying the application demonstrate that the environmental impacts of the proposed development are not significant and are capable of being effectively controlled and mitigated. The design of the scheme incorporates sustainable features such as SuDS and landscaping. The recommended conditions would also be supplemented by detailed operational controls available under the Environment Agency's permitting regime. It is concluded that the proposals are capable being accepted in relation to relevant development plan policies and guidance.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

Risk Management

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

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

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

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.

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 is 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:

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

- 10.1.1 The National Planning Policy Framework (NPPF) came into effect in March 2012, replacing most former planning policy statements and guidance notes. The NPPF provides a more concise policy framework emphasizing sustainable development and

planning for prosperity. Sustainable development 'is about positive growth – making economic, environmental and social progress for this and future generations'. 'Development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

10.1.2 Relevant areas covered by the NPPF are referred to in section 6 above and include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

10.2 Core Strategy:

10.2.1 The Shropshire Core Strategy sets out strategic objectives including amongst other matters:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

10.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS7: Communications and Transport;
- CS8: Facilities, services and infrastructure provision
- CS13: Economic Development, Enterprise and Employment;
- CS17: Environmental Networks.

10.4.1 Site Management and Allocation of Development Document (SAMDEV)

Relevant policies include:

- MD2 – Sustainable Design;
- MD7b– General Management of Development in the Countryside;

- MD8 – Infrastructure Provision;
- MD12: The Natural Environment;
- MD13: The Historic Environment.

11. RELEVANT PLANNING HISTORY:

- 11/03597/MAW Construction of a 500kW anaerobic digestion plant for the production of renewable energy, to include 2 processing tanks, 1 storage tank, a solids storage clamp, a feedstock storage clamp, a poultry storage building, pumping station, gas flare, a reception building, and associated works GRANT 19th December 2011
- 12/02438/EIA Erection of four poultry sheds, including two control rooms and 8 feed bins, and construction of adjacent hardstanding area GRANT 27th September 2012
- 12/02645/DIS Discharge of Conditions 1 (Commencement), 5 (Access), 12a (Odour Management), 14 (Vermin and Pest Control Procedure), 15 (Amenity Complaints Procedure), 17 (Surface Finishes), 21 (Drainage), 22a (Lighting), 23 (Fire Protection), 25 (Landscaping) and 27 (Commencement date) attached to planning ref. 11/03597/MAW DISAPP 28th August 2012
- 13/01247/DIS Discharge of conditions of planning permission 12/02438/EIA for construction of four poultry sheds and ancillary facilities DISAPP 28th May 2013
- 15/00115/AMP Application for Non Material Amendment to permission 11/03597/MAW to change site layout. New layout involves less clamp area and fewer digester tanks GRANT 21st January 2014
- 15/00790/MAW Erection of additional infrastructure to increase output of an existing Anaerobic Digester (AD) plant to 1.1MW, to include a new digestate store; adaption of the existing digestate store to form a second digester; an additional CHP unit GRANT 24th June 2015
- 15/04606/FUL Application under Section 73a of the Town and Country Planning Act 1990 for formation of screening and containment bund GRANT 16th December 2015
- 15/04607/DIS Discharge of conditions 4 (drainage) 5a (landscaping and aftercare) and 7 (archaeological monitor ground works) for planning application number 5/00790/MAW PCO
- 16/03014/EIA Erection of 2 No. additional poultry buildings and associated feed bins and hardstanding PDE
- SS/1/6651/K/ Erection of a steel framed agricultural building PERMIT 22nd May 1996 SS/1983/102/P/ Erection of an agricultural building. PERCON 11th April 1983
- SS/1974/614/P/ Erection of one agricultural workers dwelling. REFUSE 10th May 1974
- SS/1/06/18465/NT Erection of a hay bale storage barn PERCON 8th August 2006

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O9USS1TDFKT00>

List of Background Papers : Planning Application 16/03014/EIA and supporting documents and plans.

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Andy Boddington

Appendices: APPENDIX 1 - Conditions

APPENDIX 1

Conditions

DEFINITION OF THE PERMISSION

- 1a. The development to which this planning permission relates shall be commenced within three years beginning with the date of this permission.
- b. Not less than 7 days advanced notice shall be given in writing to the Local Planning Authority of the intended date for the commencement of operations under the terms of this permission. Such date shall be referred to as 'the Commencement Date'.

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

2. The development shall be carried out strictly in accordance with the application form dated 4th July 2016 and the following approved documents and plans:

Approved Documents:

- Design and Access Statement by Ian Pick Associates;
- Environmental Statement by Ian Pick Associates;
- Noise Assessment by Matrix acoustic design consultants;
- Ecological Appraisal by ACD Environmental;
- Landscape Appraisal by ACD Environmental;

Approved Plans:

- Location Plan, IP/RG/01, 1:2,500;
- Site Plan, IP/RG/02, 1:500;
- Elevations, IP/RG/03, 1:200;
- Floor Plan, IP/RG/031, 1:200.

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

CONDITIONS WHICH REQUIRE ACTION PRIOR TO THE COMMENCEMENT OR BRINGING INTO USE OF THE DEVELOPMENT

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

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

All construction activities shall be implemented in accordance with the approved details and timing of the plan.

Reason: To protect features of recognised nature conservation importance.

4. 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.

5. Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall amongst other matters detail the following:

- i. Management of vehicle movements;
- ii. Timing of the development;
- iii. The proposed hours of operation;
- iv. Any measures for protecting local amenities with respect to noise, dust and light pollution;
- v. The location of any temporary contractor's compound and internal parking provisions;
- vi. Measures for preventing pollution to water resources, including by silt laden surface water run-off.

The Construction Management Plan shall be implemented in accordance with the approved details.

Reason: In the interests of local amenities, pollution protection and highway safety.

6. No development shall commence on site in connection with the approval until details of materials including colour finishes for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the materials are appropriate in the landscape.

7. Prior to the bringing into use of the development the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise, odour and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the Local Planning Authority. This shall include:

- i. Investigation of the complaint;
- ii. Reporting the results of the investigation to the Local Planning Authority;
- iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

Reason: To put agreed procedures in place to deal with any verified amenity related complaints which are received during site operation.

- 8a. Prior to the commencement of the development a surface drainage shall be submitted for the approval in writing of the Local Planning Authority. Drainage shall be provided in accordance with the approved details prior to the bringing onto use of the poultry buildings hereby approved.
- b. Measures shall be provided for isolating contaminated water in the yard from spillages or cleaning of sheds and hardstanding from the main surface water system prior to the bringing onto use of the poultry building hereby approved.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design (8a). To ensure that polluted water does not enter the water table or watercourse (8b).

CONDITIONS WHICH APPLY FOR THE LIFETIME OF THE DEVELOPMENT

9. Construction works shall not take place outside 06:30 to 19:00 hours Monday to Saturday and at no time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the area.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification), no development shall be carried out under Class 6 Parts A and B without the prior grant of planning permission from the Local Planning Authority.

Reason: The effect of carrying out additional development of the facility under agricultural permitted development provisions has not been assessed as part of this proposal. The Local Planning Authority needs to retain full planning control over any future development of the site in order to assess whether any potential impacts associated with further development may cause harm to interests of acknowledged importance.

11. All plant and machinery on site shall be installed as per the figures within the application and maintained thereafter in accordance with the manufacturer's recommendations.

Reason: To protect neighbouring properties.

- 12a. Heavy Goods Vehicle movements into or out of the development hereby permitted during the operational stage shall not take place between the hours of 23:00 and 07:00 on any night.

- b. The delivery of poultry feed to, and the removal of poultry manure from, the development shall take place only between the hours of 07:00 to 18:00 on Monday to Friday, and 08:00 to 13:00 on Saturday, and shall not take place at any time on Sunday or Bank Holidays.

Reason: To protect the health and wellbeing of nearby residents.

13. Work shall be carried out strictly in accordance with the Ecological Appraisal conducted by ACD Environmental (January 2016) attached as an appendix to this planning permission.

Reason: To protect features of recognised nature conservation importance.

Informative Notes:

Ecology:

- i. *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. 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.*
- ii. *Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended). If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.*
- iii. *Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site*

Fire fighting

- iv. *It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter. 'The Building Regulations, 2000 (2006 Edition) Fire Safety Approved Document B5.' provides details of typical fire service appliance specifications.*
- v. *It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and*

there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.



Committee and date

South Planning Committee

6 December 2016

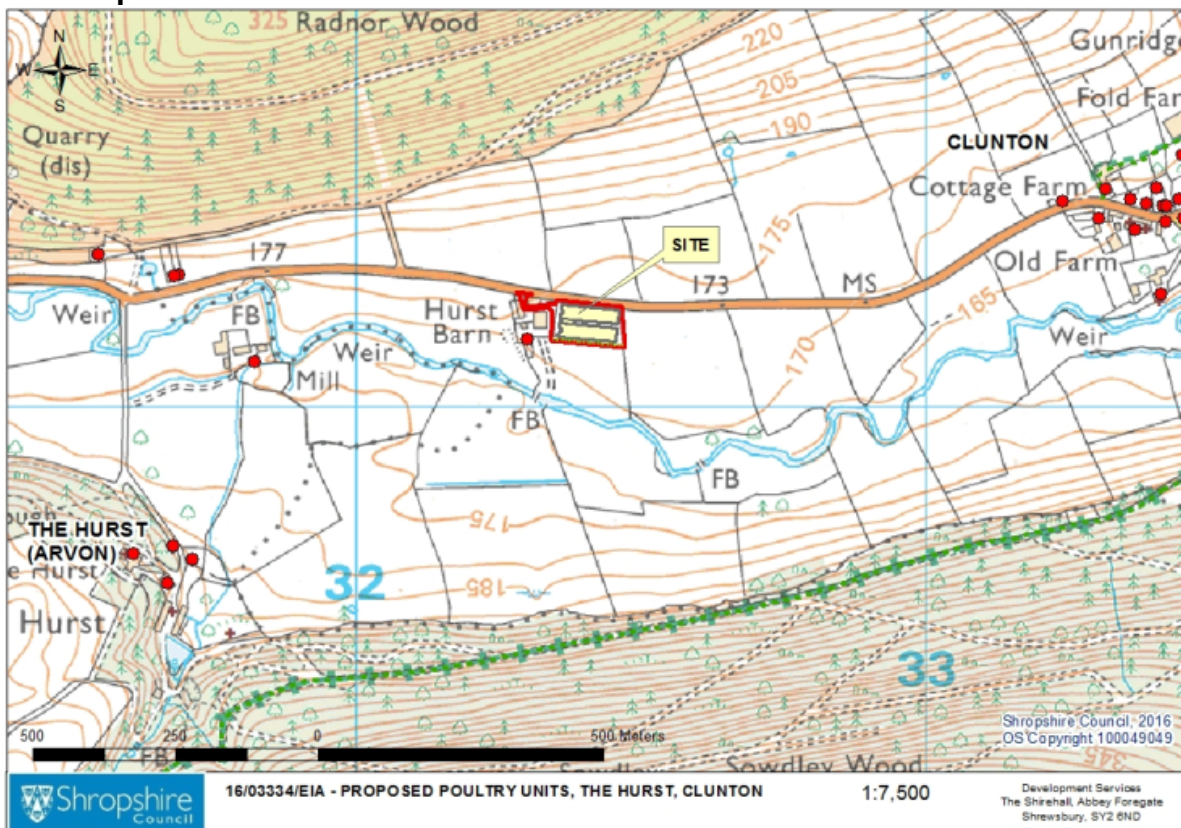
Development Management Report

Responsible Officer: Tim Rogers

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

| | |
|--|--|
| Application Number: 16/03334/EIA | Parish: Clunbury |
| Proposal: Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access | |
| Site Address: Hurst Barn, Clunton, Craven Arms, Shropshire, SY7 0JA | |
| Applicant: Mr Richard Jones | |
| Case Officer: Grahame French | email: planningdmc@shropshire.gov.uk |

Recommendation:- Approve subject to the conditions set out in Appendix 1 and to a legal agreement delivering off-site ecological mitigation measures to protect the Clun Catchment Special Area of Conservation.



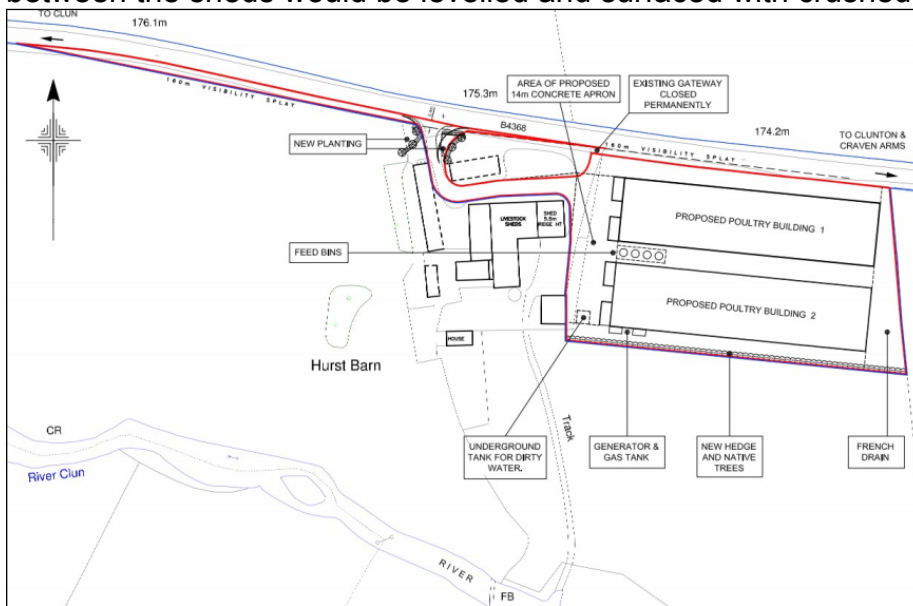
REPORT

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Contact: Tim Rogers (01743) 258773

1.0 THE PROPOSAL

1.1 It is proposed to erect two poultry sheds at Hurst Barn. The site would house a total of approximately 100,000 broiler birds at any one time. Feed bins would be located between the buildings. The proposed buildings would be 97.53m long x 24.4m wide with a height of 4.6m to the ridge and 2.44m to eaves level. There would be an area of concrete for feed bins at the western end between the sheds. The remaining area between the sheds would be levelled and surfaced with crushed permeable stone.



- 1.2 The buildings would be constructed of steel portal frame with steel profile coated cladding fitted to the roof and walls. The applicant proposes slate blue cladding for the roof and feed bins. External lighting would be kept to the minimum requirement. The applicant proposes to install solar photovoltaic panels on the south facing roofs. There would be a wide concrete apron immediately to the west of the buildings which would be used for accessing the sheds.
- 1.3 Large double doors would provide vehicular access. Pedestrian access is via a Personnel door into the Control Room and then into the main part of each building. There would be an area of concrete for feed bins at the western end between the sheds. The remaining area between the sheds would be levelled and surfaced with crushed permeable stone.
- 1.4 The control room would include a specialist computer system which is thermostatically controlled to maintain the desired temperature within the bird housing area, using the heating and ventilation systems. Feeding and lighting would also be controlled by the computer system.
- 1.5 The proposed unit would operate with 7 flocks per annum. Each rearing cycle takes 49 days including 42 days for broiler rearing and 7 days for cleaning out and preparation. At the end of each flock cycle the poultry manure is removed from the buildings by mechanical loader. All manure will be loaded into trailers which will be sheeted and transported away from the site for disposal through spreading on agricultural land in accordance with the applicants manure management plan.

2.0 SITE LOCATION / DESCRIPTION

- 2.1 The site (area 0.96ha) is located in the Shropshire Hills Area of Outstanding Natural Beauty on the Clun valley and 1km west of the village of Clunton. The B4368 Clun road passes to the immediate north.
- 2.2 The farmhouse at Hurst Barn is owned and occupied by the applicants and is the closest residential property. There are no other dwellings within a 400 metre radius of the proposed poultry site. The closest unrelated dwelling is Hurst Mill located approximately 500 metres due west from the proposed site. The area owned by the applicants at Hurst Barn extends to approximately 100 acres with a further 200 acres of adjoining rented land..
- 2.3 Consent was granted in 2012 (ref.12/01553/FUL) for a new livestock building within the application site area next to the existing farm buildings. The approved building measures 48.77m by 15.24m with an eaves height of 3.65m and a ridge level of 5.81m (i.e. a much smaller footprint than the current proposals but 1.2m higher).

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The application is referred to committee under the Council's Scheme of Delegation as the proposals relate to development under Schedule 1 of the Environmental Impact Assessment Regulations 2011.

4.0 COMMUNITY REPRESENTATIONS

- 4.1.1i. Clunbury Parish Council (Objects). The Clunbury Parish Council meeting was held on Thursday 22nd September 2016 in the presence of the Applicant and his Agent, and a number of Clunton residents, some of whom expressed strong views, most of which you will have received as written objections. As the parish is in a uniquely sensitive area, the Council feel strongly that they have a responsibility when it comes to planning applications to give due regard to the effect on the environment, the risk to public health/safety and the protection of the AONB. Clunbury Parish Council is very sympathetic towards efforts to develop new business and employment and in this rural parish want to be helpful to farmers trying to make a living during these difficult times. However, we must also consider and balance the needs of other existing, important economic activities in the area - such as tourism.

- ii. The Parish Council wish to make the following points:

- We support the views of the AONB who consider the proposal to be unacceptable on that particular site
- The environmental impact would be substantial, particularly with regard to odour and dust pollution, the increase in heavy vehicles and noise of traffic through a residential area, and the potential "never" event of pollution of the River Clun during the increasing freak weather conditions
- Planning applications for much needed residential developments further from the river have apparently been refused due to the possibility of pollution of the River Clun

- Others have had restrictions imposed on the treatment of sewage and waste, with sealed cesspit tanks having to be emptied outside the Clun catchment area
 - The Planning Application does not appear to include a Manure Management Plan that we can study
 - We understand that an Environmental Permit and Habitat Regulations Assessment have still not been granted
 - We are concerned that there is no confirmation in the application that best practice for this type of intense poultry farming is being followed. At an early Consultation Event, it was stated that the plans were to be RSPCA Freedom Food approved. However, the number and density of birds planned at Hurst Barn appears to be above the guidance levels of both RSPCA and DEFRA. See para E4.11 RSPCA Welfare Standards for chickens and DEFRA Broiler(meat) chickens - welfare recommendations
 - There are an increasing number of poultry farms in the area, and Councillors feel that this application (and any others) should be looked at for the cumulative impact on the Shropshire Hills AONB, not just as individual cases.
- iii. The Parish Council therefore voted to oppose the planning application, for the reason that it would be an inappropriate development of large intensive farming buildings in one of Shropshire's most acclaimed beautiful and historically important valley settings, with close proximity to the environmentally sensitive River Clun and the public highway, in an area that relies heavily on tourism.
- 4.1.2 Clun Town Council (Adjoining Parish): The Town Council wishes to object to this application on the following grounds:
- 1) Noise
 - 2) Visual impact
 - 3) Pollution
 - 4) Traffic (in particular traffic travelling on narrow roads and through Clun and over Clun bridge which is unsuitable for HGVs)
 - 5) Impact on the ecology of the river (through discharge of nitrates in an area where there are pearl water mussels - as part of SAMDEV, the EA raised concerns about development which may affect them until appropriate mitigation works requiring works by Severn Trent are complete).
- 4.1.3 Natural England (31/10/16): No objection subject to confirmation of the mechanism to secure the mitigation for the lifetime of the development and confirmation of any monitoring and enforcement measures and to the following comments:
- i. Internationally designated site
The application site is in close proximity to the River Clun, upstream of the River Clun Special Area of Conservation SAC, a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or

maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

- ii. **Habitats Regulations Assessment - Further information requested**
Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an appropriate assessment of the proposal, in accordance with Regulation 61 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard for Natural England's advice. Developments of this nature have potential to cause significant damage to the water environment and we note extensive mitigation has been included within the planning application to inform your authority's Habitat Regulations Assessment and subsequent appropriate assessment. Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects
 - iii. Natural England is largely satisfied with the conclusions of the HRA however we seek clarification on how your authority aims to secure the mitigation for the lifetime of the development and confirmation of any monitoring and enforcement measures to ensure the mitigation scheme. This mitigation could be delivered in a number of ways to achieve the stated aims. For instance a reduction in nutrients could be achieved by reducing nutrient inputs to the entirety of the three fields indicated in the manure management plan or by creating wider buffer strips all along the river within the landholding or potentially only adding nutrients when testing informs that it is necessary. Confirmation on how the manure management plan will be secured and enforced would be useful. Additionally, Natural England would recommend water quality testing in the river possibly at an upstream location within the applicants' landholding and where the river exits the landholding through a monitoring scheme to demonstrate that the proposed mitigation is having the required effect and an outline of potential remedial action which may be required /implemented should the monitoring show declining water quality during construction and operation of the development.
- 4.1.4 Historic England: No objection. Historic England welcomes the addition of the Heritage Assessment (Castlering Archaeology, September 2016), which although not containing a full setting analysis does contain a visual analysis of the development on surrounding heritage assets, the results of which we would broadly concur with. Given the potential for undesignated archaeology within the development area the advice of the local authority's archaeological adviser should be sought and implemented in full. We would urge you 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.
- 4.1.5 Shropshire Hills AONB Partnership: Objection on the basis that the proposals will have an adverse impact on the AONB, the extent of which has been downplayed in the application and also on the potential adverse impact on the Clun Catchment Social Area of Conservation. The detailed are reproduced as appendix 3.
- 4.1.6 Environment Agency: No objection subject to the following comments:

- i. Environmental Permitting Regulations: The proposed development will accommodate up to 100,000 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed. Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be 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 a permit we will take action in-line with our published Enforcement and Sanctions guidance. As stated in the submitted Environmental Statement (ES) a Permit application is to be submitted shortly. For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.
 - ii. Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance. 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.
 - iii. All pollution prevention guidance (PPGs) that was previously maintained by the Environment Agency has been withdrawn from use and can now be found on The National Archives (<https://www.gov.uk/government/collections/pollution-preventionguidance-ppg>) but may still be of assistance to inform the above. Pollution prevention guidance contained a mix of regulatory requirements and good practice advice. The Environment Agency does not provide 'good practice' guidance. Current guidance explains how to: report an environmental incident, get permission to discharge to surface or groundwater, manage business and commercial waste, store oil and any oil storage regulations, discharge sewage with no mains drainage, work on or near water and manage water on land.
- 4.1.7 SC Highways: To be reported verbally.
Note: The applicant has confirmed that pre application discussion with Shropshire Council's Highways Officer concluded there was no objection to the proposal, subject to alterations to the main existing entrance. One of the existing entrances will be permanently closed.
- 4.1.8 S.C.Ecology: No objection subject to conditions and informative notes. A Habitat Assessment Matrix has been provided.

- i. The applicant is applying for two poultry sheds at Hurst Barn, which will house a total of 100,000 broiler birds. The site is within the River Clun SAC Catchment. The applicant has provided sufficient detail for SC Ecology to complete a Habitat Regulations Assessment. The proposal is unlikely to have a negative effect on the integrity of the River Clun SAC providing appropriate planning conditions are on a decision notice.
- ii. Extended Phase 1 Habitat Survey Summary: The proposed broiler sheds site lies within an agricultural field which is bounded on the northern side by an intact field boundary hedgerow bordering Clun Road. The southern boundary is a timber post and wire fence and it is offset from the northern bank of the River Clun by varying distances. The eastern boundary of the proposed sheds site is demarcated by an intact mature field boundary hedgerow linking the roadside boundary hedgerow to the north bank of the River Clun. The western boundary is formed by the existing farmstead buildings and an intermittent field boundary hedgerow running southwards from the garden of the Hurst Barn farmhouse to meet the north bank of the River Clun.
- iii. Otter: There is favourable habitat for otter in the vicinity of the proposed development site, along the River Clun to the south. There is a mosaic of herbaceous vegetation along the banks, as well as a number of large mature trees, and this section of the river has no public rights of access, so it remains quiet and undisturbed. During the site walkover inspection on 18th February 2016, an adult otter was seen in broad daylight emerging from a dense stand of riparian tall herb vegetation on the southern bank of the river some, 230 metres downstream of the ford below Hurst Barn. No development will occur within 50m of the watercourse and therefore no impact on otter is anticipated. The following informative should be on the decision notice;
- iv. Himalayan Balsam: The ecological report has recorded Himalayan Balsam on the lower river banks and along the water's edge. An informative note is recommended regarding this invasive species.
- v. Streams: This site is bordered by a water course. This valuable ecological and environmental network feature must be protected in the site design and should have an appropriate buffer, at least 50m, separating the feature from the proposed development. A condition is recommended.
- vi. Bats: There are mature trees along the southern boundary of the proposed development site which have opportunities for roosting bats. These trees will not be affected by the proposed works. The wooded watercourse is suitable for foraging and commuting bats and in order to enhance the site for bats. Conditions are recommended.
- vii. Nesting Birds: The proposal will enhance the site for nesting birds post development due to additional habitat creation. An informative note is recommended.
- viii. Habitat Enhancement: There is to be additional native species hedgerow planting as part of this proposal. This includes, but isn't limited to, a new field boundary hedgerow with trees to be established, running from the edge of the farmyard westwards to meet the eastern boundary hedgerow (along the southern edge of the proposed broiler sheds site). This would be approximately 135 metres long. A small area of riparian woodland planting along part of the north bank of the River Clun below the proposed broiler sheds site is also included in the proposal. In order to pass the Habitat

- Regulations Assessment one of the mitigation proposals is to reduce fertiliser input on 9.83 hectares by 10%. The habitat creation and habitat management must be secured under appropriate planning conditions. Conditions are recommended.
- ix. Environmental Permit: The proposal will require an Environmental Permit regulated by the Environment Agency prior to commencement. The Environment Agency's Pre-application screening assessment has been calculated based on 180,000 birds (the current planning application is for 100,000 birds). The Environment Agency, as a more competent authority when assessing aerial emissions, has screened out the ammonia impacts from the proposed development on SAC, SPA and Ramsar sites within 10km; SSSIs within 5km; NNRs, LNRs & LWS within 2km. The Environment Agency has stated that detailed modelling is not required.
- x. River Clun SAC & River Teme SSSI: This application is within the river Clun SAC catchment and has the potential to impact upon the River Clun SAC and River Teme SSSI. Particular attention has been made in order to identify potential phosphate, nitrate & sediment effect pathways which could impact upon the integrity of the River Clun SAC & River Teme SSSI. Scientific justification and mitigation has been provided by the applicant and using this information SC Ecology has completed a Habitat Regulations Assessment. Shropshire Council's Habitat Regulations Assessment should be passed to Natural England for consultation (please note although not a European Site the HRA has covered impacts on the River Teme SSSI and Natural England's comments should also take into account National Designations).
- xi. Supporting information: The applicant has used Natural England's Discretionary Advice Service. Natural England highlights that the likely environmental effect pathways, which may arise from the proposed planning application, are related to nutrient enrichment hydrologically, and through atmospheric emissions leading to increased deposition of nutrients within the catchment which may then be mobilised by surface water run-off. There is also the potential for increased sedimentation of the River Clun during construction of the project. From the discretionary advice service the applicant has worked with Natural England to produce appropriate information for Shropshire Council to complete a Habitat Regulations Assessment. Natural England's pre-application advice dated 17th December 2016 concludes that – 'on the basis of the objective information provided and the mitigation proposed that Natural England believes that an adverse effect on the integrity of the River Clun SAC is unlikely to occur'.
- xii. Air Quality: Please refer to the Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed broiler rearing unit at Hurst Barn prepared by Steve Smith (September 2015). Air quality has been subject to detailed modelling which demonstrates where ammonia deposition is likely to occur as a result of the proposal, and has attempted to quantify the secondary effects of the impacts on water quality within the River Clun. It should be noted that the modelling has been completed on a max bird count of 180,000 whereas the proposal is for 100,000. The predicted maximum annual mean ammonia concentrations at all nearby designated sites (Ancient Woodlands, Local Wildlife Sites, Sites of Special Scientific Interest, and Special Areas of Conservation) are at levels that would normally be deemed insignificant for Environment Agency permitting purposes. Predicted annual mean nitrogen deposition rates have been summed over a 3km x 3km modelling domain. The modelling predicts a total annual mean nitrogen deposition rate of 410.03kg/y over the modelled area. Deposition to land over the parts of the River Clun catchment area outside the modelling domain is likely to be insignificant. The site of the poultry unit

itself would take up approximately 2.3 hectares of what is currently fertilised improved grassland. Nitrogen application rates to improved grassland are typically 100kg/ha/y. Therefore, up to 230kg/y of nitrogen, more than half of the 410.03kg/y predicted nitrogen deposition from the poultry unit, would be removed from the pool of nitrogen that could potentially reach the river system, leaving a surfeit of approximately 180kg/y of nitrogen. The supporting planning documents state that in discussion with Natural England, the planning agent has explained that the applicant can reduce the application of poultry manure by 10% on the area of land between the B4368 and the River Clun. The Applicant currently imports and spreads circa in excess of 500 tonnes of poultry manure to this holding as confirmed within the Hafren Water report dated October 2014. The Applicant is agreeable to reducing this on arable field numbers 5806, 7709 and 9110 situated between the road and the river. These have a total area of 9.83 hectares. These fields are described on Drawing Number 8998-02A Plan 2 Applicant's Land Holding. It is also understood that should the proposed development of the poultry unit proceed, it would displace the current cattle rearing operation at Hurst Farm. Natural England believes that the principle of taking land out of active production and the consequential reductions in fertiliser applied to the land is a satisfactory way of mitigating this effect on the River Clun SAC.

- xiii. **Water Quality:** From the information provided there will be overall reductions in the amount of chemical inputs into the River Clun Catchment within the applicants land holding. All wash down water from the cleaning of the new poultry units and concrete yard at the end of the flock cycle will be collected through a dedicated sealed drainage system to a sealed underground tank. The collected dirty water will be spread to land when conditions are suitable. Grey water (roof run off) will be allowed to slow release to soil using a drainage system. The drains will be located parallel to the proposed buildings. They will take water eastward to the stoned drainage field. The Hafron Water Report (2014) outlines measures which will be put in place to further prevent pollution of the watercourse from the poultry unit. SC Drainage has assessed SC Ecology that the proposed drainage information is sufficient. SC Drainage has provided conditions which must be on a decision notice;

4.1.9 **S.C.Drainage:** No objection subject to conditions requiring drainage details to be submitted.

4.1.10 **S.C. Public Protection:** No objections. Having considered the odour assessment I consider the assessment to be suitable. I have no concerns regarding odour as the assessment predicts a very low probability of infrequent odour impacts on closest receptors. The Environmental Statement considers it unnecessary for a noise assessment to be carried out given that nearest residential properties with no financial interest are over 500m away from the proposed chicken units. In this instance I agree with the applicant. As night time traffic movements will occur on public roads I have no concerns in relation to noise generated by the movement of HGVs associated with depopulation activities at night. Due to distances involved, prevailing wind conditions and other noise sources in the area I do not consider a noise assessment is required in this instance. I therefore have no objection to this application and no conditions to recommend.

4.1.11 **SC Archaeology:** No objection. The development proposal is located within the Clun River valley in an area that contains a number of Historic Environment Records relating to prehistoric and later settlement and occupation. Of particular note is the scheduled

site of Radnor Wood Camp (National Ref. 1004786) an incomplete Iron Age hillfort and the Grade II* listed Old Farmhouse Clunton (National Ref. 257575). Additionally there are several known cropmark sites and find spots of prehistoric date in the immediate surrounding area some within 200m of the proposed development. A Heritage Impact Assessment has now been produced in support of this application (Castlering Archaeology, September 2016, Report No. 570) and has concluded that there is a low potential for archaeological remains within the proposed development site. The assessment has also concluded that there will be no or negligible impacts on the setting of nearby Designated Heritage Assets. In view of the above, and in relation to Paragraph 141 of the NPPF and Policy MD13 of the SAMDev component of the Shropshire Local Plan, it is advised that a programme of archaeological work be made a condition of any planning permission for the proposed development. This programme of archaeological work should comprise an archaeological watching brief during any ground works associated with the proposed development.

4.1.12i SC Conservation No objection. The proposal is within the setting of various heritage assets including the Radnor Wood Camp Scheduled Monument, Clunton Conservation Area and four grade II listed buildings consisting of The Hurst, The Stables, Stable Block and Coach House and the Dovecote as well as other non-designated heritage assets that consist of two existing historic farmsteads including Hurst Barn and Hurst Mill. The farmstead lies within the historic Hurst Estate. The proposal is also within the Shropshire Hills AONB. In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable including policies CS6 'Sustainable Design and Development Principles' and CS17 'Environmental Networks' of the Shropshire Core Strategy, policy MD13 of SAMDev as well as with national policies and guidance, National Planning Policy Framework (NPPF) published March 2012. Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990. These comments supplement those previously submitted on 31/8/16 where there was objection in terms of the proposal not being accompanied with a heritage assessment and therefore not in accordance with paragraph 128 of the NPPF and policy MD13 of SAMDev as well as the principles set out in the Historic England GPA3 guidance on setting.

- ii. The Heritage Assessment by Castlering Archaeology has now been submitted and is a comprehensive report/assessment that has been carried out to a high standard. As Historic England acknowledge in their comments, the assessment mainly covers visual analysis rather than setting analysis, though the analysis overall is comprehensive, informative and helpful. The main headlines from that assessment is that the proposal would have a negligible impact in terms of inter-visibility with filtered views to and from the site given the existing agricultural buildings (where many of them on the existing farmstead are modern) as well as from existing trees such as along Radnor Wood. This would result in views mainly consisting of the roofscape of the building when looking down from Radnor Wood to the north and Black Hill to the south. The proposal states that a new earth bund and planting will be provided in order to mitigate impact as being located in Clun Valley, the topography is quite flat along the valley running west-east so there are quite long distance views along the principal highway. However, there is concurrence with the findings of the assessment where impact on the relevant heritage assets will be negligible and there would not be an adverse impact on the relevant settings of the assets as long as it is accompanied by the relevant mitigation measures (see recommended conditions below). The existing farmstead of Hurst Barn consists of other existing modern structures, so this needs to be taken into account as part of the

overall composition of buildings, where these lie between the site and the historic remaining farmhouse that lies to the south of the site and away from the principal highway. SC Archaeology have requested a condition requiring a written scheme of investigation and that is supported. Conditions for the external finish of the buildings (to be in fern green) and for new planting and landscaping are also recommended.

4.1.13 Fire and Rescue Services: No objection. Informative notes regarding fire prevention are recommended.

4.2 Public representations:

4.2.1 The application has been advertised in accordance with relevant provisions. 38 representations have been received from 34 individuals 15 of whom have written in support (including a couple of the nearest residents), 2 are neutral and 17 are objecting. A detailed summary of these representations is included in Appendix 4. The main points raised are as follows:

4.2.3 Support comments:

- Food production benefits;
- Benefits to local economy;
- Local community benefits, supporting young local family;
- Effect of objections and implications for local farming community if scheme is refused;
- Odour and pollution would be strictly controlled;
- Amenity impacts would be less than objectors assume;
- Environmental benefits of manure spreading.

4.2.4 Objector comments:

- Impact on Arvon Centre – potential loss of business (including online petition with @500 signatures);
- 'Industrial development' in the countryside;
- Visual impact in the AONB;
- Pollution and impact on ecology including Clun Special Area of Conservation;
- Impact on local amenities from odour, traffic and visual effects;
- Animal welfare;
- Effect on local tourism;
- Lack of detail and questioning conclusions of Environmental Statement;
- Conflict with planning policy for AONBs.

5.0 THE MAIN ISSUES

- Policy context including whether the exceptional circumstances for major development within the AONB are met;
- Justification for the development and choice of site;
- Environmental effects of the development (odour, noise, traffic, drainage, pollution, visual impact, heritage and ecology);
- Other matters including implications of the Arvon Centre objection.

6.0 OFFICER APPRAISAL

6.1 Policy context:

- 6.1.1 Development should be in accordance with the Development Plan unless material factors indicate otherwise. The development plan for the site comprises the Shropshire Core Strategy and the SAMDev Plan as informed by the National Planning Policy Framework (NPPF).
- 6.1.2 National Policy: The 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 (para14). This means “approving development proposals that accord with the development plan without delay” and supporting sustainable economic growth (para 18). There are three dimensions to sustainable development: an economic role, a social role and an environmental role (para 7). Significant weight should be placed on the need to support economic growth through the planning system (para 19). Paragraph 28 states that “planning policies should support economic growth in rural areas in order to create jobs and prosperity...”.
- 6.1.3 The site is however located within the Shropshire Hills AONB. Para 115 of the NPPF advises in this respect that ‘great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty’. Paragraph 116 goes on to say that ‘planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. The paragraph advises that a planning authority should apply three tests in considering such applications:
- i. the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - ii. the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
 - iii. any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
- 6.1.4 The application is considered to be major development as it relates to a Schedule 1 EIA proposal. Some objectors contend that proposals of this nature should be automatically refused given their location within the AONB. However, the NPPF does not impose a blanket prohibition on major development within the AONB. Instead it specifies that the above tests must be met. If this occurs then proposals may consequently be compliant with the development plan as a whole. This can be the case even if the development does not comply fully with some specific development plan (or AONB Management Plan) policies, though ‘great weight’ must be given to protection of the AONB. If the NPPF tests cannot be met then the proposals would be unsustainable and permission should be refused.
- 6.1.5 Members will recall that the committee has approved a number of poultry units within the AONB in recent years where it has been determined that the relevant tests have been met. Conversely, other proposals have been refused where it has been deemed that the tests were not met. To determine whether or not the proposals would be in the public interest and whether the exceptional circumstance tests can be met appropriate account must be taken of the following matters:

- 1) the information submitted in support of the application and accompanying Environmental Statement;
- 2) the findings of the planning consultation process including comments from planning consultees and public representations for and against the proposals;
- 3) relevant planning policies and guidance.

6.1.6 Some policies may pull in different directions on a complex major development. Objectors may contend that greater weight should be given to policies which protect the local environment and the AONB given in particular the NPPF requirement to give such matters 'great weight' (e.g. Core Strategy Policy CS6, CS16, CS17). Conversely, supporters will point to policies which seek to preserve rural communities, jobs, vitality and the local economy and support agricultural diversification (Core Strategy Policy CS5). They may also refer to the national and local economic benefits of home produced poultry meat. In this respect Core Strategy Policy CS13 recognises in rural areas the continuing importance of food production.

6.1.7 Any planning decision must assess the relative weight to be given to such policies. Only after this assessment has been undertaken can it be concluded 'on balance' whether or not a development would be in the public interest overall. This assessment is made at the conclusion of this report after all relevant matters have been assessed. Succeeding sections deal with the other 3 tests set by NPPF116.

Development Plan Policy

6.1.8 Core Strategy: Policy CS1 of the Core Strategy sets out in general terms that Shropshire will support investment and new development and that in the rural areas outside of settlements this will primarily be for "economic diversification". Policy CS5 (Countryside and Green Belt) supports agricultural development, provided the sustainability of rural communities is improved by bringing local economic and community benefits. Proposals should however be "on appropriate sites which maintain and enhance countryside vitality and character" and have "no unacceptable adverse environmental impact". The policy recognises that "the countryside is a 'living-working' environment which requires support to maintain or enhance sustainability". Paragraph 4.74 states that: "Whilst the Core Strategy aims to provide general support for the land based sector, larger scale agricultural ...related development, including ... poultry units ... can have significant impacts and will not be appropriate in all rural locations."

6.1.9 It is considered that the proposed development is capable of conforming in principle with CS1 and CS5 because:

- Its primary purpose is economic diversification;
- It will provide local employment and associated economic benefits for local communities;
- It assists in achieving the aim of local food production and also food traceability and security, reducing the UK's reliance on imported food sources including poultry;
- It will enhance the vitality and character of the living working countryside by sustaining the local community and bringing local economic benefits.

- The applicant advises that the environmental reports accompanying the application demonstrate that the proposals have no unacceptable impact on the environment. This is supported by the lack of objection from technical consultees and the fact that officers are not aware of any objections or issues raised with regard to the operation of the existing poultry units.

6.1.10 The proposal incorporates sustainable design measures in accordance with Policy CS6 including considerations including:

- Sustainable drainage, water and energy efficiency systems;
- Sustainable construction methods (modern poultry shed design).
- The proposal does not propose significant increases in existing traffic levels. The site is accessible via the established access and the junction with the public highway has been improved.

6.1.11 Policy CS13 states that “Shropshire Council will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth ... In so doing, particular emphasis will be placed on ... supporting the development and growth of Shropshire’s key business sectors ... particularly food and drink production ... [and] ... in the rural areas, 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 agricultural and farm diversification...., food and drink processing, and promotion of local food and supply chains”. The proposal accords with this Policy as it delivers economic growth within the rural economy and the food and drink industry, which is one of Shropshire’s key business sectors.

AONB Special Circumstance Policy Tests

6.1.13 The First Test: the need for the development *(including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy)*

There is a strong and increasing national demand for home-produced poultry meat which is a relatively cheap source of protein at a time when other meat production is in decline. This continued demand has seen a significant number of other poultry proposals in Shropshire over the past 5 years. Many poultry business supply Cargills based at Hereford which is a major national supplier and has been undergoing recent expansions. The UK currently produces around 75% of the poultry meat it consumes. There is however significant scope to extend levels of home production and reduce imports from Europe further. This is also beneficial from a point of view of food traceability. It is considered that there is a very strong need case at a national level for continued growth in home grown poultry production.

6.1.14 At a local level the proposals would make a positive contribution to the economy of this part of Shropshire, both through requirements for local goods and services during the construction phase and through subsequent purchase of feedstocks and other materials and services and the associated direct and indirect provision of local employment. The applicant advises that the poultry enterprise is compatible with and complimentary to the existing mixed system of sheep and arable enterprises at Hurst Barn. The family’s main farming partnership, A and S Jones owns and manages other land near Clun. They wish for Hurst Barn to be a self-contained unit, managed by Alan Jones’s son Richard.

- 6.1 15 The poultry enterprise is the most appropriate and sustainable option for the future of the business, because existing infrastructure can be utilised, a suitable site is available at the farmstead and the proposed enterprise is not reliant on subsidy income. Broiler production is generally a controlled enterprise and it is therefore considered an appropriate and sustainable form of diversification. Spreading of Chicken manure can also have significant benefits for the condition of agricultural soils.
- 6.1.16 Demand for UK sourced poultry is high and has increased further since 2015. If the proposals did not proceed then the site would not contribute to national poultry production and the local economy in the same way. The ability to manage the Hurst Barn holding as a separate self-sustaining unit providing a viable income for the applicant's son and his family as local people may be compromised, in turn affecting the vitality of the local farming community, members of whom have supported the application. It is concluded that the need for the development could be accepted in principle, provided the other two tests set by the NPPF can also be met.
- 6.1.17 The Second Test: Alternatives (*the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way*)
The applicant advises that there are no alternative sites within their landholding which would be capable of supporting a development of this nature. The proposed site has been carefully chosen because it is next to an existing farm buildings complex so can benefit from this existing infrastructure. There is an existing access onto the public highway which would be upgraded and good accessibility to other land in the farmholding. The site is also bounded by established roadside vegetation which would be managed and supplemented by comprehensive planting proposals. In addition, it is over 500m from the nearest privately owned property not associated with the farm and, apart from being within the AONB, it is not directly affected by any other environmental designations.
- 6.1.18 18 % of Britain is covered by an AONB designation and the area of Shropshire within the AONB is even higher at 25%. Local and national policy strongly protects these designations. However, such policy also recognises the need to ensure that all rural communities, including within AONB's, remain economically healthy and vibrant. People visit AONB's for their scenic beauty and in so doing they contribute to the tourism economy. However, AONB's are also working landscapes which are critically dependent on farming activity for their maintenance and upkeep. Farming faces well documented challenges and this is particularly so in more remote and geographically isolated areas such as the Shropshire Hills AONB area. If agricultural businesses cannot diversify within the AONB then the local landscape which people come to see may suffer, as may the local community which has a significant agricultural component. It is not considered that the option of developing an equivalent facility outside of the AONB would be a viable or realistic one for a farmer such as the current applicant, whose main holding falls within the AONB. It is considered therefore that the second test can be met.

The Third Test – Environmental Acceptability:

- 6.1.19 The third test set by NPPF 116 is that of environmental acceptability. It is recognised that the proposals would help to deliver economic growth, rural diversification and improved food security and the operational benefits of the proposed location are also acknowledged. Objectors argue however that the potential adverse effects, including

on the local environment and amenities and the Arvon Centre would clearly outweigh any positive agricultural effects. The extent to which this is the case is assessed in succeeding sections.

6.1.20 If it can be concluded that any such effects would be acceptable after mitigation then the third test can be met. By implication the proposals would also comply with relevant environmental policies including CS7 (Transport), CS8 (local amenities), CS13 (economic development), CS17 (Environmental Networks) and CS18 (Water Resources). If however any adverse effects cannot be satisfactorily mitigated, or if significant doubt remains regarding the ability to mitigate then the third test would not be met and permission should be refused. Environmental impacts are considered in a succeeding section.

6.2 Environmental implications of the proposals

6.2.1 Transport: Policy CS7 requires sustainable patterns of communications and transport. The applicant advises that pre application discussions with Shropshire Council's Highways Officer concluded there was no objection to the proposal, subject to the alterations proposed to the main existing entrance. All vehicle movements apart from HGV's removing the birds would be daytime movements. This minimises the potential impact upon local residential receptors and other users of the public roads. Traffic during the six month construction period can be managed to avoid night time movements. As a result, the applicant does not anticipate any significant effects on residential receptors or users of the private road.

6.2.2 The applicant advises that the proposals would result in increase of 17.2% in the level of vehicle movements to Hurst Barn (including cars, tractors and lorries) relative to the current situation or an increase of 658 individual movements (328 return visits) per year. For lorries, tractors and trailers this equates to 1.8 individual movements per day (0.9 return visits) or 60 extra movements (30 return visits) per broiler crop cycle.

6.2.3 An objector has queried these movements on the basis that national statistics may suggest higher traffic levels for a development of this nature. The applicant's agent has confirmed however that the levels of manure and feedstocks are very accurate, being based on equivalent local poultry enterprises including for many other poultry clients and including the agent's brother's 2 shed poultry site which generates 954 tonnes of manure per year. The agent advises that some government estimates of poultry vehicle movements nationally are inaccurate and do not relate to the situation on the ground in Shropshire. The agent has offered to provide officers with documentary proof of this.

6.2.4 All exported poultry would be transported in covered loads. During night time depopulations there would be one lorry coming and one going per hour. Depopulations at such times can have benefits for the end user and for animal welfare as birds are less active. The site has access immediately to the public highway and is not close to other residential property. Highway officers did not object to these numbers during pre-application discussions. It is concluded that a highway objection could not be sustained and that the proposals are consistent with Policy CS7.

6.2.5 Noise: Core Strategy Policy CS8 seeks to maintain and enhance existing facilities, services and amenities and to contribute to the quality of life of residents and visitors. Poultry units have the ability to create a noise impact upon local residences due to fan

noise, feed deliveries, vehicle movements on site and during night time removal of birds. Where a poultry site is within 400 metres of unrelated dwellings a Noise Assessment is generally required by the local authority. The house at Hurst Barn is occupied by the Applicant.

- 6.2.6 The closest unrelated dwelling is at Hurst Mill, some 500 metres to the west of the proposed site. The feed bins are at the western end of the farm buildings, further from the nearest dwellings. The agent advises that the extractor fans would not be audible at this distance and this is borne out by experience at other poultry sites. The proposed buildings would be fully insulated to assist in control of the internal environment and to minimise noise. Public Protection has not objected. To provide further confidence however an amenity complaints condition has been recommended. This sets out a formal procedure for handling any complaints if these are subsequently received and validated by the planning authority.
- 6.2.7 Odour: There may be smells when the manure is being removed from the building although this would be for short periods of time. An odour assessment submitted with the application assess odour at the nearest sensitive receptor properties not associated with the farm. The Atmospheric Dispersion Modelling System used takes account of metrological data, topographic features such as the Clun Valley and surface roughness. The results of the modelling indicate that, should the proposed development of the poultry unit at Hurst Barn Farm proceed, the 98th percentile hourly mean odour concentration at nearby residences would be below the Environment Agency's benchmark for moderately offensive odours, a 98th percentile hourly mean of 3.0 ouE/m³ over a one year period.
- 6.2.8 Public Protection and the Environment Agency have not objected. Odour emissions within the site would be subject to detailed controls under the Environment Agency's permitting system. A 'dry' heating system using hot water pipes would be used so the internal environment would be less moist than with simple gas burners. Consequently, there is less need for ventilation so odour within the crop cycle is significantly reduced. The agent advises that this is a major beneficial change from 'older style' poultry units.
- 6.2.9 Objectors have expressed concern that odour during cleanouts would pose a hazard to nearby road traffic. The agent advises that there have been no odour issues with a site at Manor farm Wistanstow (13/04877/EIA) in the AONB with 10 sheds, several of which are close to the A49. The agent advises that in practise driving along 300m at the national speed limit would take 15 seconds. There are no laybys or reasons or opportunities for drivers, cyclists etc. to stop nearby on the road and worst case odour would be very temporary, for a few hours at the end of each crop cycle. It is considered that the proposals can be accepted in principle in relation to odour issues. To provide added reassurance however a condition providing a procedure for dealing with amenity based complaints has been recommended in appendix 1.
- 6.2.10 Dust: Internally, a dust laden atmosphere must be prevented for health reasons. The contained nature of the operation precludes the emission of significant amounts of dust particles to the atmosphere.
- 6.2.11 Public Health: The operation of the site would be subject to the rigorous controls of the Environment Agency's IPPC permitting regime. Under the Permit the site is required to operate to Best Available Techniques with conditions to ensure operations are pollution

free. As such the proposals are specifically designed to minimise ammonia emissions to air and very stringent biosecurity measures also apply. The Environment Agency and Public Protection have not objected.

- 6.2.12 Drainage: Core Strategy Policy CS18 requires sustainable water management to reduce flood risk and avoid an adverse impact on water quality. A detailed Flood Risk Assessment and Surface Water Management Strategy for the proposed development has been provided. The site is within flood zone 1 and so is outside the flood plain of the River Clun. The surface water drainage scheme proposed is to a SuDS system and therefore mitigates the potential surface water runoff and downstream flood consequences. A water management plan explains how clean surface water will be separated from contaminated water which would be stored in below-ground tanks for separate removal. The Council's Drainage section has not objected. Appropriate conditions and advisory notes are recommended in Appendix 1.
- 6.2.13 Ammonia and nitrate deposition: Poultry units generate ammonia which can impact on the local environment. The site is close to a Local Wildlife Site and also to Clunton Coppice Site of Special Scientific Interest (124m to the south east). The conditions in modern units are designed to minimise such emissions and such operations would be controlled under the Environment Agency's permitting system. The units would conform with the code of good practice issued by DEFRA. The application includes a consultant's assessment of predicted ammonia and nitrogen deposition levels against Environment Agency criteria. The predicted maximum annual mean ammonia and nitrogen concentrations at all the nearby wildlife sites and within the Clun Catchment are at levels that would normally be deemed insignificant for permitting purposes. The consultant advises that in comparison to normal nitrogen inputs to arable land in the area, the predicted levels are very insignificant.
- 6.2.14 As part of the ecological mitigation package the applicant is proposing to remove an area of currently improved grassland from an intensive fertilisation regime and to reduce fertiliser application to other land within the holding. The Environmental Statement advises that this will fully mitigate any residual increase in nitrate levels from the poultry proposals. Further mitigation measures are potentially available such as fitting of heat exchangers (to further reduce moisture and ammonia emissions) or odour / bio-aerosol filters if required by the Environment Agency as part of the permitting controls.
- 6.2.15 Ecology: Policy CS17 states that "development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources, and should not adversely affect visual, ecological, heritage or recreational assets. The site is within the River Clun Catchment and is 12.5km upstream of the River Clun Special Area of Conservation (SAC) which is currently failing its water quality targets. In addition to this there are 3 nationally designated nature conservation sites within 10 kilometres of the site. The ecological value of the habitats within and around the application site and the applicant's land holding lies primarily in the existing linear habitats - the species rich field boundary hedgerows and the watercourse and associated habitats along the River Clun. These would be retained and enhanced. Most of the habitats within and adjacent to the site proposed for development are of no more than local importance. Overall the proposals including landscaping works are predicted to have a positive ecological effect, which is long term and significant at the local level.

- 6.2.16 The Council's ecology team has not objected and has concluded in its' Habitat Risk Assessment (HRA) that appropriate mitigation measures are available to protect the Clun Catchment. This includes recommended conditions exercising control over the area and extent of manure spreading (see Appendix 2). Natural England has accepted these conclusions, whilst requesting further confirmation of detailed delivery mechanisms for the mitigation measures. Following discussions between the agent, the ecology section and this officer it has been determined that delivery of the ecological mitigation measures should be secured by means both of planning conditions and through a legal agreement to ensure such measures are legally robust. The agreement would also secure provisions for monitoring of water quality at a nearby stream within the applicant's control, as recommended by Natural England. This type of mechanism has been agreed recently by Natural England as appropriate for delivering the ecological mitigation at a number of other poultry sites in the Clun Catchment. The applicant has based the legal agreement on one of these previous recent agreements. Natural England has been informed of this.
- 6.2.17 The AONB Partnership has criticised the conclusions of the applicant's ecological report. The agent has responded that a specialist ecological consultant has been employed who has undertaken detailed work on the Clun catchment, including management plan work for sections of the river downstream of the development. The fullest research has therefore been undertaken in the ecological assessment. The agent states that no evidence has been put forward to support the AONB Partnership statement that should the proposals go ahead they would put in jeopardy the conservation objectives set for returning the River Clun SAC to favourable condition'.
- 6.2.18 Ecological consultees have not objected and comprehensive mitigation measures are being proposed with a delivery mechanism supported by a legal agreement which have been accepted by Natural England at other recent poultry development in the Clun catchment area. It is concluded on this basis that the proposals would not impact adversely on ecological interests, including the Clun Special Area of Conservation subject to the recommended planning conditions and legal agreement. The proposals therefore comply with Core Strategy Policy CS17 and SAMDev Policy MD12.



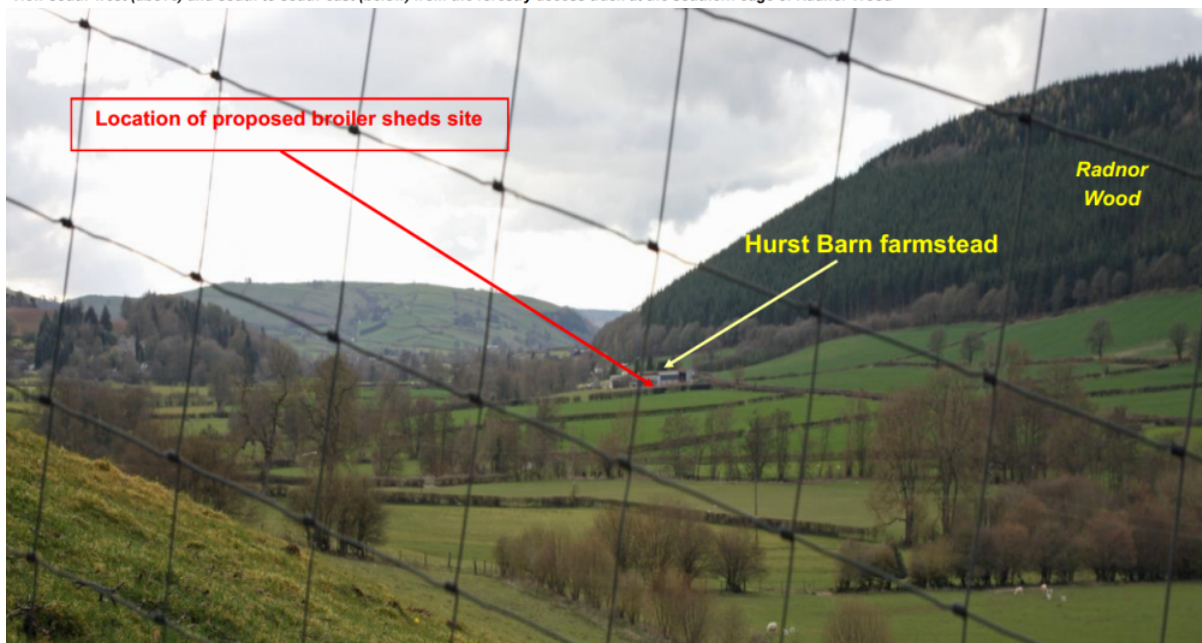
View of Hurst Barn from South, towards Radnor Wood. Site is to right of picture



View from public right of way 500m west. Existing poultry buildings are to right centre.



View south-west (above) and south to south-east (below) from the forestry access track at the southern edge of Radnor Wood



View towards site from right of way at Sowdley Wood 700m south-east.

- 6.2.19 Landscape and Visual impact: The site is located in the AONB where there is a particular requirement to safeguard landscape quality. A landscape and visual appraisal concludes that the scale and nature of the development and its juxtaposition to other agricultural development will have little landscape character impact. Limited views are afforded towards the proposed development site and the development would be seen in the context of the existing farm buildings complex. The Hurst Barn farmstead and the proposed broiler sheds lie within a narrow linear tract of the “Estate Farmlands” Landscape Type. The “Wooded Hills and Farmlands” Landscape Type occurs to the north and south on the middle and upper slopes of the Clun valley sides. The proposed development includes new planting of native hedgerows with trees and a small section of riparian woodland, in order to properly assimilate the new broiler sheds and the modified farm access into the local landscape.
- 6.2.20 The visual appraisal advises that there will be a local major change as the open arable field is converted to two large sheds with a supporting infrastructure. However, significant landscape features, particularly hedgerows and trees, will be retained for the most part, with only minor losses of hedgerow at the modified farmyard entrance. The overall agricultural land use resource is the dominant element of the local landscape and is evaluated as being of medium sensitivity. This, when combined with minor magnitude of change, will not result in a significant effect. The proposed development would have very localised landscape effects and would not introduce a new type of built element into the landscape of this area of the Clun Valley.
- 6.2.21 The proposed planting of a total of around 187 linear metres of new and replacement native field boundary hedgerow with trees and the 550m² of supplementary river terrace planting, would provide minor beneficial local landscape effects. It is predicted that the residual landscape effects after 10 years would be minor beneficial but not significant. There are no views of the proposed broiler shed site from Clunton village, properties at the eastern edge of Clun or at Woodside because of intervening landform, dense woodland and a network of field boundary hedgerows with trees.
- 6.2.22 Seven residential receptors have been identified. The visual appraisal predicts that none of these receptors would experience a level of adverse visual effect and none would experience significant residual visual effects. Users of a 1.25km section of the only local public right of way in the vicinity of the site, the byway running through Sowdley Wood between Clunton and Woodside, would experience minor adverse visual effects which would not be significant. The byway is some 0.5kms distant from the proposed broiler site at its closest point. At Year 10 following the increase in height of the hedgerow and intermittent new tree planting and hedgerow planting the residual magnitude of effect would reduce to negligible adverse and therefore not significant. Users of parts of the dedicated forestry access land at Radnor Wood would experience residual visual effects reduced to minor and adverse, not significant.
- 6.2.23 There would be no effects on visitors to the Radnor Camp Hillfort or Clun Castle as there is no inter-visibility with Hurst Barn. The narrow and winding configuration of many of the public local access roads, together with the frequent occurrence of high parallel flanking field boundary hedgerows, restricts the available views along many stretches. Proposed tree planting parallel to the highway would supplement the

hedge screening at a higher level. The removal of a tower storage unit at Hurst Barn, with its conspicuous white domed roof, would have a minor beneficial effect. Consequently the visual appraisal concludes that the nature of the predicted magnitude of change in the view arising from building the new sheds on completion of the construction phase would be minor adverse and so not significant. At operational year 10, following the full establishment of the supplementary tree planting and the growth of the tree canopies, the residual magnitude of effect would be negligible beneficial.

6.2.24 Of the identified residential receptors none is predicted to experience a visual effect greater than moderate. The site is not visible from either of the two promoted long distance footpaths; the Shropshire Way and the Jack Mytton Way. It would only be visible from parts of one local public right of way (through Sowdley Wood to the south). The minor adverse effects would reduce by mitigation measures and intervening vegetation resulting in no residual visual effects. There will no significant effects on views from the B4368.

6.2.25 The AONB Partnership has challenged these conclusions (see appendix 3). They assert that the magnitude of the effects and the sensitivity of the landscape is greater than has been assumed. The applicant's visual consultant has commented on the AONB response, pointing out that 'the Hurst Barn development is not isolated and not set in open fields. It is contiguous with the existing small farmstead at Hurst Barn and is adjacent to tall mature field boundary hedgerows on two sides'. 'It does not have any detrimental effects upon the settings of Listed Buildings at The Hurst (Grade II) or any other local heritage assets'. Unlike Hurst Barn, it is stated that most similar farmsteads have been modernised to meet the need of modern farming and this has typically involved the construction of larger modern buildings. There is an existing planning consent for a large general purpose agricultural shed with a ridge height of 5.81 metres within the application site. This forms a visual context for the current proposals but would not be implemented if the current scheme proceeds.

6.2.26 The applicant's landscape consultant states that the AONB Partnership has also not acknowledged the beneficial effect of the proposed removal of the silo with its conspicuous white domed roof. The consultant does not regard the proposals as being 'industrial' as stated by the AONB. It is pointed out that sites approved recently by the Planning Authority at Guilden Down and at Shadwell Hall - within 2.5 and 6.4 kms of the site respectively are significantly larger. Regarding the assertion that visual impacts have been underestimated the consultant advises that he has 36 years of experience preparing LVIA's including within designated landscapes and has provided landscape advice to planning authorities including Shropshire Council and other Councils with respect to poultry appeals. In none of these cases have recipient officers or authorities expressed equivalent concerns. It is pointed out that large agricultural sheds have been consented elsewhere in the Clun Valley to the west of the current site. It is stated with reference to NPPF 115 that the proposed development would have no significant adverse effects on the landscape character of the AONB, nor any significant adverse visual effects on local receptors. Hence, whilst it is a schedule 1 EIA given bird numbers the consultant contends that it should not be regarded as a 'major' development in landscape and visual terms.

6.2.27 The AONB Partnership has responded citing amongst other matters that the findings of the LVIA remain unconvincing. The agent has responded that the AONB Partnership

provides no evidence to counter its findings and that high level policies in the NPPF protecting the AONB also promote sustainable development. The LVIA concludes that the proposed Hurst Barn development is sustainable and would secure the favourable land management of a considerable area of the floor and lower slopes of this part of the Clun Valley. The documents detailing these further exchanges can be viewed on the Council's online planning register.

- 6.2.28 An objector has also asserted that visibility of the site from 'informal' forestry footpaths to the north and south and the public right of way through Sowdley Wood to the south could increase significantly when any clear felling occurs. The timing of any such felling works is not known. However, it is considered unlikely that all such screening woodland would be felled in one operation as these woodlands will generally comprise a number of separate management compartments with trees of different ages per compartment. The applicant's planting proposals would be expected to provide significant or full screening from the north and south within a 10 year period. Before this time the site would continue to represent a small part of a wider landscape from any such elevated views and would be seen in the context of the existing farm buildings and associated vegetation.
- 6.2.29 Whilst the poultry houses would be relatively large structures, they would be of 'low profile' design using materials which match the existing buildings on the farmstead. They would be agricultural in appearance and spatially associated with the existing farm buildings, one of which, a grain silo, would be removed. The site would be screened by existing and proposed planting. An objector has asserted that planting adjacent to the buildings may infringe avian flu safeguards by attracting wild birds. The applicant states however that this is not the case and the officer is aware of other examples where planting has been undertaken in equivalent circumstances. The applicant has agreed as part of the landscaping proposals to investigate the potential to undertake some further planting to the south of Hurst Barn, between the site and the River Clun. This would be in an area between the site and the nearest properties, including Hurst Mill and the Arvon Centre. An appropriate landscaping condition has been included in Appendix 1.
- 6.2.30 In conclusion, the concerns of the AONB Partnership and other objectors are noted and it is recognised that the proposals would be visible from a number of locations in the surrounding area, including locally from the public highway and from a public right of way to the south. However, such visibility does not necessarily equate to an unacceptable impact, even within the AONB where particular safeguards apply. Available information confirms that the development would only be visible from a limited number of locations which, with the exception of the highway and right of way, would not be expected to be commonly experienced by the public. The officer would agree with the applicant's landscape consultant's conclusion that the impact of the proposals on any such views and on the wider AONB landscape would not be significant or sufficient to warrant refusal. This is provided the proposals are subject to appropriate landscaping and surface treatment conditions. The officer concludes that any residual visual effects would be limited and outweighed by the benefits of the scheme to agriculture and the local rural economy (Core Strategy Policy CS17, SAMDev Policy MD12).
- 6.2.31 Heritage: The proposed site is located in the Clun Valley which contains a number of Historic Environment Records. A Heritage Assessment has been undertaken. A site

visit has confirmed that there will be no visual impact upon the setting of Radnor Wood Camp or the setting of the Grade II Listed buildings at The Hurst. In addition any potential filtered seasonal views of the roof sections of the proposed sheds from the upper floors of the former main residence (HER 17868) and the former two-storey Stable Block (HER 17869), particularly as tree cover diminishes in winter months, will not be significant. The proposed earth bund and planting will ameliorate this potential visual impact and it is concluded that on completion of the landscaping work, potential views would be negligible. The site visit has also confirmed that there is no direct inter-visibility between Hurst Mill Farm, a former mill site (HERs 15741 & 24466) and the application site, due to natural topography, intervening trees, mature hedgerows and the existing intervening farm buildings at Hurst Barn. The heritage assessment advises that there may be minor temporary visual impact on the built heritage in general during the construction phase of the proposed development, but there will be no permanent adverse visual impact.

- 6.2.31 The heritage assessment concludes that a mitigation strategy to allow for a conditioned programme of archaeological monitoring would be appropriate in accordance with NNPF to ensure no adverse impact on any potential sub-surface archaeological remains that may exist within the application site. Historic England has not objected on the basis of this information and there are no objections from the Council's Historic Environment team, subject to a recommended archaeological condition. It is considered on this basis that the proposals are compliant with Core Strategy Policy CS17 and SAMDev Policy MD13 and related national guidance.
- 6.2.32 Manure management: Hurst Barn is not located within a Nitrate Vulnerable Zone (NVZ). Poultry manure is beneficial for soil structure and reduces the need for artificial fertilisers. Currently 500 tonnes of broiler manure is imported to the holding per year equating to 15,000kg of Nitrogen. The proposals would lead to 935 tonnes of manure (28,050kg of Nitrogen in total). However, 435 tonnes would be exported off the holding and so there would be reductions overall in manure and Nitrogen per year.
- 6.2.33 The spreading of chicken manure on the farmland controlled by the applicant has been undertaken for a number of years. Following best practice methods to reduce the potential for ammonia impact on any receiving watercourse. Temporary storage sites would be compliant with the Codes of Good Agricultural Practice for the Protection of Air, Soil and Water. Odour from manure spreading can be mitigated by ploughing promptly. A manure management plan has been submitted and forms part of the applicant's environmental permit. Sufficient land is available to the applicant to spread the manure which would be generated by the poultry operation. It is considered that manure spreading operations can be controlled within acceptable limits provided the proposed management measures continue to apply.
- 6.2.34 Arvon Centre objection: A number of the objections received from the public are from or on behalf of the Arvon Centre, a charitable institution which provides residential creative writing courses and retreats for schools, groups and individuals. The group's centre at the Hurst is located on elevated land overlooking the Clun Valley with the buildings being some 7-830m to the south-west of the application site. The website advises that courses are held 'at three beautiful rural writers' houses' 'with time and space to write, free from the distractions of everyday life'. The website advises that 'recently renovated, The Hurst is a place you can write, far away from daily distractions. The house and gardens were the former home of playwright John Osborne. The

grounds boast Redwoods, wild orchids, surrounded by the forest-covered Shropshire Hills, designated an Area of Outstanding Natural Beauty'. 'The 19th century building has been given a thoroughly 21st century renovation. 'The house sits within 26 acres of woodland, with a spring-fed lake and inspiring walks'.

- 6.2.35 Objectors for or on behalf of the Arvon Centre point to the concern that the proposed development would be a visual eyesore adversely affecting the high quality local landscape which was praised by John Osborne. They are also concerned that noise and odour from the proposals would present an adverse amenity impact to visitors to the Centre and that this could in turn lead to a deduction in visitor numbers. Significant grant funding has been expended recently to refurbish the centre's buildings. One objector states that more work is planned, including renovation of the historic Victorian garden with one objective being to re-open former views down the Clun Valley which would potentially encompass the Hurst barn complex. It is stated that the garden should be worthy of listing, like the grade II listed buildings at the Arvon Centre. Another objector advises that the land owned by the Centre where visitors may walk also encompasses meadowland which is closer to the application site.
- 6.2.36 The Arvon Centre is a valued facility which draws visitors to this part of Shropshire and which makes a significant contribution to the local economy and employment and to the County's cultural offer. It is recognised that the Centre markets itself specifically on the quality and tranquillity of the site and the local AONB landscape. This is seen as critical for establishing the right mental environment for literary composition, as recognised by the playwright John Osborne. These characteristics render the Arvon Centre particularly sensitive to environmental disturbance. Hence, the objections received are not unexpected, given also in particular the significant effort clearly being expended to refurbish, promote and extend the Centre's activities.
- 6.2.37 Were the current proposals to have any potential for significant adverse effects on the Arvon Centre then this would clearly weigh heavily against the scheme. However, the information submitted by the applicant indicates that this would not be the case. In terms of noise the submitted information indicates that extractor fans would not be audible from the Arvon Centre and its grounds. In terms of odour, a dispersion model indicates that such levels would be within EA recommended levels at a radius of 150m from the proposed poultry units during temporary 'worst case' crop clearance activities. The Arvon Centre is located 4x this distance away. In terms of manure spreading the applicant has for some time been spreading manure on the holding fields at a rate of 500 tonnes per annum in full accordance with relevant environmental regulations. No complaints have been received. There would be no change to these levels under the current proposals. Manure would no longer need to be imported to fertilise and condition the fields. 500 tonnes would be exported to other land in covered loads. In terms of traffic, the 17% increase in vehicle movements would equate to an average of 1.8 extra individual movements by tractor and trailer or lorry. Such levels would not be expected to have any impact at the Arvon Centre.
- 6.2.38 In terms of visual impact the applicants visual appraisal comments as follows with respect to the Hurst: 'This property is orientated north-north-east to south-south-west, with potential views from its habitable rooms or curtilage towards the proposed Hurst Barn development site, which is some 0.74kms to the north-east. Views from the curtilage of this house to the north-east are screened by intervening groups of existing trees, riparian woodland and mature field boundaries and hedgerows and

trees. The nature of the predicted magnitude of change in the view from here on completion of the construction phase would be negligible adverse but not significant. The residual magnitude of effect following the full establishment of the new site boundary hedgerow with trees on the raised ground level would be negligible adverse but not significant'. 'Also nearby to the south west is the main building at The Hurst, formerly the principal residence here. This property has potential views from some rooms on its upper floors towards the development site which is some 0.83kms to the north-east. Views to the north-east from the lower floors and the curtilage of this house are screened by intervening groups of existing trees and shrubs. Some upper parts of the roof of Shed 2 may be glimpsed through the tracery of deciduous tree branches during the winter aspect. The nature of the predicted magnitude of change in the view from here on completion of the construction phase would therefore be negligible adverse but not significant. The residual magnitude of effect, following the full establishment of the new site boundary hedgerow with trees on the raised ground level, would be negligible adverse and so not significant'.

- 6.2.38 Some limited views of the development may therefore be afforded from some upstairs windows within the Arvon Centre at a distance of 700-830m in winter time, filtered through the branches of deciduous trees. Such views would however be seen in the context of the existing farm buildings and would not be significant at this distance. The applicant's landscape proposals would provide significant mitigation and specifying some 3.5m standard trees in the planting mix would allow this to occur at an early stage. The applicant has also agreed to investigate the potential to undertake some additional planting in the area to the immediate south west of the existing farm to provide further mitigation and landscape enhancement and an appropriate condition has been recommended. Overall it is concluded that any residual effects on the Arvon Centre would be restricted to minor visual effects which would not sufficient to justify a planning refusal. To provide added reassurance an amenity complaints condition has been recommended which would formalise a requirement for an immediate investigation and remedial measures in the event that any amenity complaints attributable to the development are subsequently received and validated by the Local Planning Authority.
- 6.2.39 Ground levels: The applicant has indicated an intention to undertake a minor amendment to ground levels of the poultry units such that the unit nearest to the highway would be set down by 30cm and the second unit by 60cm relative to the originally submitted levels. This would avoid the need to provide a 1m bank at the eastern end of the southernmost poultry house which would otherwise have been required due to the slope of the land in this immediate vicinity. It would also assist with achieving a balance of cut and fill materials within the site. A plan showing an amended annotation for proposed ground levels is being uploaded to the online planning register. The officer has determined that given the very minor nature of this change the amended levels plan can be accepted under the 'Wheatcroft Principle' without a requirement for formal re-consultation. The corresponding 30cm and 60cm reduction in ridge heights would also have some landscape benefits.
- 6.3.40 Conclusion on environmental acceptability: Available information including the advice of technical consultees indicates that the proposals would not result in any unacceptably adverse effects on the AONB environment or local amenities once available mitigation measures and the recommended conditions and legal agreement

have been taken into account. The third test set by NPPF paragraph 116 can therefore be met.

7. CONCLUSION

7.1 The proposals are for schedule 1 EIA development in the Shropshire Hills AONB. As such, they must be in the public interest and must comply with the three exceptional circumstance tests for major development which are set out in paragraph 116 of the NPPF.

7.2 In terms of the first test (need and justification) subject to the other considerations referred to below the proposals are considered to represent an appropriate way in principle of diversifying and modernising the farm business to ensure its future profitability / robustness whilst continuing to contribute to the local economy and employment. It would also provide locally sourced food as part of a key industry in Shropshire, supplying a strong national demand for poultry products. The proposals therefore comply in this respect with Core Strategy policies CS5 (Countryside) and CS13 (economy).

7.3 In terms of the second test (alternatives) it is not considered that there are any viable alternatives available to the applicants in land they control. The site is spatially associated with an existing farm buildings complex which serves as an existing hub for activity within the holding. As such, it benefits from existing infrastructure and highway access. It is also remote from private residential property and, except for the AONB designation, is not affected by any other statutory designations. The suggestion that an equivalent business could be established outside of the AONB is not considered to be a valid alternative.

7.4 In terms of the third test (environmental acceptability), the applicant has submitted a comprehensive Environmental Statement containing detailed consultant's reports assessing individual issues raised by the proposals. None of these reports identify any significant environmental concerns once appropriate mitigation measures have been taken into account. Concerns have been raised by Clunton Parish Council, Clun Town Council, the AONB Partnership, some local residents and the Arvon Centre. These concerns are recognised and relate to valid land use considerations. At the same time, there has also been significant support for the scheme from the local community including from some of the nearest properties. There are no outstanding objections from technical planning consultees who are satisfied that there would be no adverse environmental effects once the proposed mitigation measures are in place. There would be comprehensive control of site operations under the Environmental Permitting system administered by the Environment Agency.

7.5 With reference to the Clun Catchment, Natural England has accepted the recommendations of the Habitat Regulations Assessment by the Council ecologist. Mitigation would be delivered by means of planning conditions supplemented by a legal agreement including provision for off-site water quality monitoring and an appropriate reporting mechanism, as recommended by Natural England. Identical delivery mechanisms have been accepted by Natural England at other recent poultry sites within the Clun Catchment. Given the availability of suitable mitigation mechanisms it is concluded that there would be no adverse impacts on the Special Area of Conservation or on other ecological interests.

- 7.6 In terms of the AONB a visual appraisal confirms that views of the site would be very limited and seen in the context of the existing farm buildings. They would be mitigated by the low-profile design and surface treatments of the buildings and by the proposed comprehensive landscaping measures. The concerns of the Arvon Centre are fully acknowledged. However, the available information clearly indicates that any visual impacts would be very minor and no other material impacts would be likely to occur relative to the existing situation. Hence planning refusal on this basis would not be justified.
- 7.7 In conclusion, the scheme would deliver significant benefits in terms of supporting rural food production - a key Shropshire industry (Core Strategy Policy CS13) and the strong national demand for home-produced poultry meat. In so doing it would also support the vitality of local agriculture and hence the rural community (Core Strategy Policy CS5). Available information indicates that the proposals would not give rise to any unacceptably adverse environmental effects once proposed mitigation and relevant planning and permitting controls are taken into account. Therefore, the officer considers that the benefits of the proposals are sufficient to demonstrably outweigh any negative effects. As such the proposals are considered to be in the public interest on balance and accordingly the tests set by NPPF paragraph 116 are considered to be met. By implication, the scheme is considered to be sustainable and compliant with the development plan overall, subject to the recommended conditions and legal agreement.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

Risk Management

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

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

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

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.

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 is 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:

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

10.1.1 The National Planning Policy Framework (NPPF) came into effect in March 2012, replacing most former planning policy statements and guidance notes. The NPPF provides a more concise policy framework emphasizing sustainable development and planning for prosperity. Sustainable development 'is about positive growth – making economic, environmental and social progress for this and future generations'. 'Development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

10.1.2 Relevant areas covered by the NPPF are referred to in section 6 above and include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

10.2 Core Strategy:

10.2.1 The Shropshire Core Strategy sets out strategic objectives including amongst other matters:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

10.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS7: Communications and Transport;
- CS8: Facilities, services and infrastructure provision
- CS13: Economic Development, Enterprise and Employment;
- CS17: Environmental Networks.

10.4.1 Site Management and Allocation of Development Document (SAMDEV)
Relevant policies include:

- MD2 – Sustainable Design;
- MD7b– General Management of Development in the Countryside;
- MD8 – Infrastructure Provision;
- MD12: The Natural Environment;
- MD13: The Historic Environment.

11. RELEVANT PLANNING HISTORY:

- PREAPP/09/00338 Free Range Poultry building PRRQD 2nd November 2010
- 09/01299/FUL Erection of free range hen laying building incorporating egg store, office, together with erection of 2 x grain silos NPW 12th October 2009
- 12/00925/AGR Erection of lambing shed WDN 14th March 2012
- 12/01553/FUL Erection of general purpose agricultural building GRANT 9th October 2012
- SS/1/99/009752/NT Erection of an agricultural building. PERCON 16th April 1999
- 14/00742/SCO Scoping Opinion - Two Poultry Buildings with feed bins and ancillary equipment. SCO 3rd February 2015
- 16/03334/EIA Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access PDE

List of Background Papers : Planning Application 16/03334/EIA and supporting documents and plans.

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Nigel Hartin

Appendices: APPENDIX 1 - Conditions

APPENDIX 1

Conditions

DEFINITION OF THE PERMISSION

- 1a. The development to which this planning permission relates shall be commenced within three years beginning with the date of this permission.
- b. Not less than 7 days advanced notice shall be given in writing to the Local Planning Authority of the intended date for the commencement of operations under the terms of this permission. Such date shall be referred to as 'the Commencement Date'.

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

2. The development shall be carried out strictly in accordance with the application form dated 27th July 2016 and the following approved documents and plans:

Approved Documents:

- Design and Access Statement by Halls;
- Environmental Statement by Halls;
- Appendix 1 – Scoping Opinion;
- Appendix 2 – Landscape and Visual Impact Assessment;
- Appendix 4 – Notes on vehicle movements;
- Appendix 5 – Ammonia report;
- Appendix 6 – Hydrological Impact Assessment;
- Appendix 7 – LVIA Non-Technical Summary;
- Appendix 9 – Phase 1 Habitat Survey;
- Appendix 10 – Further statement to Natural England;
- Manure Management Plan – Halls;

Approved Plans:

- Drawing No. 8998-02A - Landholding;
- Drawing No. 8998-04 – Access alterations;
- Drawing No. 8998-06 – Building plan and elevation;
- Drawing No. 8998-07 – Site layout;
- Drawing No. 8998-08 – Site drainage layout;
- Drawing No. 274/01 – Landscape proposals;
- Drawing No. 9759 – Manure management.

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

CONDITIONS WHICH REQUIRE ACTION PRIOR TO THE COMMENCEMENT OR BRINGING INTO USE OF THE DEVELOPMENT

3. No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (dormice/nesting birds);
 - d. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

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

Reason: To protect features of recognised nature conservation importance.

4. No development or clearance of vegetation shall take place until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented in accordance with the approved details and shall include:
- a) Means of enclosure, including all security and other fencing
 - b) Planting plans, including wildlife habitat and features (e.g. hibernacula)
 - c) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - d) 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);
 - e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
 - f) An assessment of the potential to undertake additional planting along the field / track boundary to the south-of the existing farm buildings at Hurst Barn;
 - f) Implementation timetables.

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

5. No development or clearance of vegetation shall take place until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed (i.e. woodland/hedge/areas with no or low nutrient input);
- 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 (annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Monitoring and remedial/contingencies measures triggered by monitoring;

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance.

6. A total of 4 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 as shown on a site plan. 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.

- 7a. Prior to occupation, a 'lighting design strategy for biodiversity' for the proposed development site shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority

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

Drainage and pollution

- 8a. Details and sizing of the proposed soakaways shall be submitted to and approved in writing by the Local Planning Authority Prior to commencement of the development. Percolation tests and the sizing of the soakaways shall be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 25% for climate change. If this is not achievable then soakaways may be designed for the 1 in

10 year storm event provided details confirming flood routing showing what would happen in an 'exceedance event' above the 1 in 10 year storm event have been submitted to and approved in writing by the Authority. Flood water shall be managed so that there are no adverse effects on any buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways shall be submitted for approval.

- b. All surface water which is directed to soakaway shall pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

9. If non permeable surfacing is used on the new access and hardstanding area or the new access slope towards the highway, the applicant shall submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

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

10. The applicant shall submit details and plan on how the contaminated water in the yard from spillages or cleaning of sheds will be managed/ isolated from the main surface water system.

Reason: To ensure that polluted water does not enter the water table or watercourse.

11. No manure or other waste material derived from the development hereby approved shall be spread within 30m of any watercourse or ditch on land under the control of the applicant within the catchments of the River Teme or River Clun.

Reason: To ensure reduction of nutrient rich run-off and sediment entering the Folly Brook, to protect the River Clun Special Area of Conservation, a European protected site and the River Teme SSSI.

Archaeology

12. 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.

Construction phase

13. Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall amongst other matters detail the following:

- i. Management of vehicle movements;
- ii. Timing of the development;
- iii. The proposed hours of operation;
- iv. Any measures for protecting local amenities with respect to noise, dust and light pollution;
- v. The location of any temporary contractor's compound and internal parking provisions;
- vi. Measures for preventing pollution to water resources, including by silt laden surface water run-off.

The Construction Management Plan shall be implemented in accordance with the approved details.

Reason: In the interests of local amenities, pollution protection and highway safety.

Materials

14. No development shall commence on site in connection with the approval until details of materials including colour finishes for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The external finish of the new buildings shall be in a jupiter/fern green colour. The development shall be carried out in accordance with the approved details.

Reason: To ensure the materials are appropriate in the landscape.

Complaints procedure

15. Prior to the bringing into use of the development the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise, odour and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the Local Planning Authority. This shall include:
 - i. Investigation of the complaint;
 - ii. Reporting the results of the investigation to the Local Planning Authority;
 - iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

Reason: To put agreed procedures in place to deal with any verified amenity related complaints which are received during site operation.

CONDITIONS WHICH APPLY FOR THE LIFETIME OF THE DEVELOPMENT

16. Construction works shall not take place outside 06:30 to 19:00 hours Monday to Saturday and at no time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the area.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that Order with or without modification), no development shall be carried out under Class 6 Parts A and B without the prior grant of planning permission from the Local Planning Authority.

Reason: The effect of carrying out additional development of the facility under agricultural permitted development provisions has not been assessed as part of this proposal. The Local Planning Authority needs to retain full planning control over any future development of the site in order to assess whether any potential impacts associated with further development may cause harm to interests of acknowledged importance.

18. All plant and machinery on site shall be installed as per the figures within the application and maintained thereafter in accordance with the manufacturer's recommendations.

Reason: To protect neighbouring properties.

- 19a. The delivery of poultry feed to, and the removal of poultry manure from, the development shall take place only between the hours of 07:00 to 18:00 on Monday to Friday, and 08:00 to 13:00 on Saturday, and shall not take place at any time on Sunday or Bank Holidays.

Reason: To protect the amenities of the area.

Informative Notes:

Ecology:

- i. *Otters are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb an otter; and to damage, destroy or obstruct access to its breeding and resting places. There is an unlimited fine and/or up to six months imprisonment for such offences. On sites close to river banks, alongside streams and around pools, otters may occasionally be encountered and contractors should be vigilant when working on site. No night-time lighting should be used in such locations and trenches and open pipework should be closed overnight. If any evidence of otters (holts, scats, footprints or direct sightings) are discovered then the development work must halt and a licensed ecologist and Natural England must be contacted (0300 060 3900) for advice. The Local Planning Authority should also be informed.*
- ii. *Himalayan Balsam is an Invasive Non-Native Species listed on Schedule 9 of the Wildlife and Countryside Act. Any soil excavated that contains parts of this plant is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991.*
- iii. *All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees. If a bat should be discovered on site*

at any point during the development then work must halt and Natural England should be contacted for advice.

- iv. *Badger: Prior to commencement of works on site a check for badger setts within 30m of the proposed groundworks should be completed by a competent ecologist. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. An experienced ecologist should assess whether any badger setts are present in the hedgerows. If any hedgerow removals are planned within 30m of the sett then it may be necessary to apply for a Licence to interfere with a Badger Sett for the Purpose of Development from Natural England. The applicant should follow the advice of their experienced ecologist throughout the works. If the applicant does not follow the procedure advised above then they may find themselves vulnerable to prosecution for an offence under the Protection of Badgers Act 1992.*
- v. *Excavations: Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*
- vi. *Wild birds: The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. 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.*

Drainage

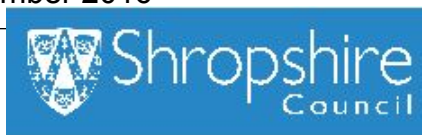
- vii. *Informative: As part of the SuDS, the applicant should consider employing measures such as the following:*
- *Water Butts*
 - *Rainwater harvesting system*
 - *Permeable surfacing on any new access and hardstanding area*
 - *Attenuation*
 - *Greywater recycling system*
 - *Green roofs*

Fire fighting

- viii. *It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be*

dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter. 'The Building Regulations, 2000 (2006 Edition) Fire Safety Approved Document B5.' provides details of typical fire service appliance specifications.

- v. *It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.*



APPENDIX 2

Habitat Regulation Assessment (HRA) Screening Matrix

Application name and reference number:

16/03334/EIA
 Hurst Barn, Clunton, Craven Arms, Shropshire, SY7 0JA
 Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access.

Date of completion for the HRA screening matrix: 6th October 2016

HRA screening matrix completed by: Nicola Stone, Planning Ecologist, 01743-252556

Table 1: Details of project or plan

| | |
|---|---|
| Name of project | 16/03334/EIA Hurst Barn, Clunton, Craven Arms, Shropshire, SY7 0JA Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access. |
| Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development. | <p>River Clun SAC (14.93ha) supports a significant population of Freshwater Pearl Mussel <i>Margaritifera margaritifera</i>. The River Clun SAC is currently failing its water quality targets particularly relating to ortho-phosphates. The current phosphate target for the river and particularly at the SAC is 0.02mg/l. Shropshire Council is working closely with Natural England and Environment Agency on developments within the Clun catchment. Shropshire Council formally consults Natural England on any planning application within this area.</p> <p>Annex II Species that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> • Freshwater pearl mussel <i>Margaritifera margaritifera</i> <p>River Teme SSSI The River Teme (441 ha) is designated as a Site of Special Scientific Interest (SSSI) along its whole length. In addition, the SSSI includes the lower reaches of the River Clun. The features for which the SSSI is of special interest are: Type VI sandstone river with mudstones and hard limestones; Type VII river showing mesotrophic status derived from an oligotrophic catchment; Otter; Twaite Shad; White-clawed Crayfish; Freshwater Pearl Mussel; Riffle Beetle Assemblage.</p> |
| Description of the plan or project | <p>Construction of two poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access.</p> <p>The proposed application will house 100,000 broiler chickens.</p> <p>SC Ecology has identified the following potential effect pathways which have been addressed by the applicant with appropriate supporting documents:</p> <ol style="list-style-type: none"> 1. Possible impact of ammonia emissions on the River Clun SAC. |

| | |
|---|--|
| | <p>2. <i>Possible increase in sediment flow to the southern stream impacting upon the designated features of the SAC.</i></p> <p>3. <i>Run-off from fields leading to a potential increase in phosphate and nitrogen deposition.</i></p> <p>4. <i>Increase on phosphate/nitrogen from spreading additional digestate on the land.</i></p> |
| <p>Is the project or plan directly connected with or necessary to the management of the site (provide details)?</p> | <p>No</p> |
| <p>Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?</p> | <p>Applications for dwellings or employment projects generating waste water are being assessed against an interim guidance note agreed with NE and EA. Planning proposal 16/03334/EIA has demonstrated that, providing the application is granted permission, there will be a reduction of nitrogen deposition by 5610kg per year following introduction of the poultry enterprise. There are other intensive agricultural applications within the River Clun catchment however due to the net reduction in ammonia deposition SC Ecology considers that this application does not need to be assessed in combination with applications in the River Clun catchment. The mitigation measures included within the proposal has led SC Ecology to conclude that the proposal will not adversely affect the integrity of the interest features for which the River Clun SAC is designated.</p> <p>Please refer to reasoned statement below.</p> |

Statement

Natural England has formally responded to Shropshire Council regarding this application in a memo dated 31st August 2016. The memo has summarised the discretionary advice service that has been given to the applicant on the; 14th July 2014, 23rd January 2015, and 17th December 2015. Natural England must be formally re-consulted on Shropshire Council’s current HRA (dated 4th September 2016) and comments must be received prior to a planning decision being made.

Justification;

The information provided by the applicant is summarised below and listed under the appropriate potential effect pathway;

1. Possible impact of ammonia emissions on the River Clun SAC

Supporting Evidence from the Environment Agency:

Pre-application report from the Environment Agency 28th February 2014

- The screening assessment has been conducted based in 180,000 birds (the current planning application is for 100,000 birds). The EA, as a more competent authority when assessing aerial emissions, has screened out the ammonia impacts from the proposed development on SAC, SPA and Ramsar sites within 10km; SSSIs within 5km; NNRs, LNRs & LWS within 2km. The EA have stated that detailed modelling is not required.
- The Habitats Regulations enables Shropshire Council, under Regulation 61, to rely on the ‘evidence and reasoning’ of another competent authorities when completing their assessment. Shropshire Council can therefore assume that the Environment Agency has taken into account the River Clun SAC and any in-combination affects when assessing ammonia emissions and the potential impact on designated sites.

Supporting Evidence from the applicant:

Steve Smith, Ammonia Modelling Report (4th September 2016) has concluded that the predicted maximum annual mean ammonia concentrations at all the nearby wildlife sites (AWs, LWSs, SSSIs and SACs) are at levels that would normally be deemed insignificant for permitting purposes.

2. *Possible increase in sediment flow to the southern stream impacting upon the designated features of the SAC.*

The Hydrological Impact Assessment prepared by Hafren Water (2014) has been submitted in support of this proposal. The report outlines measures already in place to reduce sediment flow from Hurst Barn to the River Clun;

The Hurst Barn landholding is within the Entry Level Stewardship scheme (ELS) associated with Catchment Sensitive Farming (CSF) operated by Natural England.

In order to minimise run-off and discharge of sediment to the River Clun the Applicant has retained, low input, permanent grassland on fields adjacent to the River Clun, therefore fields containing arable crops are located further from the River Clun. Arable land does receive application of additional nutrient and is susceptible to seasonal sediment loss. The grassland will aid with capture of sediment mobilised by rainfall run-off and, therefore, aid the retention of nutrients. Extensive work has been undertaken to fence off grazing from the River Clun and therefore inhibit direct livestock access to the watercourse, thereby minimising impact. It can therefore be seen that the Applicant has already given considerable thought and input to farm responsibly with respect to the potential impact to the River Clun.

During construction, measures will be taken to prevent direct run-off from site to the watercourse. This will be achieved through careful management of surface water and topsoil through containment measures. All soil excavated on site will be carefully piled at least 100m from the river and reused for establishing grass and tree and shrub planting.

By converting the primary livestock holding at Hurst Barn from cattle to poultry a reduction in sediment load to the River Clun through less mobilisation in surface water run-off from grazing land adjacent to the watercourse is expected.

3. *Run-off from fields leading to a potential increase in phosphate and nitrogen deposition.*

Supporting information from the applicant;

Steve Smith Ammonia Modelling Report (4th September 2016) has reported that the total predicted average nitrogen deposition over the 3 km x 3 km modelling domain is 410.03 kg/y. Deposition to land over the parts of the River Clun catchment area outside the modelling domain is likely to be insignificant.

The site of the poultry unit itself would take approximately 2.3 hectares of what is currently fertilised improved grassland and nitrogen application rates to improved grassland are typically 100 kg/ha/y. Therefore, up to 230 kg/y of nitrogen, more than half of the 410.03 kg/y predicted nitrogen deposition from the poultry unit, would be removed from the pool of nitrogen that could potentially reach the river system, leaving a surfeit of approximately 180 kg/y of nitrogen.

Additional mitigation to offset potential increase of 180kg of nitrogen in the 3km x 3km modelling domain;

The applicant will reduce the application of poultry manure by 10% on the areas of land directly adjacent to the River Clun SAC. The Applicant currently imports and spreads circa in excess of 500 tonnes of poultry manure to this. The Applicant is agreeable to reducing this on arable field numbers 5806, 7709 and 9110 (parked on Drawing Number 8998-02A). The three arable fields have a total area of 9.83 hectares. The calculations has shown that there will be a net benefit of a reduction of **5610 kg N per year in the 3km x 3km modelling domain.**

Please refer to: **Table 1 - The current and proposed levels of Nitrogen (N) produced from the holding with and without the poultry enterprise, and Table 2 – Summary of Nitrogen Production at Hurst Barn, included within Appendix 10 Further Statement to Natural England in Relation to Proposed Poultry Units at Hurst Barn, Clunton Prepared by Halls on behalf of Mr R Jones (The applicant) 16th September 2015.**

4. *Increase on phosphate/nitrogen from dirty water drainage treatment and spreading additional digestate on the land.*

From the information provided there will be overall reductions in the amount of chemical inputs into the River Clun Catchment within the applicants land holding. All wash down water from the cleaning of the new poultry units and concrete yard at the end of the flock cycle will be collected through a dedicated sealed drainage system to a sealed underground tank. The collected dirty water will be spread to land when conditions are suitable. Grey water (roof run off) will be allowed to slow release to soil using a drainage system. The drains will be located parallel to the proposed buildings. They will take water eastward to the stoned drainage field.

The Hafron Water Report (2014) outlines measures which will be put in place to further prevent pollution of the watercourse from the poultry unit.

SC Drainage has assessed the proposed drainage information and is satisfied that the information is sufficient.

Conclusion

Providing the following conditions are on the decision notice and are appropriately enforced Shropshire Council has concluded that the proposed development will not impact on the integrity of the River Clun SAC or River Teme SSSI. SC Ecology recommends that a legal agreement should be prepared in order to provide a robust mechanism for delivering the proposed mitigation measures, including change in management of 9.83ha of agricultural land for the lifetime of development (please contact Grahame French for more information regarding this legal agreement).

1. No works shall be carried out other than in accordance with the approved plans. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

Reason: To ensure reduction of nutrient rich run-off and sediment entering the watercourse, to protect the River Clun SAC, a European protected site.

1. The application form state that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 25% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

2. If non permeable surfacing is used on the new access and hardstanding area or the new access slope towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

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

3. The applicant should submit details and plan on how the contaminated water in the yard from spillages or cleaning of sheds will be managed/ isolated from the main surface water system.

Reason: To ensure that polluted water does not enter the water table or watercourse.

2. No digestate or other waste material derived from the development hereby approved shall be spread within 30m of any watercourse or ditch on land under the control of the applicant within the catchments of the River Teme or River Clun.

Reason: To ensure reduction of nutrient rich run-off and sediment entering the Folly Brook, to protect the River Clun *Special Area of Conservation*, a European protected site and the River Teme SSSI.

2. No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (dormice/nesting birds);
- d. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

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

Reason: To protect features of recognised nature conservation importance.

1. No development or clearance of vegetation shall take place until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Means of enclosure, including all security and other fencing
- b) Planting plans, including wildlife habitat and features (e.g. hibernacula)
- c) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- d) 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)
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- f) Implementation timetables

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

3. No development or clearance of vegetation shall take place until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed (i.e. woodland/hedge/areas with no or low nutrient input);
- 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 (annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
 - h) Monitoring and remedial/contingencies measures triggered by monitoring;
- The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance.

The Significance test

SC Ecology has identified that the proposed works in application No. 16/03334/EIA for the Proposal of Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access at Hurst Barn, Clunton, Craven Arms, Shropshire SY7 0JA has potential effect pathways that could have a likely significant effect on the River Clun SAC (as detailed above). The Habitat Regulation Assessment process cannot be satisfied and an Appropriate Assessment is required.

The Integrity test

An Appropriate Assessment has been undertaken and mitigation has been proposed and secured through that planning process which should mean that the proposal will not have an adverse effect on the integrity of the River Clun SAC.

Conclusion;

SC Ecology has concluded that the proposed works under planning application No 16/03334/EIA for the Proposal of Erection of 2No poultry sheds, feed bins, solar voltaic panels, ancillary equipment and alterations to vehicular access at Hurst Barn, Clunton, Craven Arms, Shropshire SY7 0JA, will not adversely affect the integrity of the European Designated Site at the River Clun SAC or the River Teme SSSI providing the development is implemented in accordance with the above conditions and submitted documents.

Conclusions

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

APPENDIX 3

FULL OBJECTION COMMENTS OF SHROPSHIRE AONB PARTNERSHIP

- i. Landscape: The Landscape and Visual Impact Assessment (LVIA) Non-technical summary p2, states; “The overall residual effect on the local landscape is therefore predicted as being minor and beneficial”. We do not believe that the impact of any large industrial development in the heart of the Shropshire Hills AONB can be considered either minor or beneficial. We believe the LVIA seeks to downplay the importance and sensitivity of the AONB and the impact of the proposed development. The LVIA p20, states “Following the implementation and establishment of the planting works at Operational Year 10, the magnitude of change would remain as minor adverse and there will be no significant effect on this medium sensitivity landscape resource”. The LVIA goes on to state: “The combination of a minor magnitude of change on a medium sensitivity resource will result in no significant effect”. The LVIA should classify the Landscape Value as ‘high’ on account of the AONB designation, and the greater than doubling of the built footprint of this farm can only be described as a ‘substantial’ magnitude of change. The impact overall is therefore without doubt ‘significant’, and the mitigation measures proposed, while lessening the impact, do not make it acceptable.

- ii. The LVIA p21, seeks to justify the development, stating “There are some notably large clusters of modern agricultural sheds close by within the Clun valley”.....“The proposed broiler sheds would result in no cumulative landscape effects with any of these existing farmsteads or poultry sheds”. We disagree with this statement. Such an argument would allow progressive destruction of the AONB landscape where one poor development justifies the next, and this bears no relation to national and local policy on AONBs. The reality is in fact quite the contrary, recent constructions of a number of large agricultural buildings contribute to a creeping industrialisation of the Clun Valley, which in fact makes this part of the AONB highly sensitive to change resulting from further large buildings. The National Planning Policy Framework is quite clear that general policies within the Framework supporting particular types of development activity do not over-ride the location specific policies protecting AONBs. Indeed the very first policy paragraph within NPPF, Para 14 on the ‘golden thread’ of sustainable development, highlights through footnote 9 AONBs as an exception to a presumption in favour of development, as one of a few types of special area where “specific policies in this Framework indicate development should be restricted.” The specific policy in Para 115 of the Framework states:
 115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.
 The buildings in this application represent a significant expansion of the curtilage of the built footprint of the farm. We would argue that this constitutes ‘major development’ and so para 116 of NPPF also applies:
 116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

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

If the development is not judged major, we contend that it should still be refused against other relevant policies.

- iii. Shropshire Council Core Strategy and SAMDev policies also indicate the great weight which should be applied to the AONB designation and indicate that this application should be refused:

Explanation to Policy CS5 Countryside and Green Belt, para 4.72 (extract) “whilst this policy seeks to facilitate a wide range of beneficial rural development, the operation of this policy, in conjunction with Policy CS6 and more detailed policies in the SAMDev DPD, recognises the need to consider the scale and design of proposals, where development is most appropriately sited, environmental and other impacts. There will be a significant emphasis on achieving quality and sustainability of design, particularly locally appropriate design and use of materials. Thus, proposals which would result in isolated, sporadic, out of scale, badly designed or otherwise unacceptable development, or which may either individually or cumulatively erode the character of the countryside, will not be acceptable. Whilst these considerations will apply generally, there will be areas where development will need to pay particular regard to landscape character, biodiversity or other environmental considerations including in the Shropshire Hills Area of Outstanding Natural Beauty.”

Policy MD2 Sustainable Design, Explanation (extract): For development affecting the Shropshire Hills AONB, particular regard should be paid to the Shropshire Hills AONB Management Plan and supplementary guidance.

Policy MD7 – General Management of Development in the Countryside: (explanation, para 4.66) The changing needs and effects of agricultural and other related enterprises in the countryside are a particular local issue, in particular the impacts of large scale agricultural buildings. General sustainable design criteria and development management considerations are as relevant to this type of development as other proposals in the countryside and the Plan seeks to balance the needs of the countryside as a working environment with its role as a place to live and enjoy. The policy defines the primary considerations that will be taken into account in considering agricultural development proposals which require planning consent. Additional criteria set out in other relevant policy such as MD2 Sustainable Design and MD12 Natural Environment which, for example, highlights special requirements in the Shropshire Hills AONB, which would also need to be taken into account in considering applications. It should be noted that where appropriate, planning conditions will be attached to a permission to control the quality of the development and to ensure the scheme incorporates appropriate agreed mitigation measures such as coloured external cladding, landscaping and waste management;

- iv. Biodiversity: The proposed development is upstream from the River Clun Special Area of Conservation [(SAC) Natura 2000] and the River Teme Site of Special Scientific Interest (SSSI). The River Clun is designated as a SAC for its freshwater pearl mussel interest; it is of international significance and is one of only three rivers in England so designated. The International Union for Conservation of Nature (IUCN) identifies the freshwater pearl mussel as a ‘Critically Endangered’ ‘Red List’ species. In this context,

the River Clun pearl mussel population represents a unique genetic resource requiring special measures to ensure its future survival. Over recent years the River Clun has been subject to extensive studies and an understanding of the situation relating to pearl mussels and the processes contributing their decline (and that of the River Clun SAC) has improved greatly in recent years. These studies have established that the mussels are in critical decline and unlikely to survive unless the pressures contributing to the deterioration of the SAC are reversed. Any proposed development in the River Clun Catchment should take into account the requirements as set out in the River Clun SAC Nutrient Management Plan see:

<https://www.gov.uk/government/publications/nutrient-management-plan-river-clun>.

The Conservation Objectives set by Natural England for the River Clun SAC include Favourable Condition Targets (FCTs) for in-river phosphorus (P), nitrogen (N) and sediment (suspended solids) concentrations. The targets have been set to protect freshwater pearl mussel from the adverse effects of nutrient enrichment and siltation. Due to cumulative and ongoing deposition of atmospheric ammonia and the spreading of poultry waste to land, this development if allowed, has potential to compromise the measures necessary to achieve the Favourable Condition Targets. The Hydrological Impact Assessment indicates that poultry manure is currently imported (c500 t/yr) and applied to the applicant's landholdings, and suggests the proposed poultry unit will not increase the overall nutrient application to land within the catchment. We are concerned that increasing numbers poultry units in the catchment are generating amounts of Nitrogen-rich poultry waste with little evidence to indicate that such waste is being exported from the Clun Catchment. If development is allowed it will also compromise efforts to meet Water Framework Directive (WFD) targets for the River Clun. Here, we take issue with the Hydrological Impact Assessment report which claims that the River Clun meets "Good Status" under WFD. In fact it is currently failing to achieve this statutory target and is currently classified as "Moderate". The conclusions of the Ammonia Report appear to be based on assumptions, and underplay the impact of deposition. We are concerned that this development will add to the cumulative impact of deposited atmospheric ammonia in the catchment and in particular how it impacts on the River Clun SAC and Clunton Coppice SSSI. Studies by Centre for Ecology and Hydrology (CEH) have shown that ammonia deposition derived from poultry units of this size is damaging to ecosystems adapted for low levels of nitrogen and that critical exceedance loads are observed 2.8km upwind. The River Clun SAC and Clunton Coppice SSSI are protected because of their exceptional ecology. Maintaining extremely low nutrients levels is fundamental to ensuring their wellbeing. In recent years significant financial resources have been directed at the River Clun to help meet statutory targets. Despite these efforts the Clun continues to fail to meet these targets. The River Clun is one of a number of UK freshwater sites under the European Natura 2000 network. In November 2015 these UK freshwater sites were subject to a Judicial Review which found that the UK Government is failing to adequately protect these sites. Subsequently, the High Court issued legally binding Consent Order which requires Environment Agency to review measures and mechanisms for each water-dependant Natura 2000 site - the River Clun is a pilot for the Consent Order.

- v. This development is of concern and should it go ahead it would put in jeopardy the conservation objectives set for returning the River Clun SAC to favourable condition. The following Natural Environment policies apply:
Policy MD12 Natural Environment (Explanation)

4.113 Policy MD12 sets out in detail the level of protection offered to Shropshire's natural assets. Natural assets include: biodiversity and geological features; trees, woodlands and hedges in both rural and urban settings; the ways in which the above combine and connect to create locally distinctive and valued landscapes, including the Shropshire Hills Area of Outstanding Natural Beauty and the contribution all of the above make to visual amenity;

4.114 Such assets provide ecosystem services including; flood relief; soil retention; climate change mitigation and adaptation; carbon sequestration; interception of airborne pollutants; water filtration; amenity value; health and well-being benefits and opportunities for tourism and recreational activities. These services are essential to a thriving economy;

4.115 Internationally and nationally important sites of wildlife conservation and geological interest as well as legally protected habitats and species will be afforded the highest level of protection in line with the relevant legislation and policy. Great weight will also be given to conserving and enhancing the natural beauty of the Shropshire Hills AONB, having regard to the AONB Management Plan. Development proposals affecting or involving the following will be assessed in accordance with the relevant legislation and national policy; European and nationally designated wildlife sites (Special Protection Areas (SPA), Special Areas of Conservation (SAC), Ramsar and Sites of Special Scientific Interest (SSSIs) and all candidate designations; Major developments in Areas of Outstanding Natural Beauty; Ancient woodland, other irreplaceable habitats and aged or veteran trees; Pollution – including noise, water, air and light pollution Further details are given in the Natural Environment SPD;

- vi. The following policies of the Shropshire Hills AONB Management Plan 2014-19 also indicate that this application be refused:

Valuing the AONB in Planning and Decisions - Protection of the AONB. In line with national and local authority planning policies, the AONB has the highest standards of protection for landscape and natural beauty and the purposes of designation should be given great weight in planning decisions, also taking into account the statutory AONB Management Plan.

Encouraging a Sustainable Land Management Economy - Agricultural development. Farm enterprises need to be in harmony with the environment and not degrade this resource, which also provides an important economic asset for the future.

Design of new agricultural buildings including location, structure and materials should be of a high standard appropriate to the AONB, taking account of the published AONB agricultural buildings design guidance.

http://www.shropshirehillsaonb.co.uk/wpcontent/uploads/2010/10/Agricultural_Buildings_Design_Guide3.pdf

APPENDIX 4

DETAILED SUMMARY OF PUBLIC REPRESENTATIONS

1. Support comments:

- 1.1 Amenity impacts: We had initial concerns about the development but having visited other similar sites these were allayed and since the development has been constructed and operational we have not experienced any unpleasant smells, noise or disturbance from additional traffic. The building has been shielded by a bund and is not intrusive on the landscape. We see no reason why this would be any different at Clunton. There have been concerns raised about increased traffic and odour from these units. Having lived but 3 fields away from an existing broiler unit for a number of years I can say rarely do you have any smell of chicken manure. There was a slight increase in traffic whilst the unit was being built, but the work was carried out in normal working hours and was hardly noticeable. We have been friends with the applicant and his family for over thirty years and are able to attest to their excellent reputation and high farming standards. Regards to comments on pollution, I suggest a visit to a working broiler unit, they are more hygienic than most hospitals. Clun Valley has already got a number of poultry businesses operating within the parishes. As yet, I am to hear any words of complaint about any of them. The issues brought up by the objections to this application are, in my opinion, somewhat misconstrued. 1) The concerns of noise from the proposed development at Hurst Barn, according to the Environmental Statement, is highly limited. The main property in which it affects is the home of <the applicant>. 2) The odour seems to be a subject which again has been commented on with no real evidence as to the effects. Currently a number of loads of chicken manure is stored on land adjacent to Clunton village and has been for a number of years. This has attracted no complaint from local residents to date, and therefore the issue of odour holds no real grounds. The ES does state that deliveries and collections to and from the completed development would be done in a method that is respectful of neighbouring residences. Therefore, showing the applicants willingness to keep disruption to a bare minimum. The well thought out landscaping plan should mean that the site is not visible from the road where the vast majority of people would see the development, so I don't believe that it would impact the economy negatively. As we are Richard and Katie's closest neighbours living on the side of the B4368, we see no problem with the proposed planning for the two chicken sheds. I think it is nice to see a young farming couple wanting to develop and commit to such a project to secure the future of the farm. After seeing all the surveys that have been carried out, we can see the project has been thoroughly thought through. I worked in Chicken houses in my teens and there was no danger of pollution or disruption to locals. There are all sorts of farm smells in the countryside, any smell that may come from the sheds will be no worse. Living in the countryside is not about green fields and trees it about the animals, hay making, food production and keeping and supporting our local farmers. As the new buildings will be below the height of the present buildings and a planted bund will be built round the sheds they should be relatively hidden.
- 1.2 Reassurance regarding manure spreading: Most of the nutrients in chicken manure are immediately available as a nutrient source to the planted crop and allow a significant reduction in the need to feed energy intensive artificial fertiliser. To ensure the maximum efficiency the manure must be ploughed in very soon after application which

also reduces the risk of unpleasant smells. Manure also encourages soil bugs and a healthy earthworm population, improving soil structure, permeability, reducing run-off and erosion. The farm has been nutrient mapped so excess applications can be avoided. Spreaders use GPS and buffers are applied to watercourses. Manure heaps are sighted carefully away from private dwellings and water courses and are never in the same place for the next two years. Mr Jones has been importing, storing and applying chicken manure on this farm for the last sixteen years and has never once had a complaint over the smell.

- 1.3 Benefits to local economy: We support local agricultural development as we live within a rural agricultural area where the farming economy is important for local jobs both on site and in related agricultural businesses. I am an employer of several personnel within the agricultural industry and my business depends fully on families like the Jones's to continue farming. Traditional farming enterprises are not as viable as they once were, so farmers need to find other more reliable income sources. A broiler unit is not only a viable enterprise but a suitable one as the demand for chicken has never been higher as it is the preferred meat for modern families as it's affordable. Poultry is a way of diversifying their business and also fulfilling the growing national demand for FOOD, this then leads to future sustained employment within the countryside. Most village businesses rely heavily on the farming community. At the moment most of my work is seasonal throughout the summer and autumn. My hours drop considerably through the winter months. With the erection of 2 chicken sheds, it will mean I have extra work to help sustain my hours and income. My partner works in one of the local rural nurseries and not only relies on the local children attending to support the running of the nursery, which Richards daughter attends, she also relies on the extra income of the part time work the chicken sheds brings when the chicks are put in every cycle. I am aware of the concerns that some residents have highlighted, but I do not believe they are looking at the bigger picture and the importance of rural businesses expanding and diversifying to make themselves sustainable. The farming industry within the Clun Valley remains vital. Not only for the sustainability of the area, but also for the environment. Without both of these, there would be no tourism. Without a sustainable farming industry, we lose the people who look after the natural environment. If we don't have these people who manage the land and farm to a good environmental standard, the environment suffers. This has a massive implication on the tourism offering within the valley. This project would have a multitude of economic benefits to the area during construction and operation. In an area with a small and aging population, every opportunity needs to be put into place to support these other businesses. Again, no farming sector in the valley, these other businesses will suffer creating a real economic downturn.
- 1.4 Local community benefits: We fully support the Jones family with this application, they are genuine locals trying to make a living. This family have been living in the Clun area for years and will remain so. The council should be providing more support to locals that are prepared to invest in the area. The countryside needs to encourage and keep the younger generation and help families like Richard & Kate to settle in the community. How do we expect villages to survive without the young families who wish to farm and live locally? Having been a member of the Clun valley YFC for nearly 10 years and from personal experience I have seen how difficult it is for young farmers to start out farming! The family have two sons so they are seeking permission to establish two poultry units at Hurst Barn in order that in time each son may have a viable business to run. We should like to emphasise the importance of maintaining a vibrant

and active community within the Clun Valley, which to our mind can only be met by encouraging our young people to remain in the area; to live, work and bring up their families supported by the generations of farming knowledge and love of the land behind them. The plans brought forward to develop a broiler chicken business not only sustains a farming business, but perhaps more importantly, sustains and encourages a young farming family to maintain their routes within an area in which they grew up and want to stay. It is encouraging to read from neighbouring properties that they support this application. These are the people who are likely to have the biggest issue with such a development. Instead of opposing this plan, they are embracing it. A community that has grown up with agriculture and a community that will die without it. Without the next generation being able to work here and develop their own ideas then we will no longer have a community.

- 1.5 Impacts on farming community: By opposing this application objectors send quite a strong message to other young farmers born and bred in the area. Clun Valley and wider South Shropshire wishes to become an area not for the young, who want to look for innovative ways to sustain a career, but for those who have made their living and now want to retire to an area for a quiet life, without any consideration for the fact that Clun and wider valley is and always has been a working area. Again, by not supporting a farming industry in an area which has been associated with agriculture for generations we lose the fabric of the community. By opposing one application will prevent others from trying.
- 1.6 Food production benefits: We support food production within the UK rather than imported goods. With the current economic uncertainty the UK needs to become more self sufficient in food production. This development gives farming a sustainable future.
2. Objector comments:
- 2.1 Arvon Centre: Arvon is a national charity running residential creative writing courses for schools, partnerships and the paying public from our three country houses, one of which is located 2 fields away from the proposed Broiler Sheds. We have been running courses from The Hurst for 13 years, bringing new visitors, inward investment and positive reputation to South Shropshire. We run courses for 45 weeks a year with approximately employing over 90 tutors and guest writers. We have also launched a writing retreat at the Clockhouse this year who wish to focus on their work and who find peace in the tranquillity and beauty of South Shropshire. The Clockhouse will open for 10 months in 2017 making our operation a total of 85 weeks across our estate. The Clockhouse will bring in a further 130 people and also a .5 permanent staff position. I am extremely concerned that all of this will be in severe jeopardy should the plan for the two Broiler Sheds go ahead. Currently one of our strongest selling points is the fact that we can provide a unique environment that is in an area of great scenic beauty uninterrupted by increased traffic, noxious smells and any disturbance. All of this will be severely compromised should the Broiler Sheds go ahead. There is no doubt that our residents' sleep will be interrupted by the sound of the lorries in the night transporting the chickens to slaughter. Their writing and thought processes will be interrupted during the day with the noise of feed lorries and tractors. We have researched likely noise from the Broiler Sheds and we understand that there will be a low and continuous "humming" noise. This is the kind of thing likely to put off our paying customers along with potential light pollution, which although low level, significantly changes the dark skies. Our beautiful views will be destroyed by the erection of these sheds. The unique

landscape which is such an outstanding feature in this area offers Arvon a clear and distinctive asset. This is part of the package that attracts people from all over the world including Australia, America and South America. Many of these people return to visit with their families and friends spending money in the rest of Shropshire. It is questionable as to whether these people would pay to come on our courses if the landscape has been blighted by this development. We have young people and children with asthma, disabilities, allergies to dust and other allergies who come to experience creative writing on our courses. If the Broiler Sheds were to go ahead these people would not be able to come and therefore we would be excluding potential customers for Arvon and visitors to Shropshire. We also have serious concerns regarding the noxious smells that this will bring and the impact on our business. The economic impact for The Hurst, for our suppliers and ultimately for Arvon, as a whole, has potential to be catastrophic. We believe sales at The Hurst and retreat weeks at the Clockhouse will begin to decrease significantly as people choose not to come because their choice of the perfect writing environment has been so severely compromised. This will impact on our local suppliers, of which there are a number including our bank of local cover staff all of whom would face job threats were the numbers of customers to decrease. Arvon is an Arts Council of England National Portfolio Organisation, with an excellent reputation built over nearly 50 years, but like all arts charities every pound received is accounted for and we cannot afford to lose any business. Any loss of business here in Shropshire will also inevitably have an impact on the rest of Arvon in Devon, Yorkshire and London. Finally I should say that In 2013 we renovated the mansion with support from ACE and donations from individuals and trusts. One of our most distinguished tutors has called the renewed Hurst 'the most sophisticated writing centre in Europe.' Each year over 650 people come to learn the craft of writing at The Hurst, a third of them are children and disadvantaged adults. We employ a team of 12 locally-based people to run the centre all year round; we use shops and suppliers nearby to buy our food, locally grown wherever possible; we use local tradespeople to maintain our property and we employ local taxi firms every week. Altogether The Hurst's activities bring over £170,000 into the local economy each year. We know that many of our writers develop a bond to the landscape and return to enjoy the region as holiday-makers. The Hurst helps make the Clun valley a place where people want to live and work. Arts and culture make a real difference in south Shropshire and the Clun valley. They also make a powerful contribution to the nation as a whole, adding £7.7 billion to the UK economy for less than 0.1% of Government funding in England. They incubate talent that drives the commercial creative industries, one of the fastest growing parts of the UK economy. I would like to bring to your attention that the renovations recently completed by the Arvon Foundation there were in large part provided by public funds. Are the council suggesting that the better part of 2 million pounds of public money, funded by Arts Council England, in support of historic renovations and cultural and economic growth in the county is all for nought? Having spent an inspiring week at the Arvon centre at The Hurst I was saddened to see this planning application and hope it is turned down. This is a rare place for writers - many of whom travel from cities and towns across the U.K in search of somewhere with such genuine peace and quiet. Some like me have to wait years before they can afford to come. We leave energised and renewed, and profoundly grateful. This industrial unit will threaten the long standing reputation of this region as a haven for the arts and the national creative economy, compromising its future. The views of the site from the land owned by the Arvon Foundation at The Hurst are virtually dismissed. The site will be easily viewed by the hundreds of people who use this Centre each year. The local economic impacts of an extra chicken farm pale into insignificance in comparison to the wide ranging direct

and indirect economic benefits that The Hurst brings to the area, as well as the additional cultural benefits that accrue from the site and its activities. The historic gardens are under restoration, and as a picturesque designed landscape will be more liked to the surrounding valley. I have visited The Hurst on many occasions to take people on visits to its gardens and trees. I am, therefore, very aware of the impact that such farm buildings would have on the landscape, one which John Osborne said was truly the most beautiful in England, and on the residents who come to The Hurst for peace and quiet in which to write. To have extraneous noises and smells from this additional farm activity would not be acceptable nor conducive to the peaceful requirements of writing. To sit and write in the open air with the constant noise of extra traffic and intensive and offensive agricultural smells would just not be acceptable to residents and I could foresee numbers wishing to stay at The Hurst declining. One of the reasons for The Arvon Foundation choosing to make The Hurst one of its retreats was its very situation of peace and quiet with excellent views. This is why the Centre found it acceptable to spend so much extra funding on additional accommodation, the restoration of the Dovecote and other facilities. The funds were spent in the knowledge that the local situation would not change and the benefits of the spending would be enjoyed for many years ahead. As the Centre is also in the Shropshire AONB, one can readily understand why The Arvon Foundation felt that it would be safe to spend this funding. Considerable investment has been made in conserving and enhancing the buildings and landscape at the Hurst over recent years with the principal aim of providing a sustainable future for the Hurst. Arvon is striving to achieve this through providing a unique sense of place, a soothing and stimulating environment that encourages a wide audience of all abilities to develop its creative writing skills. The Heritage Assessment within the EIA fails to address the heritage significance of the The Hurst and the Visual Impact Assessment Illustrations (EIA Appendix 2) and Visual Impact Assessment Non-Technical Summary (EIA Appendix 7), lack sufficient information to enable an informed decision to be taken on the degree of visual impact. The Hurst, a typical early nineteenth century villa (listed grade II), its three associated grade II listed buildings Stable Block, Stable Block & Coach House and Dovecote) together with its historic designed landscape represent a significant historic and cultural asset. The Heritage Assessment fails to attach sufficient value to this entity and thus the potential negative impacts of the proposed development on these assets have not been fully evaluated. The historic designed landscape comprises a number of features which characterize a typical nineteenth century villa landscape, including woodland, some 2.5 hectares (approx. 6 acres) of gardens containing areas of lawn, some fine trees, extensive shrubberies, terracing and winding paths and drives, mill pond, walled kitchen garden and orchard. This historic designed landscape while, although not of sufficient significance for national designation, should be considered for addition to the list of local heritage assets and the County Historic Environment Record updated accordingly. The list descriptions for the four grade II buildings at the Hurst were produced in 1985, one year before the arrival of John Osborne and therefore lack any mention of this renowned author. John Osborne chose the Hurst for his retreat chosen for its tranquil location and "the best view in England".

- 2.2 Industrial development: We already have too many of these types of industrial farming projects in the county and in nearby counties. This is an industrial development, not a farming enterprise. It will mean trucks of effluent/excrement passing through a tiny town with narrow roads that are already struggling to cope with the size/frequency of vehicles that use them, causing damage to bridge and buildings and which are vulnerable to spillage. I understand the need for sustainable ways to support

agricultural livelihoods and the local economy, but I believe that this sort of development in this sensitive landscape and context is neither appropriate or desirable. We want to see the next generation of farmers succeed in making a living from the land, but I believe that the community, local landscape and environment should not have to justify such developments based on arguments about agricultural economics and viability of individual holdings.

- 2.3 Visual impact / AONB: The siting of the unit is very close to the River Clun in an area of Outstanding Natural Beauty. I believe that the size of the proposed development will have a significant negative visual impact from the surrounding hills. The natural environment in the area is beautiful, tranquil and relatively unpolluted and this development stands against all those appealing features which bring tourists (particularly walkers and cyclists) here and paying clients to the Arvon Centre at The Hurst. AONB's have in planning terms the same landscape status as National Parks, and these types of developments will create irreversible detrimental negative change within it. In national policy terms the LVIA has not taken proper account of the NPPF policy relating to AONBs. No assessment of the impact of the development on the special qualities of the AONB is included in the LVIA. The irreversible loss of grassland (and soils) to hard standing and sheds is a material change to the fabric of the landscape that in no way is mitigated by planting trees on other grassland. The site development boundaries have been drawn tightly to the proposed buildings. Proposed screening is so close to the building that it cannot effectively do what it is supposed to, even huge bunds with planting will not conceal the buildings from the surrounding valley and hillsides, especially with reflective PV's covering the roof space. Over the following years parts of the woodland will be partially or fully cropped, cleared and restocked. Thus the views over the development site will change and evolve, not stay static. As management takes place the site will be clearly viewed from the plantations. From the supplied information, it is almost impossible to understand the full visual impacts of the development, there are not photomontages or mock ups of how the buildings will really sit within this landscape. The site layout plans do not show the actual in situ profile of the new buildings from near or far. Integration of these types of sheds into rural landscapes can be successful, but it is quite clear that buildings of this size and scale (nearly 500 m²) will have real problems simply blending into the Clun Valley. The proposed development will be very prominent in an "area of outstanding natural beauty", situated on the valley floor it will be a visible eyesore from all directions, surely vastly affecting the principles of ANOB,s. Should this be successful will it lead to further development in the area? The Landscape Proposals drawing (Drg. No.274-01) shows that the new platform on which the sheds would be sited to be some 2.00 metres above existing ground levels at the south-east corner where the banking will be relatively steep. The addition of the berm along the southern edge of the platform will add a further 1.00 metre at this point, so nowhere near as subtle as the consultant claims. There are no photomontages included in the visual appraisal only photo panoramas, which show the proposed development site highlighted in red dotted outline, thus giving no indication of scale, height or form of the proposed buildings in context. The only section shown through the buildings (Section A on plan) runs north south and illustrates a more gentle intervention in the landscape whereas a section taken longitudinally would show a much cruder intervention in the landscape with "fill" running out into the existing hedge bottom. The sheds would consequently be very prominent on this "escarpment" when viewed from the east and south-east. The character of the unbroken linear form of the proposed tree planting surmounting the berm is uncharacteristic of the hedgerows in this part of the valley where trees tend to

be more sparsely and irregularly spaced. Such a feature is more likely to draw the eye rather than deflect it. Arvon through sensitive management is in the process of recovering this designed landscape and reopening strategic views including those looking east along the Clun Valley. The proposed broiler shed development will significantly compromise these views and thus undermine a key characteristic of the place that inspired John Osborne to choose this location for retirement.

- 2.4 Pollution / Ecology: The likelihood of the leakage of effluent from this development is high and this could cause untold damage to the river and other rivers downstream. I understand that the whole catchment is subject to a judicial review under EU planning laws for not complying with an environmental directive. Until this is resolved and complied with, I do not think this decision can proceed. I believe that there is a risk of a significant negative impact upon the designation of the nearby internationally important Clun Valley SAC through pollution of the watercourse. Although this site is currently located approximately 12 km downstream from the development, I believe that a proposed location for the release of freshwater pearl mussels is within 2 km downstream of the development, in the village of Clunton. The HRA relies on the Hydrological Report that is predicated on the poultry manure from the development being removed at shed clearing from Hurst Barn to hard standing at Acton but Halls have confirmed that this will not be the case and that the manure will be stored at Hurst Barn. The Hydrological Report Section 6.2 states that toxic contamination of the River Clun could occur from run-off water from dirty washings or manure storage heaps. Halls have also restated that the dirty washings, containing biocidal agents and human excrement, will be spread on land at Hurst Barn. Need to properly assess potential cumulative effect with other nearby poultry units at Clun, Guilden Down and Walcot Farm. The river Clun is particularly vulnerable, being close by. It is one of the last refuges of freshwater pearl mussels and also has dippers, kingfishers, otters and more. Once polluted it will lose this special, fragile fauna which does not have the luxury of relocating. We have a population of great crested newts within a pond in Clunton, I would like to enquire as to whether suitable surveys have been carried out to confirm the presence or absence of this protected species within the vicinity of the development? There is a chance that part of this extraordinary ecological diversity will be lost due to the effects of the proposed development. Schedule 1 applications need to provide data based on the "whole" development intention. Information has been identified referring to 4 sheds and 185,000 birds and therefore the HRA must take this expansion into account. Bats, a European Protected Species, are mentioned on page 2 of the HRA. However no information is provided as to the effect on bats of the continuous "tonal hum" from the ventilation fans. The relief of the Clun valley is conducive to flooding hence manure can be washed off fields. Much of the Clun Valley is AONB and several of the rivers are designated SSSI's.
- 2.5 Amenity impact: The disturbance to the neighbouring rural population, through noise and smell, is likely to be high. As we are located in a valley, the prevailing west wind will cause strong unpleasant odours within the village of Clunton. I am aware that the prevailing wind is from the west and Clunton is to the east of this site and therefore in line for the dust and ammonia resulting from such a development and any potential health risks. I am particularly worried about the times when the valley can sit under a cloud for several days at a time, how will the ammonia disperse at these times? My home fronts onto the B4368 and I am worried about the increase in traffic the development would create especially at night when I am aware that lorry drivers are less likely to observe the speed limit. I live in a grade II* listed property just to the east

of the site in question. I know therefore that the prevailing wind comes the west, and often carries with it strong odours from fertilising operations, from much further west than the proposed chicken sheds. Living in a heavily listed property I do not have the opportunity to protect myself and family, or indeed future generations from the smell this development will inevitably produce. The above point is also relevant to noise (I cannot, and would not install double glazing), this will be greatly increased, particularly at night by heavy lorries to and from the site. The road is unsuitable for use by the sites related traffic. The Highways Agency having already for some years considered it necessary to divert such traffic a mile or so before the village anyway! Clunton already suffers from the storage of the Acton manure and the impact of its spreading close to Clunton. Clunton is at significant risk of high odour impact for at least 170 days (46%) of the year. Most of this spreading will occur in spring and late summer thus impacting community enjoyment of outdoor space.

- 2.6 Animal welfare: This way of managing birds for production is highly offensive from an animal welfare perspective and is not sustainable
- 2.7 Tourism: The site is directly adjacent to a tourist route in an A.O.N.B where tourism is a large contributor to the local economy. The area attracts a lot of tourism, valuable I'm sure to many local businesses, it is also extremely popular with walkers. Developments of this nature will do nothing to encourage visitors to the area. Clunton is both a working village and a tourist village. The Crown Inn has been awarded second best place in the best rural pub awards. B&B's at Bush Farm and The Lodges would be hit if tourist interest declined. Tourists, locals and walkers like to pass through this landscape without having to navigate clouds of ammonia.
- 2.8 Traffic: The road through Clunton is already extremely busy and traffic travels too fast.
- 2.9 Other: No detail on alternatives. Limited architectural and engineering detail. Failure to conform with industry best practice. Movement of biohazardous waste over significant distance – open trailer manure transport – no waste carrier details provided. Contradiction over whether or not waste materials will be stored on site. Challenge to calculations on manure production (applicant estimate of 1000tpa conflicts with independent assessment of up to 5100tpa), feed requirements and vehicle movements (objector estimates 4-5000tpa and 2-250 visits per year). Given this challenge to the applicant's estimates potentially thousands of tonnes of manure could need to be stored on site, potentially nearer to sensitive receptors. Failure to take account of importance of tourism to the local economy. Too close to public highway. Human excrement and chemical residues being spread to land. Inaccurate information – documents at consultation event stated 4 sheds. Effect of replacing permeable field with impermeable surfaces. Hazardous ammonia levels on public highway could impact on road safety. Manure storage at the site is already unpleasant for road users. Dead birds will add to odour impact. Responsibility in the event of a safety or environmental incident. No detail on wheel wash and disinfection facilities. No manure management plan has been submitted although Natural England has been led to believe by the applicant that there will be a reduction in fertiliser application. The proposal to screen the buildings is contrary to the requirements for protection from avian flu where no such screening is allowed as it will attract birds and consequent health risk. Does not maintain and enhance countryside vitality or improve sustainability of rural communities. Does result in unacceptable adverse environmental impacts. No formal public meeting where questions could be asked. We are one of the closest properties

and should have been notified. I have a chronic chest complaint and chicken manure will not help my condition. Although the profit to the owner is calculated at £0.62 per bird (gross or net not stated but equates to c. £425,000 per annum for 2 sheds and £822,000 per annum for 4 sheds at Hurst Barn) the average salary per full-time employee in rearing is less than £20,000 per annum. Although demand for poultry is increasing the UK increased production from 760 million birds in 2000 to over 900 million in 2014 i.e. faster than the increase in domestic demand. Given the continuing rapid expansion of poultry units and the proliferation of applications in South Shropshire is the damage to the Clun Valley worth it for a planning gain of c. £20,000 per annum in the Hurst Barn application? SC has the legal responsibilities to safeguard public health and public safety of residents and visitors. The purpose of the planning system is to regulate the development and use of land in the public and national interest. Policy requires the maintenance of the quality of life for residents and visitors (quiet enjoyment). Quiet Enjoyment is a fundamental right enshrined in Common Law. It is a right to the undisturbed use and enjoyment of real property by a tenant or landowner. Policy requires that one form of business must not be to the detriment of another e.g. impact on local tourism and conference establishments etc. It is noted that in a previous consent for a poultry farm (12/02438/EIA) a planning condition was recommended for no HGV movements at night i.e. no depopulation of the sheds at night as well as restrictions on feed deliveries and manure transport. Why is SC not consistent in mitigating this impact across the many subsequent approvals? The Environment Agency requires that a poultry farm should be sited more than 400 metres from a road where feed is transported to other farms. This together with the absence of a number recognised bio-security measures at Hurst Barn plus the transport of manure on to other farms presents a very significant biosecurity risk to other local farms, including poultry farms. The Manure Management Plan for now states that the excess manure from Hurst Barn is to be sold to another local farmer for spreading. Expert opinion is required to determine the legality and licencing of such multi-farm transport and spreading of poultry manure. The Agent has stated to the Parish Council that Hurst Barn farm is not viable as it does not have long term security over the leased land. Equally this means that they don't have security over the bulk of the land that the manure is to be spread.

- 2.10 Petition: An online petition set up by an objector on 22nd November calling for the Government to intervene to prevent the development has currently attracted 476 signatures. The petition website advises that 'A E Housman's much-loved Shropshire landscape is now under threat from the proposed development of an industrial-scale chicken broiler plant. This Area of Outstanding Natural Beauty has been called the 'best view in England' by playwright John Osborne, but as highlighted on www.shropshirelive.com the countryside will be permanently blighted by this development: a visual eyesore of industrial units, the constant smell of ammonia, toxic dust and nightly noise from 44-tonne slurry lorries'.
- 2.11 Consultant's letter: A letter has been received from a planning consultant acting for an objector. The main point raised is the national policy presumption against major development within the AONB. The proposal is major as it is Schedule 1 EIA development. It is argued that the exceptional circumstance test for major development in the AONB is not met because the development would not be in the public interest. Therefore the applicant's claim not to have an alternative site available (the second test) is irrelevant. The consultant cites the decisions of the planning authority (and by implication the decisions of the South Planning Committee) to permit poultry

developments in the AONB) as a 'clear failure by the Authority to understand or address the NPPF policies restricting development within the AONB. The Authority is criticised for carrying out a 'balancing exercise' on one such application rather than establishing first that the development was exceptional and in the public interest. The amenity impacts listed by the consultant include a claimed underestimate of traffic levels and loss 1ha of best and most versatile agricultural land.

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Committee and date

South Planning Committee

6 December 2016

Development Management Report

SCHEDULE OF APPEALS AS AT COMMITTEE 6/12/2016

| | |
|-----------------------------------|--|
| LPA reference | 16/02548/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr Richard Edwards |
| Proposal | Erection of new dwelling to replace existing agricultural building (with consent for residential conversion) |
| Location | Agricultural Building Inellan Clee Hill Road Burford, Tenbury Wells Shropshire, WR15 8HL |
| Date of appeal | 14.10.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | |
| Costs awarded | |
| Appeal decision | |

| | |
|-----------------------------------|---|
| LPA reference | 14/03231/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr & Mrs Martin Lord |
| Proposal | Siting of a temporary mobile home to establish a business |
| Location | Land At Stockhall Lane Hopton Wafers |
| Date of appeal | 04.08.16 |
| Appeal method | Hearing |
| Date site visit | 13.09.16 |
| Date of appeal decision | 17.10.16 |
| Costs awarded | No - Refu |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|--|
| LPA reference | 16/01352/FUL |
| Appeal against | Non-Determination |
| Committee or Del. Decision | Not applicable |
| Appellant | Mr Peter Barrington |
| Proposal | Erection of dwelling |
| Location | Overdale Barn Caynham Road Clee Hill, Ludlow Shropshire, SY8 3JQ |
| Date of appeal | 11.08.16 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | 17.10.18 |
| Costs awarded | |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|--|
| LPA reference | 15/02676/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Miss Karen Harris |
| Proposal | Erection of building in association with equine business and the temporary siting of a mobile home |
| Location | Proposed Equine Facility Snailbeach Shropshire |
| Date of appeal | 13.05.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | 20.10.2016 |
| Costs awarded | |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|---|
| LPA reference | 15/05546/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr R. Prince |
| Proposal | Erection of two new residential dwellings and detached garages (resubmission) |
| Location | Proposed Dwellings East Of Old Hall Farm Little Stretton Shropshire |
| Date of appeal | 24.06.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | 24.10.2016 |
| Costs awarded | |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|---|
| LPA reference | 15/03024/COU |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr & Mrs Griffiths |
| Proposal | Change of use of land for the siting of a holiday caravan |
| Location | Cwm Bydd Farm Cwm Clunbury |
| Date of appeal | 28.07.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | 24.10.2016 |
| Costs awarded | No |
| Appeal decision | Allowed |

| | |
|-----------------------------------|---|
| LPA reference | 14/04242/ENF |
| Appeal against | Enforcement notice |
| Committee or Del. Decision | n/a |
| Appellant | Apley Estates |
| Proposal | Possible unauthorised change of use |
| Location | Outbuilding At Grindle House Farm Grindle Road Grindle Shifnal Shropshire TF11 9JR |
| Date of appeal | 20/10/2016 |
| Appeal method | Inquiry |
| Date site visit | |
| Date of appeal decision | |
| Costs awarded | |
| Appeal decision | |

| | |
|-----------------------------------|--|
| LPA reference | 16/02831/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr & Mrs J Southorn |
| Proposal | Erection of three dwellings with detached garages; creation of visibility splay (revised scheme) |
| Location | Development Land West Of Cwm Gweld Wall Under Heywood Shropshire |
| Date of appeal | 02.11.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | |
| Costs awarded | |
| Appeal decision | |

| | |
|-----------------------------------|--|
| LPA reference | 14/04608/OUT |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Richborough Estates |
| Proposal | Outline application (access for approval) for mixed residential development comprising 137 dwellings; demolition of existing agricultural buildings; creation of vehicular access from the A49 Ludlow Bypass |
| Location | Proposed Residential Development Land At Foldgate Lane Ludlow Shropshire |
| Date of appeal | 19.11.2015 |
| Appeal method | Public Inquiry |
| Date site visit | 04.08.16 |
| Date of appeal decision | 10.11.16 |
| Costs awarded | No |
| Appeal decision | Allowed |

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|-----------------------------------|---|
| LPA reference | 14/04354/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr & Mrs B Perry |
| Proposal | Erection of six dwellings; creation of vehicular access and formation of parking area |
| Location | Land Adjacent The Dingle Hopton Wafers Shropshire |
| Date of appeal | 01.08.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | 14.11.2016 |
| Costs awarded | No |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|---|
| LPA reference | 14/02442/OUT |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Mr Mark Wiggin |
| Proposal | Outline application for residential development (all matters reserved) |
| Location | Proposed Residential Development South Of Paddock Side Middleton Shropshire |
| Date of appeal | 18.07.2016 |
| Appeal method | Written Representation |
| Date site visit | 27.09.2016 |
| Date of appeal decision | 17.11.2016 |
| Costs awarded | No |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|--|
| LPA reference | 15/05447/CPL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | S Nedic |
| Proposal | Application for Lawful Development Certificate for the proposed siting of static caravans for the purposes of human habitation throughout the year |
| Location | Presthope Caravan Park Presthope Much Wenlock Shropshire TF13 6DQ |
| Date of appeal | 14/06/2016 |
| Appeal method | Written Representations |
| Date site visit | 11/10/2016 |
| Date of appeal decision | 18/11/2016 |
| Costs awarded | |
| Appeal decision | Allowed |

| | |
|-----------------------------------|--|
| LPA reference | 14/03832/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Peter Dickin |
| Proposal | Erection of a dwelling and garage |
| Location | Proposed Dwelling North East Of North Farm Ludlow, Shropshire |
| Date of appeal | 08.08.2016 |
| Appeal method | Written Representations |
| Date site visit | |
| Date of appeal decision | 18.11.2016 |
| Costs awarded | Dismissed |
| Appeal decision | Dismissed |

| | |
|-----------------------------------|--|
| LPA reference | 16/02842/FUL |
| Appeal against | Refusal |
| Committee or Del. Decision | Delegated |
| Appellant | Carly Smith |
| Proposal | Erection of 1No dwelling, parking and formation of vehicular and pedestrian access |
| Location | Proposed Dwelling South East Of 1 Foster Road Bridgnorth |
| Date of appeal | 24/11/2016 |
| Appeal method | Written Reps |
| Date site visit | |
| Date of appeal decision | |
| Costs awarded | |
| Appeal decision | |

Appeal Decision

Hearing held on 13 September 2016

Site visit made on 13 September 2016

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 17th October 2016

Appeal Ref: APP/L3245/W/16/3147367

Holly Farm, Stockhall Lane, Hopton Wafers, Cleobury Mortimer, DY14 0EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Martin Lord against the decision of Shropshire Council.
 - The application Ref 14/03231/FUL, dated 9 July 2014, was refused by notice dated 19 February 2016.
 - The development proposed is a temporary mobile home to establish a business.
-

Decision

1. The appeal is dismissed.

Application for costs

2. Prior to the Hearing an application for costs was made by Mr & Mrs Martin Lord against Shropshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether or not there is an essential need for a new dwelling to accommodate a rural worker at Holly Farm, having particular regard to local and national planning policies which seek to avoid new isolated homes in the countryside.

Reasons

4. The appeal relates to a small-holding to the north of Hopton Wafers. At present it extends to approximately 5.51ha (around 14 acres) and includes a block of five stables, an open-fronted storage building and a sand paddock.
5. Situated roughly 900m from Hopton Wafers the appeal site is located outside a defined settlement within the countryside. Paragraph 55 of the National Planning Policy Framework ('the Framework') is therefore relevant. It states that new isolated homes in the countryside should be avoided unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work. Policy MD7a of the *Shropshire Site Allocations and Management of Development Plan (SAMDev)* also relates specifically to rural workers' dwellings. Amongst other things it requires proposals to demonstrate that there are no other suitable alternative premises nearby, and that relevant financial and functional tests have been met.

6. The appellants' starting point is that the proposal is for a mobile home for a temporary period of three years in order to establish a business and should not be considered in the same way as a 'permanent' workers' dwelling. This is because the business has not yet been fully established and the financial and functional tests in SAMDev Policy MD7a cannot be applied in the same way. In justifying this position reference is made to *Planning Policy Guidance Note 7: The Countryside – Environmental Quality and Economic and Social Development* ('PPG7'). This advocated that temporary dwellings should be based on 'a sound financial basis' with evidence of a 'firm intention' to develop the enterprise.
7. However, PPG7 no longer represents current national planning policy. Moreover, whilst it is appreciated that the nature of a mobile home is different to a permanent residence, the appeal scheme still seeks planning permission for a dwelling on the land. Despite assertions to the contrary, paragraph 55 of the Framework and SAMDev Policy MD7a therefore remain relevant.
8. Further guidance on temporary dwellings is also provided in the Council's *Type and Affordability of Housing Supplementary Planning Document* (SPD). Paragraph 3.3 states that "...where a business case is shown, the Council will support applications for temporary dwellings..." As a result, in demonstrating whether or not there is an essential need for the dwelling it is also necessary to consider the likelihood of the proposal subsisting having regard to the business case for the enterprise.

Need for on-site accommodation

9. Prior to purchasing the appeal site the appellants had a farm in France with approximately 140ha (roughly 350 acres), used predominantly for breeding pedigree Limousin cattle and sheep. Evidence submitted with the appeal confirms that the farm was almost self-sufficient and the final three years of trading averaged a profit of around €35,000.
10. Since returning to the UK in order to be closer to family Mr Lord's main source of income has come from agricultural engineering and contracting. The appellants' have also established a horse-drawn carriage business with events taking place in 2016 and several bookings secured for 2017.
11. Despite the increasing demand for carriage-hire the appellants' main interest is horses, and both have extensive equestrian experience. In the past Mr Lord was an equine dentist and has also stood a thoroughbred stallion. There is no suggestion that the appellants' are inexperienced handlers, and are clearly hard-working people passionate about horses.
12. Securing planning permission for a dwelling at Holly Farm would facilitate the expansion of the equestrian business. At present there are four horses on-site which includes two Comtois mares. The Comtois is a specialist, hard-working breed well-suited to, and popular with the carriage-driving community. The appellants' two Comtois stallions remain in France and subject to the outcome of the appeal would be brought over to the UK in order to establish a stud and start a breeding programme. This would be carried-out alongside the carriage hire business, and in addition to providing livery services for mares, including horses close to foaling.

13. When explored at the Hearing Mr Lord advised that one of the main reasons for needing an on-site presence is due to the safety issues arising from the unpredictable nature of stallions. This includes the safety of other mares, including those stabled on behalf of clients, and members of the public on the footpath which passes through the site along the western boundary. In support of this point the appellants' recalled instances where stallions have escaped in the past and caused extensive damage. The report by Mr Williams also indicates that obtaining insurance has been very difficult without having any on-site living accommodation.
14. However, although the nature and temperament of stallions is different to mares and geldings, and would therefore require greater supervision, there is no objective evidence to suggest why the day-to-day management of the stallions amounts to the essential need for someone to live on-site. For example, aside from recalling instances where stallions have escaped elsewhere and referring to illnesses such as colic, no specific details have been provided to identify the type and frequency of out-of-hours emergencies that would be likely to occur at Holly Farm.
15. Furthermore, even though the Comtois are large animals, only two stallions are intended to occupy the site. The appellants' also confirm that the horses would be kept away from the main stable block and tethered when out in the field. Subject to a combination of appropriate management practices, signage and fencing, I am therefore not persuaded that their addition justifies a new home in the countryside. Without any substantive evidence the fact that the horses remain in France does not alter this conclusion.
16. One of the main reasons for bringing the stallions over from France is to establish a stud. The proposed breakdown of costs and income suggests that each horse would cover approximately twenty mares during a season at an indicative fee of roughly £300. This would be a commercial enterprise, and as the appellants' point out, completely different to simply keeping horses.
17. When exploring the process during the Hearing the appellants' representatives suggested that at the prices quoted visiting mares would typically be 'walk-ins', with owners booking appointments in advance and attending for the day. It was also confirmed that although not exclusively, covering mares would take place primarily during daylight hours. The process would be a scheduled, supervised one and would be limited to three or four months of the year.
18. It is not in dispute between the parties that the greater the number of mares being covered, combined with the other tasks involved in managing the farm, the longer that Mr and Mrs Lord would need to be on-site for. Nevertheless, no evidence has been provided to substantiate the anticipated level of demand for the stud. When explored at the Hearing the justification was due to the unique nature of the breed in the UK and based on positive comments from people at shows and weddings etc. But even in the event that Holly Farm was the only Comtois stud in the UK and importing horses continued to remain expensive, no firm evidence of this interest, or any actual demand has been presented.
19. Furthermore, Mr Lord accepted that the level of awareness in the stud would likely grow from word of mouth and as people saw the quality of the offspring produced. A similar pattern emerged when he stood a thoroughbred before moving to France. Despite this, such factors are not reflected in the indicative profit and loss accounts.

20. In summary therefore, whilst the appellants clearly have the drive and determination to make a success of the site, for a brand new enterprise dealing with a unique breed in the UK the information provided falls significantly short of a robust case to suggest that the level of stud services is realistic. As such, I am not persuaded that the activities associated with this side of the business would amount to an essential need for the appellants to live on-site.
21. Likewise, aside from stud fees the appellants' intend to generate income from the sale of progeny and boarding client's mares, including horses close to foaling. It is envisaged that there would be five breeding mares with four to five young sold annually, in addition to boarding up to forty horses over the year for clients. Because a horse can go into labour at short notice, and given the health and financial risks from complications, the parties agreed that the intended level of activity would require somebody to be present on site, or at least within approximately 150m to respond to foaling alarms.
22. However, as with the likelihood of attracting customers to pay stud fees, no objective evidence has been provided to substantiate that there is a demand for boarding mares in the area. Whilst I appreciate that predicting demand for any new business is not an exact science, in this case there is no business plan before me or even the most basic market research to substantiate the level of expected trade. There is also no information to demonstrate how the site would function at capacity when taking into account all the other aspects of the proposed business given the amount of land and buildings available. Despite the appellants' indicating that such factors have been considered, and confirming that relevant standards would be met, no details are provided.
23. I am also mindful that successful breeding is not guaranteed, and it would take time before the first offspring were produced. Furthermore, Mr Lord confirmed that in order to add value foals would be kept on-site and broken before being sold-on. It could therefore take a couple of years before the anticipated profits would be realised from breeding. The appellants' reputation for livery services would also take time to establish, yet neither of these factors are set out in the indicative profit and loss accounts. Without a robust business case to reflect such considerations I am therefore not persuaded that the suggested level of activity associated with foaling and livery services has been justified.
24. In reaching this view I have had regard to the report produced by Mr Williams. It states that in order to fully develop the horse breeding side of the business it is essential for on-site living accommodation to provide the necessary supervision within sight and sound of the stock. This is cited as "*a requirement of the equine welfare standards where sufficient staff must be available at all times to give the necessary attention to horses*". Nevertheless, this is not backed-up by any convincing reasons why it is essential for a rural worker to reside at Holly Farm taking into account the specific nature of the activities proposed. Although the report states that there is a proven demand for carriage hire, this is not the same for the proposed stud and livery services. Given the ambiguity surrounding this side of the business it does not justify the siting of a mobile home, even on a temporary basis.

25. It is also pertinent to consider that a significant proportion of the appellants' proposed income is from providing horse-drawn carriages for weddings and social events. At the Hearing it was put to me that approximately eighteen bookings had been secured for 2017 without actively marketing the business. Some enquiries had also been made for 2018.
26. Although the appellants' maintain that the carriage-hire is secondary to their intentions for the site, the indicative cost breakdown illustrates that weddings would account for nearly half of their gross income and a significant number of bookings have already been secured for 2017. Moreover, weddings typically take place during the summer months and the appellants' can travel over an hour away to attend each event. It would therefore directly conflict with Mr and Mrs Lord's ability to pursue other aspects of the business which are cited as needing an on-site presence. Whilst additional staff could be taken on to assist with the carriage-hire, this is not reflected in the proposed costs. Without these factors being adequately reflected in a coherent plan for the site, this only adds to the uncertainty regarding the level of activities that would require round-the-clock supervision.
27. In reaching my conclusion against the main issue I have also taken into account comments that Mr and Mrs Lord cannot afford to pay rent on a house and the mortgage on Holly Farm, that the protracted planning application process has prohibited them from establishing a business, and that this has subsequently affected Mrs Lords' health. However, whilst empathising with the appellants' position and recognising their frustrations caused by delays, these factors do not justify departing from local and national planning policy and guidance which seek to restrict new isolated dwellings in the countryside.
28. In summary therefore, based on the evidence provided I conclude that in the absence of a robust business case to substantiate the expected level of demand for stud, breeding and livery services there is not an essential need for a new dwelling to accommodate a rural worker at Holly Farm. As a result, the proposal conflicts with the Framework which seeks to avoid new isolated homes in the countryside. For the same reasons the scheme is also contrary to SAMDev Policy MD7a which only permits rural workers' dwellings where relevant financial and functional tests are met, and, *Shropshire Core Strategy* Policy CS5 which, despite seeking to achieve a 'rural rebalance', requires proposals for countryside workers' dwellings to demonstrate need. Finally, in the absence of an adequate business case the scheme is contrary to the Council's advice concerning temporary dwellings in the *Type and Affordability of Housing SPD*.

Other Matters

29. In considering the appeal proposal I note comments that the Council appointed an advisor specialising in agricultural, rather than equestrian matters. Nevertheless, whilst not having the same hands-on experience with horses as the appellants', Mr Field informed the Hearing that he was familiar with the proposal and the issues at hand. As identified above, in this case I agree that the submitted evidence falls short of demonstrating an essential need for a rural worker to reside at Holly Farm. The Council's decision to refuse planning permission was therefore justified.

30. The appellant has also referred to several appeal decisions where planning permission has been granted for housing development outside settlement boundaries throughout Shropshire. However, none relate to dwellings for rural workers, and the circumstances are materially different. Furthermore, I am required to consider the proposal on its specific merits and in this case insufficient evidence has been provided to justify an essential need for a rural worker to live on-site at Holly Farm. In such situations paragraph 55 of the Framework advocates that development should be restricted.
31. Finally, the second reason for refusal refers to Condition no.5 attached to planning permission Ref SS/1/4/16405/F, dated 7 January 2005. This states that the land and buildings on the appeal site shall not be used for livery or commercial purposes. Nevertheless, the proposal seeks planning permission for a dwelling in order to establish a new business. At the Hearing the Council confirmed that it had dealt with the application on this basis, and not for a standalone mobile home.
32. The fact that the appellant has not sought to vary or remove condition no.5 through another planning application process is therefore not a determinative factor in considering the main issue. The Council did not object to the commercial activities proposed at the site or refuse planning permission on grounds relating to highways, the living conditions of neighbouring residents, drainage, lighting or in relation to the management of the site. Based on the details provided I find no reasons to disagree, albeit such a lack of harm is only a neutral factor in the overall planning balance. As a result, it does not overcome the conflict identified with the Framework and relevant development plan policy, nor do the economic benefits associated with expanding the farm.

Conclusion

33. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|------------------------------|-------------------------------|
| Martin Lord | Appellant |
| Christa Lord | Appellant |
| John Needham | Chartered Architect |
| Trevor Williams (RICS, FAAV) | Agricultural Planning Advisor |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-----------------|----------------------------------|
| Heather Bradley | Planning Officer |
| Alastair Field | Reading Agricultural Consultants |

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Costs Decision

Hearing held on 13 September 2016

Site visit made on 13 September 2016

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 17th October 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3147367 Holly Farm, Stockhall Lane, Hopton Wafers, Cleobury Mortimer, DY14 0EH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Martin Lord for a full award of costs against Shropshire Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a temporary mobile home to establish a business.
-

Decision

1. The application for an award of costs is refused.

The submissions for Mr and Mrs Martin Lord

2. The application for an award of costs is made on the grounds that the Council unreasonably considered the appeal proposal as an application for a dwelling and not a mobile home for a temporary period in order to establish a business.
3. It is also argued that the Council took an unreasonable period of time to consider the planning application, did not notify the applicants' of a report from Reading Agricultural Consultants for some three months and ignored relevant submitted evidence. Finally, the applicants' claim that requests to provide financial information relating to a proposed business, and from their previous farm in France, amounts to unreasonable behaviour. In conclusion it is argued that the subsequent delays have cost the applicants and their stallions two years of their working lives.

The response by Shropshire Council

4. In response the Council contend that although the proposal was for temporary accommodation the purpose of the mobile home would be for habitation as the applicants' sole residence. On this basis it required consideration against relevant planning policies concerning housing.
5. In response to claims regarding delays the Council states that the issues were complex and required a consultant to be appointed. Combined with a staff shortage and overwhelming caseloads this led to a delay in providing reports and determining the application. It is also suggested that the applicants had the option to appeal against the non-determination of the planning application sooner, rather than wait for the formal decision notice.

6. Finally, with regard to taking evidence into account the Council refers to the Planning Officer's report which cites the additional information provided. It also refers to the need to consider relevant financial and functional tests as set out in *Shropshire Core Strategy* Policy CS5, Policy MD7a of the *Shropshire Site Allocations and Management of Development Plan (SAMDev)*, and the *Type and Affordability of Housing Supplementary Planning Document (SPD)*.

Reasons

7. The National Planning Practice Guidance states that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
8. As set out in my appeal decision, whilst recognising that a mobile home is materially different to a permanent residence for a rural worker, the appeal proposal nonetheless seeks planning permission for a new 'dwelling'. It would be the applicants' main residence and the Council did not act unreasonably in considering the proposal against relevant policies for housing. The Council's written evidence also makes reference to the additional information provided by the applicants' during the course of the planning application.
9. I agree with the applicants' that reference to the profit and loss of the farm in France was unrelated to the appeal proposal. However, the National Planning Policy Framework ('the Framework') states that new isolated homes in the countryside should be avoided unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work. SAMDev Policy MD7a also requires proposals to demonstrate that relevant financial and functional tests are met, and, the *Type and Affordability of Housing SPD* supports applications for temporary dwellings where "a business case is shown". It was therefore not unreasonable for the Council to consider the functional need of the proposed business and ensure that it was planned on a realistic, sound financial basis.
10. With regard to the handling of the planning application the Planning Practice Guidance states that if it is clear a local planning authority will fail to determine an application within the prescribed time limits, it should give the applicant a proper explanation (Paragraph: 048 Reference ID: 16-048-20140306). Based on the details provided no such explanation was offered, and the Council accepts that delays occurred. I therefore appreciate the applicants' frustrations concerning the length of time it has taken to reach a decision and the uncertainty that this has caused.
11. Nevertheless, whether or not this was unreasonable, there is no evidence to suggest that it has resulted in unnecessary or wasted costs in connection with the appeal, which is the basis on which I can consider this application. Despite empathising with the loss of earnings cited by the applicants, the Planning Practice Guidance makes it clear that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission (Paragraph: 032 Reference ID: 16-032-20140306).

12. I therefore conclude that unreasonable behaviour resulting in unnecessary expense in the appeal process, as described in the National Planning Practice Guidance, has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

Matthew Birkinshaw

INSPECTOR

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Appeal Decision

Site visit made on 20 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 17th October 2016

Appeal Ref: APP/L3245/W/16/3153967

Overdale Barn, Caynham Road, Clee Hill, Ludlow, Shropshire SY8 3JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Peter Barrington against Shropshire Council.
 - The application Ref 16/01352/FUL, is dated 29 March 2016.
 - The development proposed is described as "*a long overdue and much needed Homestead for the agricultural unit called 'Overdale Barn'. No change of use is required as area was prepared for a building some 11/12 years ago.*"
-

Decision

1. The appeal is dismissed and planning permission for a dwelling is refused.

Preliminary Matter

2. Notwithstanding the description of development contained in the banner heading, which is taken from the application form, based on the evidence before me it is clear that the application is for a dwelling. As such I have used that description within the formal decision above.

Main Issue

3. The Council did not issue a decision within the prescribed period. The appellant exercised his right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's appeal statement states that the dwelling would be located in the open countryside and Shropshire Hills Area of Outstanding Natural Beauty (AONB) contrary to local and national policies.
4. Taking into account the above the main issue is whether or not the proposed development would constitute sustainable development having regard to relevant national and local policies.

Reasons

5. The dwelling would be located adjacent to an existing barn on the northern part of the appeal site which is accessed from a no-through track off Caynham Road. The northern part of the appeal site is mainly woodland with the remainder of the appeal site being fields/paddocks.
6. Policy CS4 of the Shropshire Core Strategy (CS) indicates that in the rural area, communities will become more sustainable by, amongst other things, focusing investment into Community Hubs and Community Clusters and not allowing development outside these settlements unless it meets CS Policy CS5.
7. CS Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside and includes a list of development proposals which will be

- permitted on appropriate sites which maintain and enhance countryside vitality and character where they improve the sustainability of rural communities.
8. Policy MD1 of the SAMDev Plan relates to the scale and distribution of development. It states that, further to the policies of the CS, sufficient land will be made available to meet the CS housing requirements; sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres and the identified Community Hubs and Community Cluster settlements, having regard respectively to CS Policies CS2,CS3 and CS4.
 9. SAMDev Policy MD3 is also relevant to the proposal and supports sustainable housing development on windfall sites within settlements and in the countryside; particularly when housing guidelines appear unlikely to be met. However, windfall sites need to accord with settlement policy.
 10. Policy MD7a of the SAMDev Plan indicates, amongst other things, that further to CS policy CS5, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns and Community Hubs and Cluster.
 11. The settlement of Clee Hill is identified as a Community Hub and at my site visit I noted that there are a number of services and facilities in that settlement. However, the site is approximately 475m¹ from the settlement boundary and separated by intervening fields. Therefore, a dwelling on the appeal site should be treated as lying outside the settlement of Clee Hill and in the open countryside for planning policy purposes. Although there are other dwellings in the immediate vicinity, these are small in number and they do not form a distinctive settlement, reflecting the small amount and sporadic nature of development in what is generally open countryside.
 12. I note that the appellant states that the dwelling is required to enable the appeal site to be maintained and kept in good condition. However, I have no detailed evidence before me as to demonstrate the need for an agricultural, forestry or other essential countryside worker to live at the site. Moreover, whilst I appreciate the appellant's personal circumstances, wanting to self-build a dwelling on land he owns rather than renting a property, such circumstances seldom outweigh general planning considerations and in any event such matters do not fall within any of the criteria of development allowed by CS Policy CS5 and SAMDev Policy MD7a.
 13. Furthermore, whilst I do not doubt that the new dwelling would be constructed to a high energy efficient standard, and that this energy efficiency is supported by CS Policy CS6, this also does not fall within one of the criteria of development allowed by CS Policy CS5 and SAMDev Policy MD7a. Accordingly, the development of the appeal site for open market housing in the countryside would not comply with CS Policies CS4 and CS5 and Policy MD7a of the SAMDev Plan.
 14. In relation to SAMDev Policy MD3 the proposal would conflict with settlement policy as outlined above. It should also be related to an identified settlement with a settlement guideline figure, factors that do not apply in this case. Therefore, taking the above into account, the proposal would be contrary to SAMDev Policy MD3.
 15. The Council has stated that they can demonstrate a 5 year supply of deliverable housing sites and the appellant has stated that from the figures he has seen the delivery of housing is 'way behind'. However, I have no substantive evidence before me in relation to the 5 year housing land supply

¹ Taken from Council's Statement of Case

- situation from either party. As such the evidence on this matter is inconclusive. In any case the National Planning Policy Framework (the Framework) (paragraph 49) is clear that all housing applications should be considered in the context of the presumption in favour of sustainable development.
16. The Framework at paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental. Paragraph 55 advises that to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and that (with certain identified exceptions) local planning authorities should avoid new isolated homes in the countryside. For example where there are groups of smaller settlements, development in one village may support services in a village nearby.
 17. There would be economic benefits associated with the proposal including the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts. Prospective occupiers would provide some support for local services. However, the contribution one new dwelling would make to the vitality of the rural community and the support it would give to services in nearby towns and villages would not be significant, particularly in comparison with a new dwelling located in Clee Hill itself or other nearby towns or villages. The proposal would provide a new dwelling which would make a small contribution to the housing supply. The development would therefore have some social benefits.
 18. Environmentally, the proposal would involve the construction of a dwelling within an undeveloped area adjacent to Overdale Barn. The site is within the AONB. Section 11 of the Framework makes it clear that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection.
 19. The dwelling would be sited on a clearing adjacent to woodland and at a higher level than Overdale Barn. The access track to the site is restricted in width and serves two existing dwellings one adjoining Caynham Road and one at its southern end. I note that the Council do not consider that the access would be optimal to serve another dwelling. However, I have no detailed evidence before me to show that the access would not be safe and suitable. Taking into account the distance of the appeal site from Caynham Road and the screening provided by the trees the building would not be visible from the road.
 20. The design and materials to be used for the dwelling would not be unattractive and it would be constructed to an energy efficient standard. However, the introduction of a residential use and other associated domestic paraphernalia onto the appeal site would have an inherent and harmful urbanising impact. The impact would be localised to some extent given the adjacent woodland but due to its elevated position the dwelling would still be visible from the public footpaths that run along the access track and through the appellant's land to the south of the proposed dwelling.
 21. Consequently, the proposal would cause harm to the character and appearance of the countryside and materially harm the landscape of the AONB even though that effect would be localised. This is a sensitive area in which great care must be taken to assimilate new development into the existing landscape and I must give such harm significant weight in terms of the environmental impacts it represents. It follows that the development conflicts with CS Policies CS5, CS6 and CS17 which, amongst other things, require that all development protects,

- restores, conserves and enhances the high quality and local character of Shropshire's natural environment and countryside.
22. I have no evidence before me in relation to the distance to the nearest bus stop or the frequency of the services. Caynham Road is unlit, with no footway and due to the topography it steeply rises up to meet the A4117 towards Clee Hill. This makes it an unattractive environment for walking and cycling. Although, there is a public footpath through the countryside which would connect the proposed dwelling to Clee Hill, notwithstanding its recreational benefits, this would only be likely to be used in the daytime and in good weather. For these reasons, for the majority of the time and for convenience reasons, occupiers would tend to be highly dependent on travel by the private car to access services and facilities.
23. Consequently, the development would be in an isolated location in terms of its accessibility to services and facilities in the wider area. Furthermore, the additional car journeys would result in an increase in greenhouse gas emissions and thus clear harm when considering the environmental dimension of sustainable development. Moreover, the proposal does not meet any of the special circumstances set out within paragraph 55 of the Framework to justify a new isolated home in the countryside.
24. Taking into account all of the above the development would not accord with the environmental dimension of the Framework.

Other Matters

25. There does not appear to be sufficient information about the possible presence of protected species. Imposing a condition requiring protected species surveys would not normally be appropriate. However, as I am dismissing the appeal for other reasons I have not considered the matter further.
26. Both parties have referred to the planning history of the site including enforcement issues. However, I do not have the full details of the circumstances that led to these proposals being refused or approved and so cannot be certain that they represent a direct parallel to the appeal proposal. As such I give them limited weight. In any case, I am required to determine the appeal on its own merits.

Conclusion

27. For the reasons given above I conclude that the proposal would result in a new home in the countryside in an unsustainable location, with a heavy reliance on the private car, for which there are no special circumstances and which would cause harm to the character and appearance of the countryside and materially harm the landscape of the AONB. As such it would conflict with the development plan and would not accord with the environmental dimension of sustainable development. When assessed against the Framework taken as a whole that harm would significantly and demonstrably outweigh the limited benefits associated with the development.
28. Given that the three roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour.
29. As such, on the basis of the evidence before me I conclude that the proposal would conflict with the development plan as a whole and, having had regard to all other matters raised, I dismiss the appeal.

D. Boffin INSPECTOR

Appeal Decision

Site visit made on 15 August 2016

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 20th October 2016

Appeal Ref: APP/L3245/W/16/3143201

Bird Place, Plox Green, Minsterley, Shropshire SY5 0LN

- 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 Miss Karen Harris against the decision of Shropshire Council.
 - The application Ref 15/02676/FUL, dated 20 June 2015, was refused by notice dated 15 December 2015.
 - The development proposed is an equine semen collection facility in connection with an equine business and the siting of a mobile home (ecopod) for temporary use of 3 years.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether, having regard to the rural business argument raised, the proposal would conform with the development strategy of the area;
 - ii) the effect of the proposal on the character and appearance of the surrounding area, including the setting of the Snailbeach Conservation Area and the Shropshire Hills Area of Outstanding Natural Beauty;
 - iii) the effect of the proposal on flood risk;
 - iv) the effect of the proposal on highway safety,
 - v) the effect of the proposal on biodiversity, and
 - vi) the effect of the proposal on the health and safety of occupiers of the site in respect of the effects of contaminated land.

Reasons

Development strategy

3. The site lies in the open countryside, well outside of the boundaries of any settlement. The broad strategy set out in Policy CS4 of the Shropshire Core Strategy (CS) (adopted in 2011) is to focus development in rural areas on community hubs. This broad strategy is repeated in the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) adopted in 2015, which also provides for the identification of new community hubs, through the development plan process.

4. Neither the site, nor the nearest settlements are part of the designated community hubs, and there are no proposals that I have been told of to make them so. In the countryside, CS Policy CS5 provides that new development will be strictly controlled. It indicates 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, particular where they relate to small scale new economic development diversifying the rural economy and dwellings to house agricultural, forestry or other essential countryside workers in accordance with other policies in the plan.
5. The policy requires that such schemes will require the applicant to demonstrate the need for and benefit of the development proposed, which will be expected to take place primarily in recognisable named settlements, or be linked to other existing development and business activity where this is appropriate. The supporting text says that proposals which would result in isolated, sporadic development, or which may either individually or cumulatively erode the character of the countryside will not be acceptable.
6. The proposed equine semen business is a new one on this site. The Council accepts that the business would require someone to live permanently on the site, and I see no reason to disagree. However, there is no site-specific reason why it needs to be located in this part of the open countryside. Whilst I recognise that some of the attributes of the site, such as tranquillity, the availability of grazing, water and bridleways are needed for the intended use, it is likely that there are better located sites within or on the edge of settlements within the area which would also provide such facilities. The appellant has provided no evidence to show that no such other sites exist. Thus, the isolated and sporadic nature of the development would conflict with Policy CS5.
7. As a new business, the economic benefits would be modest. I have had regard to the appellant's projected income, but as a new business I have to treat the substantial profits anticipated with a degree of caution. Even so, I recognise that it would create employment and that there would be some modest spend increase in the local economy. I have also had regard to the Council's policies which promote economic development, and whilst the creation of new enterprises is encouraged, the need for sustainable development is emphasised, so that Policy CS13 supports enterprise in rural areas, subject to compliance with Policy CS5, which is not the case here. Similarly, Policy CS14 which deals with the managed release of employment land supports rural enterprise, but only where it accords with other policies, including Policy CS5.
8. The Core Strategy pre-dates the National Planning Policy Framework (the Framework), but the SAMDev was adopted well after its publication. The Framework supports economic growth in rural areas, requiring policies to take a positive approach to sustainable new development. Whilst it promotes the sustainable growth and expansion of all types of businesses and enterprise in rural areas, this is a new enterprise rather than the growth or expansion of an existing one. In my view, I consider that the Core Strategy is consistent with Framework's emphasis on ensuring that rural development is sustainable.
9. I therefore conclude on the first main issue that the proposal would not accord with the development strategy for the area, and would conflict with the policies to which I have referred above.

Character and appearance

10. The site forms a triangular shaped, sloping field at the junction of Plox Green Road with an unmade up lane leading to Snailbeach. The immediate surrounding area is comprised of open fields and small areas of woodland, and in the wider area there are farm and other scattered buildings. The site is screened from the lane by trees on either side of the stream which runs close to the north western boundary, and a hedge runs alongside the boundary with the road.
11. In my judgement, the hedge would not fully screen the proposed buildings, as the site is at a higher level than the road, and they would be seen over the hedge. In winter, when devoid of foliage as illustrated in the photograph submitted by the Council, the hedge would allow more extensive views into the site, and in any event, it could not be relied on to screen the development in perpetuity, as the hedge may die, become diseased or be cut back, trimmed or removed.
12. Although the single storey buildings proposed would have an appearance that would be typical of many rural buildings, the presence of an isolated group of buildings in an otherwise open rural landscape would be damaging to the intrinsic character and beauty of the countryside. Whilst planting could assist in mitigating these concerns, it would not overcome them, as it could not be relied upon in the long-term. The submitted plans are insufficiently accurately to assess the effect of the proposal on trees on the site, in that the position of the buildings and access in relation to trees cannot be clearly determined. Trees and hedges are an important landscape characteristic and the potential for loss of trees adds to my concerns.
13. The appellant has referred to a new barn approved at Wood Farm, over 200m away from the appeal site. This is part of an existing large group of farm buildings, and thus the site can be distinguished from this undeveloped one, and the policy context in relation to an established business is also different.
14. The site would be some distance from the boundary of the Snailbeach Conservation Area. Although the Council says that it lies in a strategic location on the approach to the area, it would not be seen in the same view as the conservation area, and in my view, it would not adversely affect its setting. The site also lies within 500m or so from the boundary with the Area of Outstanding Natural Beauty, and whilst the site shares some of the attributes of the AONB, again I consider that it is sufficiently distant from the boundary and does not form part of any strategic views, so that its impact on the AONB would be limited.
15. Thus, whilst I find that there would be no material harm to the setting of the conservation area or to that of the AONB, the proposal would cause significant harm to the character and appearance of the countryside and would conflict with CS Policies CS5, CS6, CS17, all of which include an objective of protecting the countryside, natural environment or local character. I find CS Policy CS16 which deals with tourism, culture and leisure to be of less relevance. The proposal would also conflict with SAMDev Policies, MD2 and MD12, which aims to protect the natural environment, including landscape character and local distinctiveness.

16. I find that SAMDev Policies MD7b and MD11 to have marginal or no relevance to the issue and find no material conflict with Policy MD13 which deals with heritage matters.

Flood risk

17. There is a stream which runs alongside the north-eastern boundary of the site, which the Council has identified as lying in a surface water flood zone, which the Strategic Flood Risk Assessment says should be treated as being in Flood Zone 3. Development within such zones should be subject to the Sequential Test and Exception test set out in the Planning Policy Guidance. I have not been provided with any evidence to show that these tests have been met.
18. The stream is in a deep ravine, several metres below the greater part of the site. However, the submitted plans are not clear as to the exact site of the buildings, and having regard to the importance of minimising the risk of flooding, in the absence of the Sequential and Exception tests being met, and a Flood Risk Assessment being provided, I cannot be assured that this aim would be met.
19. I therefore conclude on this issue that the proposal fails to demonstrate that the proposal would minimise flood risk, and that it would conflict with CS Policy CS18, which amongst other things, aims to ensure that development is designed to be safe.

Highway safety

20. Sparse access details have been provided. The proposal would access the site in the position of the existing field gate which is close to the junction of a road with a bridleway. The widening of the access may have an effect on trees, including an oak tree close to the gate. However, from what I saw on my visit, I am satisfied that suitable inter-visibility could be provided to ensure that the access would be safe, and that adequate space exists to enable vehicles pulling horse trailers to turn within the site. Were the appeal to have been allowed, the submission of details could have been sought by the imposition of a condition.
21. I therefore conclude on this issue that the proposal would not materially harm highway safety.

Biodiversity

22. The Council has pointed out that the submitted plans may not be accurately drawn, and that the site plan shows buildings overlapping the area of woodland adjacent the stream. The appellant says that it is intended that the buildings would be well clear of the woodland, but as this is a full application I have to deal with the proposal on the basis of the plans before me. No ecological information has been submitted with the application. The trees on the site form part of a woodland corridor, stretching towards the south-east of the site, and are likely to contribute to biodiversity value.
23. I therefore find on this issue that there is insufficient information to enable me to assess properly the ecological implications of the proposal, and that it would conflict with CS Policy CS17, which, amongst other things, aims to protect and enhance the diversity and high quality of the county's natural environment, and with SAMDev Policy MD12 which deals with the natural environment.

Ground contamination

24. The site lies within 150m of a former lead smelter. Lead is a toxic heavy metal which is known to have a harmful impact on human health. The existence of the former works so close to the site gives a reasonable basis for believing that the site may be contaminated. No evidence has been provided to show whether the land is contaminated. Contamination can result in serious health problems for occupiers and the wider environment. The Planning Practice Guidance says that if there is a reason to believe contamination could be an issue, developers should provide proportionate but sufficient site investigation information (a risk assessment) to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the 'receptors') so that these risks can be assessed and satisfactorily reduced to an acceptable level.
25. As no evidence has been provided, it cannot be established as to whether there is any contamination, or if there is, whether it could be satisfactorily mitigated. Accordingly, this is a sound reason to dismiss the appeal, and the proposal conflicts with CS Policy CS6, which includes a criterion requiring development to contribute to the health and wellbeing of communities, including residential amenity.

Planning balance

26. I have acknowledged above that the proposal would make some modest economic benefits in the short term, and there is the potential, should the business succeed in the manner anticipated by the appellant, to make a more substantial economic contribution in the future. Set against this is the harm to the character and appearance of the countryside and the concerns about contaminated land, flood risk and biodiversity which I have identified. As a result the environmental role of sustainable development would not be fulfilled. These adverse impacts would significantly and demonstrably outweigh the benefits identified. When looked at in the round the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including those of the Framework.

Conclusion

27. For the reasons given the proposal is unacceptable and the appeal should be dismissed.

JP Roberts

INSPECTOR

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Appeal Decision

Site visit made on 13 September 2016

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 24th October 2016

Appeal Ref: APP/L3245/W/16/3151001

Old Hall Farm, Ludlow Road Through Little Stretton Return to Ludlow Road, Little Stretton, Shropshire SY6 6PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Prince against the decision of Shropshire Council.
 - The application Ref 15/05546/FUL, dated 18 December 2015 was refused by notice dated 5 February 2016.
 - The development proposed is erection of two new residential dwellings and detached garages.
-

Decision

1. The appeal is dismissed.

Main Issues

2. As the Council has confirmed that it has withdrawn its reason for refusal relating to flood risk, the remaining main issues are:
 - Whether the proposal for housing would accord with the development strategy for the area;
 - Whether it would preserve the setting of Linden Lea and Old Hall Farmhouse and its attached barn, all grade II listed buildings; and,
 - Whether it is would preserve or enhance the character or appearance of the Little Stretton Conservation Area.

Reasons

Development Strategy

3. Policy CS4 of the Shropshire Council Adopted Core Strategy (2011) (CS) states that in rural areas housing will be focused within Community Hubs and Community Clusters, as identified in the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). SAMDev Policy MD1 identifies those areas and states that sustainable development will be supported within them. The appeal site is located within Little Stretton, which is not one of those identified areas. It therefore falls within the countryside for planning policy purposes.
4. CS Policy CS5 states that development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside, amongst other things. It permits dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing to

meet a local need. Further, Policy MD7a of the SAMDev Plan indicates, amongst other things, that further to CS Policy CS5, new market housing will be strictly controlled outside Shrewsbury, the Market Towns and Community Hubs and Clusters. Suitably designed and located exception site dwellings and residential conversions will be considered where they meet evidenced local housing needs and other policy requirements. Whilst the appellant states that the proposed development would accommodate farmworkers involved in a local agricultural business, no mechanism to secure the proposed dwellings for that use is before me. Further, the appeal does not relate to a residential conversion.

5. SAMDev Policy MD3, brought to my attention by the appellant, states that planning permission will be granted for sustainable housing development having regard to the other policies of the Development Plan. I note in paragraph 3.18 it goes on to state that sites allocated within the SAMDev under Policies S1-S18 are a key component of the Council's housing land supply but also refers to the importance of 'windfall' sites both within settlements and in the countryside. It allows such development where it would be sustainable housing development having regard to the policies of the Local Plan and the National Planning Policy Framework's (the Framework) approach to promoting sustainable development. However, as the appeal proposal would not accord with other policies of the Local Plan, it would not be an appropriate 'windfall' development as provided for by SAMDev Policy MD3. Accordingly, drawing together all of the above, the proposal for housing in this location would be contrary to the overall development strategy for the area.
6. I note the appellant's concerns about the manner in which the Community Hubs and Community Clusters in the SAMDev Plan were identified. However, that is an adopted document that has been through examination. Therefore, I give the appellant's views in the above respect little weight.
7. In coming to this conclusion I have had regard to my colleagues' views in determining previous appeals brought to my attention (APP/L3245/W/15/3134152 and APP/L3245/W/15/3001117). I am unaware of the evidence that was before those Inspectors. In any event, neither comment on the application of SAMDev Policy MD3 in relation to SAMDev Policy MD7a, which distinguishes those appeals from the one before me.

Historic Conservation-Conservation Area

8. Although not included within the Council's reasons for refusal, concern is raised in its officer's report and from the Stretton Civic Society comments, regarding the effect of the appeal on the Conservation Area and the setting of nearby listed buildings. This is a matter that the appellant addresses in its evidence.
9. The appeal site is part of a grass field, currently used as pasture, forming part of the land associated with Old Hall Farm. It sits between Old Hall Farmhouse and its complex of farm buildings and the smaller residential properties of Linden Lee and Rose Cottage. The village hall sits opposite and is a non-designated heritage asset. The appeal site is accessed from a narrow road lined with sporadic, mainly residential properties, which leads from the centre of Little Stretton. It sits within the Little Stretton Conservation Area.
10. The character and appearance of the Conservation Area generally comprises residential properties which line the roads with a few shops, pubs and other

community uses. Properties generally have large gardens with defined individual curtilages. Although there is some variety in the size, age, design and materials used, many buildings are historic and some have associated rural buildings. Trees, planting and green space add to the area's verdant and rural feel. All in all, the Conservation Area has a spacious, rural, and verdant character and appearance.

11. The proposed dwellings would be located between existing properties and would not extend the envelope of development in the settlement. However, their arrangement set back from the road, behind a shared hardsurfaced area would be out of character in this locality. The proposed houses with their garages and large areas of hardsurface would result in a more urban type of development, than the norm in the locality. Furthermore, the proposed layout, with one dwelling at a slight angle to the other, would fail to relate to other development nearby, which is generally either at right angles to the highway, or fronting onto it, set within a defined curtilage. All in all, for the above reasons the proposed development would fail to preserve or enhance the character or appearance of the Conservation Area and would fail to accord with CS Policies CS6 and CS17, in this regard. Those policies, together aim for new development to be designed to a high quality and respect and enhance local distinctiveness. It would also fail to accord with Policy MD13 of the SAMDev, which, aims to protect Shopshire's heritage assets.

Historic Conservation-Setting of the Listed Buildings

12. The appeal site is located between Linden Lee and Old Hall Farmhouse and its attached barn, which are all listed buildings. Old Hall Farmhouse is an imposing former manor house which sits at right angles to the road facing the appeal site. The attached barn and complex of farm buildings sit to its rear within the farm yard. The farmhouse and its attached barn have an intimate relationship with the farmyard and the farmland around and they generally have an open and rural setting. This setting contributes to their significance.
13. Linden Lea is a smaller house set at right angles to the street. It has a simple form with a gabled roof. It is attached to another property, Rose Cottage, which fronts onto the highway. It has a large garden set to one side and an intimate relationship with the open rural land nearby, which adds to its significance as a heritage asset.
14. For the reasons set out in paragraph 11 of this Decision, even though the proposed development would be located to the rear of the listed buildings identified, it would erode their open rural setting. Although the appellant states that it would not alter views of those same buildings from public vantage points, I take an opposing view. For all these reasons, it would fail to preserve their settings. Furthermore, it would fail to accord with CS Policies CS6, CS17 and SAMDev Policy MD13.

Historic Conservation Balance

15. Paragraph 132 of the Framework states that great weight should be given to the conservation of heritage assets, as they are irreplaceable and any harm should require clear and convincing justification. In this case, I consider that the unacceptable harm identified to both the Conservation Area and the listed buildings would be notable, although in the context of the significance of them, less than substantial. Paragraph 134 of the Framework requires that where the

harm identified would be less than substantial, the harm should be weighed against the public benefits of the proposal. I acknowledge that the appeal proposal would result in additional units of accommodation, for two family members, in a location close to some facilities, services and public transport. It is also suggested that the appeal dwellings are intended to be self-build and that they would provide accommodation for farmworkers involved in a local agricultural business; a matter on which I have already commented. It would provide some employment and support local building suppliers during the construction phase, and the future occupiers would help to maintain existing and future services and facilities in Little Stretton and would contribute to the local economy. They would also provide an uplift in Council Tax revenue but as there is not a clear indication that the Council intends to use the receipts in a way which is material to the development being proposed, the provision of the New Homes Bonus does not weigh in my Decision. It is suggested that the appeal would reduce the need to travel for the proposed occupants who work on at Old Hall Farm. However, no mechanism is before me to ensure that the proposed dwellings would be occupied by those family members. All in all, taken together, these matters would not outweigh the unacceptable harm identified to the setting of Linden Lea, Old Hall Farmhouse and its barn and the Conservation Area generally.

Other Matters

16. The proposal would be located within the AONB. The Council has not raised an objection on these grounds. From the surrounding open countryside, the proposal would be seen against the back drop of existing development. Furthermore, it would be no higher than development nearby and it would not be distinctive in medium or long range views. Therefore, as the proposal would not significantly impact on the surrounding wider rural landscape, I have no reason to take an alternative view to that of the Council. I conclude therefore that the proposal would conserve the landscape and scenic beauty of the AONB.
17. There is dispute between the two main parties on the issue of whether the Council can demonstrate a five year supply of deliverable housing sites and I have an appeal decision before me in which that Inspector concludes that the Council cannot (APP/L3245/W/15/3067596). However, I have identified that unacceptable harm to the Conservation Area and to the setting of the neighbouring listed buildings would result. On that basis alone, even if I were to conclude there is a shortfall in 5 year supply of the nature and scale suggested by the appellant and as a consequence that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the matter of housing land supply would not alter the outcome of this appeal. On this basis, I have no reason to consider it further.
18. Moreover, on the basis of my previous findings, the appeal development would not fall within the definition of sustainable development, as set out throughout the Framework. In these circumstances, the presumption in favour of sustainable development set out in paragraph 14 and 49 of the Framework do not apply. Further, in coming to my Decision, I have had regard to paragraph 47 of the Framework, which aims to boost significantly the supply of housing. Furthermore, I have had regard to a recent High Court Judgment brought to

my attention.¹ Neither alters my views regarding the planning merits of the appeal.

Conclusion

19. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

R. Barrett

INSPECTOR

¹ Wychavon District Council vs Secretary of State for Communities and Local Government and Crown House Developments Ltd [2016] EWHC 592 (Admin) (Case No: CO/4348/2015).

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Appeal Decision

Site visit made on 20 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 28 October 2016

Appeal Ref: APP/L3245/W/16/3154498

Cwm Bydd Farm, Clunton, Craven Arms, Shropshire SY7 0QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Griffiths against the decision of Shropshire Council.
 - The application Ref 15/03024/COU, dated 14 July 2015, was approved on 29 April 2016 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of land for the siting of a holiday caravan.
 - The condition in dispute is No 1 which states that: The holiday accommodation hereby permitted shall be removed from the application site and the land reinstated to its former condition on or before 5 years from the date of this planning permission.
 - The reason given for the condition is: To enable the Local Planning Authority to review the viability of the holiday let venture to ensure that the holiday accommodation is able to both fund itself and supplement the farm income.
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Decision

1. The appeal is allowed and the planning permission Ref 15/03024/COU for the change of use of land for the siting of a holiday caravan at Cwm Bydd Farm, Clunton, Craven Arms, Shropshire SY7 0QH granted on 29 April 2016 by Shropshire Council, is varied by deleting condition No 1.

Application for costs

2. An application for costs was made by Mr & Mrs Griffiths against Shropshire Council. This application is the subject of a separate decision.

Procedural Matter

3. Section 79(1) of The Town and Country Planning Act 1990 as amended (the '1990 Act') makes provision for an appeal made under Section 78(1)(a) thereof, as is the case here, to be allowed, dismissed or any part of the decision of the local planning authority reversed or varied. However the only matter in dispute in this case is condition No 1, and there is nothing before me nor reason apparent from my site visit to arrive at a different conclusion regarding the acceptability of the proposal in other respects.

Background

4. Planning permission was granted in April this year for the change of use of land for the siting of a holiday caravan. Condition 1 of that permission requires the holiday caravan to be removed on or before 5 years from the date of the permission. The reason for the condition stated on the decision notice is to allow the Council to review the viability of the holiday let venture. However, in its appeal statement the Council have stated that as the site is within the

Shropshire Hills Area of Outstanding Natural Beauty (AONB) the temporary nature of the permission required by Condition 1 is also necessary to ensure no lasting harm is imposed on the AONB.

Main Issue

5. Taking into account the above the main issue is whether condition No 1 is necessary and reasonable taking into account the nature of the use, the character and appearance of the AONB and national and local policies.

Reasons

6. The appeal site comprises part of a field adjoining agricultural buildings associated with Cwm Bydd Farm. The farm is located within the open countryside and the AONB approximately 1.2 miles from the settlement of Clunton.
7. Policy CS5 of the Shropshire Core Strategy (the CS) controls new development in the countryside. It states, amongst other things, that small-scale new economic development diversifying the rural economy, including farm diversification schemes will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. It goes on to state that applicants will be required to demonstrate the need and benefit for the development proposed and that development will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity.
8. CS Policy CS16 relates to tourism, cultural and leisure developments and it requires, amongst other things, that proposals for high quality visitor accommodation in rural areas must be of an appropriate scale and character for their surroundings, be close to or within settlements or an established and viable tourism enterprise. CS Policy CS17 relates to environmental networks and it requires, amongst other things, that development protects and enhances the high quality and local character of Shropshire's natural environment. The CS predates the National Planning Policy Framework (the Framework). However, CS Policies CS5, CS16 and CS17 are broadly consistent with the Framework and as such I attach significant weight to these policies.
9. Policy MD11 of the Site Allocations and Management of Development Plan (SAMDev) provides more detail in relation to tourism facilities and visitor accommodation. It states, amongst other things, that tourism development proposals that require a countryside location will be permitted where the proposal complements the character and qualities of the site's immediate surroundings and meets the requirements in Policies CS5 and CS16. It goes on to state that static caravans, chalets and log cabins are recognised as having a greater impact on the countryside.
10. These policies are underpinned by paragraph 28 of the Framework that explains that local development plans should promote the development and diversification of agricultural businesses and support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.
11. The proposal would comprise of siting a caravan for holiday lets adjacent to the farm. The business plan submitted in support of the application states that the need for the proposal is to bring in additional income to the farm following the end of a Higher Level Environmental Stewardship Agreement. Reference is made within that document to an existing low key presence on a website

- providing 'holiday' accommodation for horses. There is no assessment of the viability of the farm or the existing equine related business within the business plan.
12. However, the economic and other benefits of the proposal are outlined in the business plan and planning statement submitted with the original planning application. These benefits include supplementing the income to the farm, the development of the equine 'holiday' stables, utilising locally sourced produce for welcome boxes for visitors, the promotion of local businesses and events via information and leaflets given to visitors and a collection service from local train stations. Consequently, the proposal would comply with CS Policy CS5 in relation to farm diversification.
 13. In relation to CS Policy CS16 the development would be of an appropriate scale and character for its surroundings taking into account that the proposal is for a change of use that would only facilitate 1 caravan, the location adjacent to the agricultural buildings and the proposal to clad the caravan in timber and the proposed landscaping. However, the site is not within a settlement and taking into account the distance to Clunton, the topography and that Redwood Lane is a narrow minor unlit road it cannot reasonably be classed as being close to a settlement. As stated above there is no evidence provided within the business plan that there is an established and viable tourism enterprise at Cwm Bydd Farm. It follows that the proposal does not comply with CS Policy CS16.
 14. The Council consider that due to the conflict with CS Policy CS16 that condition No 1 is required to allow it to re-assess the viability of the holiday let enterprise in 5 years. This is on the basis that the economic benefits of the tourism enterprise have not been sufficiently demonstrated and that those benefits may not offset the harm arising from the unsustainable nature of the location in the future. However, the proposal also has to be considered as a farm diversification scheme and there is no dispute between the parties that the economic and social benefits in support of the farming business provide substantial weight in its favour. Moreover, even if the holiday enterprise is not viable the occupancy of the caravan would be tightly controlled by other conditions on the planning permission.
 15. In relation to the impact of the proposal on the character and appearance of the AONB. I acknowledge that static caravans, given their form and colour, normally white or a light colour can have a negative visual impact on the character and appearance of the area. However, the condition requiring the cladding of the caravan is entirely appropriate and necessary to mitigate the potential impact on this sensitive location in the AONB. The proposal also includes new landscaping which would assist in minimising the impact of the new structure on the character and appearance of the AONB. Taking into account the above and the location of the site adjacent to existing farm buildings and close to an existing tall field hedge, the impact of the proposal would be mitigated by the other conditions on the planning permission and the proposal would comply with CS Policy CS17 and SAMDev Policy MD11. As such condition No 1 is not necessary in this respect.
 16. The Framework contains a presumption in favour of sustainable development. The proposed caravan would constitute accommodation in a rural location with poor access to services and facilities. Future occupiers even on a temporary basis would be reliant on the private car. However, the economic and social benefits associated with the farm diversification proposal provide substantial

weight in its favour outweighing the harm in relation to the unsustainable location. Although there would be conflict with some elements of CS Policy CS16 the proposal would comply with the policies before me considered in the round. Consequently there is no necessity to restrict the development to a specified temporary period.

17. For the reasons set out above, I allow the appeal and delete condition No 1 of planning permission Ref 15/03024/COU.

D. Boffin

INSPECTOR

Costs Decision

Site visit made on 20 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 28 October 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3154498 Cwm Bydd Farm, Clunton, Craven Arms, Shropshire SY7 0QH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Griffiths for a full award of costs against Shropshire Council.
 - The appeal was against the grant subject to conditions of planning permission for the change of use of land for the siting of a holiday caravan.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals should normally meet their own expenses. However, costs may be awarded where a party has behaved unreasonably and that behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority is required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour for both^[1]. The application was made in writing and therefore there is no need to rehearse the detailed points made.
4. The main thrust of the applicants' case is that the Council imposed a condition that is onerous and fails to meet the tests set out within the National Planning Policy Framework and the PPG. The applicants, therefore, incurred unnecessary and wasted expense in pursuing an appeal which should not have been required.
5. The Council accepts that the positive weighting placed upon farm diversification led to planning permission being granted. However, as the proposal is contrary to Policy CS16 of the Shropshire Core Strategy (the CS) the Council considers that Condition No 1 was necessary and reasonable to monitor the progress of the holiday let business to ensure that a business would not be established contrary to the development plan.

^[1] Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

6. The imposition of the condition was one which was a matter of judgment and the Council's Officer Report, statement of case and its associated evidence adequately justify why the Council considered the condition to be necessary and reasonable. Even though in my decision on the appeal I have supported the applicants, I do not consider that the Council's evidence which explained the reasons for the Council's stance was materially deficient in its reasoning.
7. In these circumstances, I consider overall that the Council's actions in imposing the disputed condition do not amount to unreasonable behaviour. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been not been demonstrated.

D. Boffin

INSPECTOR

Appeal Decision

Inquiry held on 2 to 5 August and 4 to 5 October 2016

Site visit made on 4 August 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 10 November 2016

Appeal Ref: APP/L3245/W/15/3137161
Land at Foldgate Lane, Ludlow, Shropshire
(Easting 352500, Northing 274038)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the TCPA) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mike Jones of Richborough Estates against the decision of Shropshire Council.
 - The application Ref 14/04608/OUT, dated 10 October 2014, was refused by notice dated 3 September 2015.
 - The development proposed is described as '*residential development of 137no. units, including demolition of existing agricultural buildings and creation of vehicular access from the A49 Ludlow Bypass*'.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development of 137no. units, including demolition of existing agricultural buildings and creation of vehicular access from the A49 Ludlow Bypass at Land at Foldgate Lane, Ludlow, Shropshire in accordance with the terms of the application, Ref 14/04608/OUT, dated 10 October 2014, subject to the conditions set out in Appendix A of this decision.

Preliminary Matters

2. Prior to the Inquiry, the appellant submitted amended drawings labelled 'Proposed Indicative Masterplan BIR.4452_21' dated 11 May 2016. The principal difference these drawings show is the 'Barn Close' element closest to Foldgate Farmhouse is now omitted. This change was also reflected in amended drawings labelled 'Landscape Masterplan 2060/P13a' dated August 2016.
3. On 17 June 2016, the appellant wrote to a number of public bodies and neighbouring occupiers informing them of the suggested amended plan and asking for any comments to be sent to the Inspectorate. Comments on the drawing BIR.4452_21 were received and have been taken into account.
4. The changes to the outline scheme that the drawings seek are relatively small, interested parties were made aware that amended drawings had been submitted, the drawing has been in the public domain in the months leading up to the Inquiry, and the matter of amended drawings was raised on the first day of the Inquiry. Given all these factors, and in accordance with the

'*Wheatcroft Principles*¹', I am satisfied that there are no significant differences in substance between what was applied for and the amended scheme. Furthermore, interested parties would not be prejudiced by me taking these drawings into account as the scheme for which planning permission is sought.

5. The proposal has been submitted in outline, with only the approval of details for access sought. Nonetheless, a submitted Section 106 legal agreement clearly restricts the development so that the broad layout and landscaping aims sought in these drawings should form the substantial basis for the submission of full details. For the avoidance of doubt, I have proceeded on this basis in considering the appeal scheme.

Main Issues

6. Having taken into account the written evidence before me and what I heard at the Inquiry, the main issues of the appeal are:
 - The effect of the proposed development on the character and appearance of the area, and;
 - Whether the proposed development would preserve the setting of nearby designated heritage assets, and;
 - Whether the Council is able to demonstrate a five year supply of housing land for their area, and;
 - Whether the proposed development would make adequate provision in respect of local infrastructure with specific regard to development plan policies which seek affordable housing and public open space.

Reasons

Character and appearance

7. The appeal site is located to the south of Ludlow, with the northern part of the site abutting the defined development boundary. Through part of the site runs Foldgate Lane which is a single track lane bounded by high hedges and trees along most of its length. This lane also has some openings providing access to fields and properties, such as Foldgate Farmhouse. The appeal site itself essentially comprises two fields on either side of the lane, interspersed with hedges and field gates. The topography of the land is characterised by undulations, which means that some parts are visible from nearby dwellings and public vantage points, whereas other parts are not.
8. There is a Public Right of Way (PROW), at the southern end of the site providing access across a level crossing onto Steventon Road, known as the Ludlow 1 pedestrian level crossing. This crossing has no barriers, and Network Rail has suggested that a condition is used to ensure that this crossing and its associated PROW is diverted prior to occupation of the development. At the current time, views from this PROW into and across the southern section of the appeal site are possible.
9. Along the eastern edge of the site is the A49, which is a main trunk road carrying traffic from Shrewsbury to the north and Hereford to the south. The

¹ Core Document F01 - Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1982) 43 P. C.R. 233

- boundary along the road is formed by mature trees, with the road elevated above the ground level of the site nearest to the proposed access. The line of mature trees effectively screen most of the site from the A49, and this is not a dissimilar relationship to that found along the industrial site by Parys Road, when viewed from the A49. To the west is the main railway line, with the Steventon Conservation Area beyond and also some sporadic housing sites.
10. The proposal would result in the construction of up to 137 dwellings, with roughly 64% of the appeal site (exceeding 11 hectares) provided as various forms of Public Open Space (including an orchard and a Locally Equipped Area for Play (LEAP), for example). The appellant has submitted a Landscaping Masterplan, which forms part of the S106 agreement and suggested conditions. In this respect, were the appeal allowed, it would be expected that this drawing formed a significant part of the landscaping for the appeal site. In this respect, the landscaping masterplan seeks to retain areas of topography and trees/hedges within the illustrative layout. Although it is clear that some trees would need to be removed in order to facilitate the proposed access onto the A49. But such removal is limited in scope and scale relative to the wider appeal site.
 11. The site does not benefit from any specific local or national landscape designations. In this respect, the Council are of the view that the landscape is not one that should be considered as 'valued' in the terms set out in Paragraph 109 of the Framework. At the Inquiry, Mr Lynch (for the LPA) confirmed that the Council's reason for refusal could have been better expressed in that their main concern related to character and appearance rather than landscaping separately. Indeed, the Council's concerns principally related to the fact that the proposal would encroach into the open countryside to its detriment, and to the detriment of the setting of Ludlow.
 12. The Landscape Visual Impact Assessment (LVIA) identifies that there would be some harm in terms of adverse visual effects. I heard from Mr Berry (for the appellant) that these effects could be mitigated through the use of suitably worded conditions that would ensure screening of certain areas so as to reduce their visual impact. The Council agreed that landscaping would reduce adverse effects to a localised level. What is more, it appears clear from the indicative layout of the scheme, which has taken into account local topography, and the large areas of land for public open spaces, that in practice the proposal would appear as a spacious, verdant and fairly low density development. This contrast can be seen from a comparison with the housing on Greenacres to the north of the appeal site, where open space is principally restrained to the private gardens to the front and rear of dwellings. Nonetheless, the proposal would result in some limited and localised landscape harm.
 13. In terms of character and appearance, the proposal would result in some change, principally from open agricultural fields to a planned housing development. However, views into the site are, in the main, contained by the fact that to the east and south is the A49, with glimpses through trees into the site, to the west is the railway line that effectively borders this side of the site, with the boundary to the north facing onto Foldgate Lane and then further onto the rear gardens of the more densely laid out Greenacres development. I heard that whilst there are views of Ludlow, its surrounds and the appeal site from places such as Mortimer Forest to the west, such views are seen within

the context of the wider landscape and there are no clear vistas of the whole site from close up.

14. The combination of these factors means in practice that whilst there would be some harm to the local landscape, this harm would be very localised, with the site not within a 'valued' landscape, and in itself fairly well contained in the wider landscape. Furthermore, the proposed landscape masterplan would help integrate the areas of public open space with both the development, and the area more generally. As a consequence, when all of these factors are taken into account, I find that the identified harm can be mitigated to an extent that it weighs no more than a minimal level against the proposed development. What is more, any such impact would not result in significant adverse impacts to the character or appearance of the area or the general setting of Ludlow.
15. I acknowledge that there would be minimal conflict with Policies MD7a and MD12 of the SAMDev, insofar as they seek to ensure that developments which are likely to have significant adverse effect on landscape character will only be permitted if they meet certain criteria. Notwithstanding, the fact that I have not found a significant adverse impact on landscape, nor has the Council submitted evidence that explicitly suggests this degree of harm, I find that the use of mitigation in this case provides a practical and realistic way in which the small amount of harm identified could be addressed.
16. I therefore conclude that the proposal development would accord with Policies CS1, CS3, CS5, CS6 and CS17 of the *Shropshire Core Strategy*, adopted March 2011 (CS) and Policies MD1, MD2, MD3, MD7a and MD12 of the *Site Allocations and Management of Development Plan*, adopted December 2015 (SAMDev) (insofar as they apply to character and appearance), which amongst other aims seek to ensure that development should be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness.

Heritage assets

17. The Council did not refuse permission on the basis that the proposal would fail to preserve the setting of nearby listed buildings. The Statement of Common Ground agreed that *'there are no heritage issues which would prevent development from being brought forward on this site'*². Nonetheless, there is a statutory duty placed upon a decision-maker under *The Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, (PLBCA) to, among other matters, consider the impact of a development on the setting of listed buildings. Concerns have also been raised by interested parties in this respect.
18. Both Foldgate Farmhouse and Foldgate Barn are Grade II listed buildings. Whilst located outside of the appeal site, they are surrounded by it. The listing description for both details their external and internal features, with the Farmhouse dating from circa 17th Century and the barn from the same period albeit with later 19th Century alterations. I saw during my site inspection that neither building is used for agricultural purposes anymore, with the Farmhouse occupied as a residential dwelling and the barn partially converted as holiday accommodation, together with a small meeting hall. The main parties agree that the proposal would not affect the fabric of the listed buildings, and I see no reason to disagree.

² SOCG, Paragraph 5.2

19. The significance of the listed buildings, in terms of their setting, mainly derives from their associative and historic illustrative use in terms of farming parts of the surrounding land, as evidenced by the tithe maps³. However, the change from its former agricultural use to holiday accommodation and residential dwelling has altered the character of the immediate setting of the listed buildings from this former agricultural use. Added to this, since the 1840s the surrounding area has changed dramatically, with the main railway line to the west, the A49 to the east and the encroachment of the built up form of Ludlow to the north of the site all changing the immediate context of the listed buildings from a predominantly rural one in the 1840s, to the edge of settlement context it now comprises. In this changing context to the listed buildings, the setting is restricted to the immediate area surrounding them rather than the wider area, the significance of which derives in part from its rural appearance.
20. The main parties consider that the proposal would result in harm to the setting of the listed building; although this would amount to no more than 'less than substantial harm' as set out in Paragraphs 131 to 134 of the Framework. This is primarily due to loss of farm land which the main parties consider has some historical value.
21. However, as I have considered above, the setting of the listed buildings is the immediate area surrounding the listed buildings, which would be retained. For example the removal of the 'faux-barn style' element at Barn Close shown on earlier submitted drawings would provide space between the existing and proposed built form. In practice, there would also be large areas of open land around the site containing Foldgate Farmhouse and Barn; for example Foldgate Green and Newtown Community Green as shown on drawing BIR.4453_21. I acknowledge that the use of these areas is unlikely to be pastoral land in the way that they are currently used. Nonetheless, they would retain the overall spacious and open nature of this part of the site, and the overall topography of the land so that the objective observer would be able to appreciate the listed buildings within a distinctly rural and open setting. In this respect, the setting of the listed buildings would be preserved.
22. Contrary to the positions of the main parties, I heard from one interested party that, in their view, the harm to the setting of the listed building would be 'substantial'⁴ as set out in Paragraphs 132 and 133 of the Framework. However, case law⁵ is clear in that to result in a 'substantial' level of harm it would need to have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced. The proposal here would clearly not result in this degree of harm as suggested by this interested party, for the reasons aforesaid; whether directly or indirectly.
23. The appellant has suggested that the degree of harm would be 'less than substantial' and towards the lower end of that scale. The Framework does not provide a scale beyond the three possible levels of 'substantial', 'less than substantial', or neutral impact/no harm. However, whilst the proposal would lead to some change in the local character, it would retain large areas of open space, and it would be possible for visitors to the listed buildings to see that they existed, and continue to exist, within an open rural edge of town location

³ Proof of Evidence of Heritage June 2016, Mrs Stoten - Appendix 4

⁴ Oral evidence of Mr Joyce and see also IP13, 'In summary' paragraph

⁵ Core document F04 - EWHC 2847 [2013], R DCLG and Nuon UK Ltd v. Bedford Borough Council

with wide tracts of open land continuing to separate them from any contiguous built form. In this respect, I do not find that a change in the context of a listed building equates to any harm to its setting. Consequently, I do not agree with the main parties that the proposal would result in 'less than substantial harm' to the significance of the listed buildings or their setting. Indeed, I find that the proposal would result in no harm to the setting of the listed buildings.

24. In terms of the Steventon Conservation Area, this is located to the west of the main rail line, with none of the appeal site located within it. Its significance derives, in part, from its character as a ribbon development located along the historic main road into Ludlow from the south; a function which I understand changed when the A49 by-pass was built. As such, the importance of this conservation area derives from its linear form and its separation from the appeal site by the railway line aids in the distinction between the conservation area and the appeal site. As such, I do not find that the proposal would have an adverse impact on the character or appearance of the conservation area, nor would it fail to preserve the setting of the conservation area.
25. I therefore conclude, paying special regard to the desirability of preserving the setting of listed buildings, as set out in Section 66(1) of the PLBCA⁶ that the proposed development would preserve the settings of the listed buildings and that of Steventon Conservation Area. The proposal would therefore accord with Policies CS6 and CS17 of the CS and Policies MD2 and MD13 of the SAMDev, which amongst other aims seek to protect, conserve, sympathetically enhance and restore Shropshire's heritage assets by ensuring that wherever possible, proposals avoid harm or loss of significance to designated heritage assets including their settings.
26. It would also accord with those of the Framework, which include conserving heritage assets in a manner appropriate to their significance and taking account of the desirability of new development making a positive contribution to local character and distinctiveness.

Five year housing land (OAN/Housing sites)

27. The appellant has pointed me to Paragraph 47 of the Framework which, put simply, indicates that to boost significantly the supply of housing, LPAs should use their evidence base to ensure that their Local Plan meets the full objectively assessed needs (FOAN) for market and affordable housing in the area. To summarise the appellant's case on this point, they consider that the Council is not able to demonstrate a FOAN, and have submitted evidence to support this stance. The Council published a *Full Objectively Assessed Housing Need Report* on 4 July 2016.⁷
28. I heard various arguments put forward by both Mr Corden (for the LPA) and Mr Usher (for the appellant) in terms of the variety of factors to be considered when working out an OAN, such as the issue of suppressed households and whether it is better to use one 'forecasting house' or an average of three, for example. However, the aim of the evidence of Mr Usher was to question the

⁶ 'in considering whether to grant planning permission for development which affects a listed building or its setting...the Secretary of State shall have special regard to the desirability of preserving the building or its setting.' The Inspector acts 'in the shoes' of the Secretary of State in exercising this special regard as their appointed person.

⁷ Appendix 3, Daniel Corden's Proof of Evidence

LPA's OAN figures so as to make the case that the requirement figure, set out in Policy CS1 of the CS to deliver around 27,500 dwellings, redundant.

29. However, this appeal is not a local plan examination, and it is not my role to set a specific housing requirement figure. I have been directed to the judgement in the case of *Hunston v SS CLG [2013] EWCA Civ 1610*⁸ where, put simply, the courts found that the Inspector had erred by failing to identify the full objectively assessed needs for housing in the area⁹. However, the circumstances in that case, where there was no definitive housing delivery requirement in any relevant plan with an absence of a local plan figure¹⁰, are very different to that before me, where the LPA does have a housing requirement figure set out in its adopted CS and has recently adopted the SAMDev in December 2015; both of which form the development plan for the area. Therefore, it is not for me to necessarily come to a specific figure in this case. Indeed, whilst the requirement and arguments on the view that this needs replacing on the basis of the OAN are noted, I am not in a position to set a new requirement and the evidence in this case does not lead to a single clear conclusion.
30. In such circumstances, the OAN that underpins the housing requirement figure within the adopted CS, and for which the SAMDev uses to identify housing sites within the local authority area is, in this case, a pragmatic and methodically tested one. Given this, I have considered that the OAN that underpins the adopted housing requirement figure is the one which should be used in this instance and therefore the housing supply requirement should be considered against this; as the main parties have primarily done in their evidence.
31. In terms of housing supply, following the revision of figures after the LPA published its *Five year housing land supply statement*¹¹, both parties worked towards identifying sites where disputes remained¹² and providing an overall figure¹³. In terms of delivery against the requirement set out in Policy CS1, the Council's original figures demonstrated a 5.89 years of supply, whereas the appellant's indicated a supply of 4.82 years¹⁴.
32. After hearing the evidence of Mr Corden, and during cross-examination, Mr Jeremiah (for the appellant) conceded that he had essentially miscalculated the windfall allowance element. Instead of the 100 units windfall allowance given in the 'Current Hourigan Connolly Position (29/09/2016)' column of the Revised Summary Table, the figure should instead be 538. As a result, the appellant's position changes in that they consider 10,796 units could be delivered against a requirement of 10,738. Accordingly, Mr Jeremiah accepted that, based upon this assumption, the Council is able to demonstrate a five year supply of deliverable housing in this case.
33. The *Report on the examination into Site Allocations and Management of Development (SAMDev) Plan*¹⁵ dated 30 October 2015, clearly explains that 'A significant proportion (some 35%) of the remaining housing requirement is expected to come forward through windfalls... reliance on windfalls to achieve

⁸ Core Document F05 – [2013] EWCA 1610

⁹ Ibid, Paragraph 17

¹⁰ Ibid, Paragraphs 12 and 32

¹¹ LPA20, Shropshire Council – Five year housing land supply statement

¹² APP13, List of disputed sites

¹³ APP19, Revised summary table – Housing Land Supply

¹⁴ Ibid.

¹⁵ D05

*housing requirements does not provide the same level of certainty...however historically windfall development has been a major component of housing land supply in Shropshire.*¹⁶ In this respect, whilst the windfall contribution to housing supply in Shropshire in this case may appear somewhat high, they appear to be reflective of the local circumstances in practice, and I do not doubt that they are a reasonable stance to take into account here.

34. I note the points made by the appellant in respect of what they consider to be the optimism of the Council in delivery and the potential 'talking-up' of delivery by developers so as to suppress the need for other sites. At the same time, there is a risk that the appellant was 'talking down' delivery of other sites. Mr Jeremiah pointed to factors such as certain sites not having developers with track records of delivery – which the Guidance suggests is a factor to consider. When questioned, Mr Jeremiah applied his estimates of lead times and build rates to this proposal, he suggested that were permission granted by the end of 2016, the erection of dwellings could be started by 2019. Yet, he also conceded that there was no cogent evidence before me that Richborough Estates Ltd themselves have a track record of delivery, and themselves are not a developer or house building company.
35. My attention was also drawn to the fact that a site for 77 dwellings at Flax Mill, may not come forward as planned owing to how a heritage lottery funding scheme may, or may not, proceed. However, despite the efforts of both parties, detailed evidence on this has not been put before me. It does not in any case alter my considerations of the five year housing land supply matter.
36. I acknowledge that the Council's demonstration of a five year supply of deliverable housing sites is on the basis that all of these sites will be delivered on time. The Council has an in-built 10% non-delivery rate deduction which provides some practical flexibility within the figures and there is clear historic evidence that windfall deliveries make an important contribution to housing supply in Shropshire. I am therefore satisfied, on the basis of the evidence before me, that the five year supply sought is demonstrated, and accordingly Paragraph 49 of the Framework is not engaged in this case.
37. In terms of affordable housing, the main parties broadly agree that the delivery of this type of housing is about 2,000 units behind trajectory, with only 2,000 built out of the 9,000 envisaged between 2006-2026, as set out in Policy CS1 of the CS. Policy CS1 goes on to set out that outside of settlements development will primarily be to meet the needs of the local communities for affordable housing. Mr Lynch confirmed at the Inquiry that there is large demand for affordable housing and it is a key issue locally; especially with the prevalence of low wages within the rural area. He also confirmed that there is a pressing need for affordable housing and this could be capable of outweighing any policy conflicts. Mr Lynch also indicated that in his view, the weight accorded to the 14 additional affordable dwellings (that is above the 20 required by policy) weighs heavily in its favour.
38. My attention was drawn to *Crane v SoS and Harborough [2015] EWHC 425 Admin* in that *'The decision-maker is left to judge, in the particular circumstances of the case before him, how much weight should be given to conflict with a plan whose policies for the supply of housing are out of date.*

¹⁶ Ibid., Paragraphs 44 and 45

*This is not a matter of law; it is a matter of planning judgment.*¹⁷ In this case, as established previously, the policies for the supply of housing are not out of date. However, the point remains that the weight ascribed to any affordable housing shortfall should be informed by the extent of the shortfall against policy and then calibrated against the provision the proposal seeks.

39. In this case, the appellant has submitted a legal agreement (which I consider in greater detail below) which would secure about 25%, equating to around 34 dwellings, as affordable housing. Policy CS11 of the CS, as supported by the *Type and Availability of Housing SPD*, seeks to secure at least 15% affordable housing from developments of this type¹⁸. The proposal would therefore exceed the policy by 10%, providing what is effectively an over-provision of affordable housing. This is an over-provision of much needed affordable housing in an area that has a historic under-supply of such accommodation, and where there is a pressing and real need here and now. As such, the provision of roughly 25% of the total or about 34 dwellings as affordable housing is a significant benefit in favour of the proposal.
40. What is more, whilst the LPA is able to demonstrate a deliverable five year supply of housing sites based upon its requirement set out in Policy CS1, this is not a limit: there is an acute housing shortage in England. It is recognised in national planning policy that the government anticipates a significant boost in the supply of housing. In this respect, the provision of any extra housing to this national shortfall is a benefit in favour of the proposal, including both market and affordable housing.
41. I therefore conclude that the proposed development would accord with Policies CS1 and CS3 of the CS and Policies MD1, MD3 and MD7a of the SAMDev, which, amongst other aims seek to ensure the delivery of around 27,500 homes, of which 9,000 will be affordable housing and that Ludlow will provide a focus for development, whilst respecting its historic character, in southern Shropshire. It would also comply with the Policies of the Framework, which include that planning should proactively drive and support sustainable economic development to deliver the homes that the country needs.

Local Infrastructure

42. The appellant has submitted a Section 106 Agreement (S106) that is signed and dated, between the landowners, appellant, the local planning authority and the mortgagee. Put simply, the S106 provides for 25%¹⁹ of the total number of dwellings to be affordable housing and for the provision of public open space including Local Equipped Area of Play (LEAP) and the maintenance and transfer to a management company in the future of such land. The matters set out in the S106 are detailed within a '*Justification for Planning Obligations*'²⁰ paper submitted and discussed at the Inquiry.
43. Policy CS11 of the CS, as supported by the *Type and Availability of Housing SPD*, seeks to secure at least 15% affordable housing from developments of this type. Policy CS1 of the CS identifies that over the entire plan period of 2006-2026, 9,000 of the 'around 27,500 new homes' will be affordable

¹⁷ Core Document F12, [2015] EWHC 425 Admin

¹⁸ LPA1, Justification paper for planning obligations

¹⁹ The precise percentage may change as it would be rounded down to the nearest whole dwelling (LPA12, Second Schedule, Paragraph 1.3)

²⁰ LPA1, Justification paper for planning obligations

housing. The provision of 25% of the units would therefore represent an exceedance of what the affordable housing policy seeks.

44. In terms of public open space, Policies CS6 and CS17 of the CS and Policy MD2 of the SAMDev, broadly support the enhancement of Shropshire's natural environment and the provision of quality open space. The *Open Space Interim Planning Guidance 2012* seeks a provision of 3 hectares per 1000 population. With the provision of around 11 hectare of open space for a development of 137 dwellings, the proposal is likely to exceed this guidance. In terms of LEAP, I understand that this is not included in the Council's Reg. 123 list for 2015/16. The Justification paper also confirms that the Council is not aware of any other contributions towards play area equipment in the Ludlow area.
45. Paragraph 204 of the Framework and CIL Regulation 122(2) set out the three tests for seeking planning obligations: that they must be '*necessary to make the development acceptable in planning terms, directly relate to the development, and fairly and reasonably related in scale and kind to the development.*' All the obligations in this case are necessary, directly related, and fairly and reasonably related to the development. Therefore, they meet all the tests within the CIL Regulations 122 and 123, and should be taken into account in the decision. What is more, the provision of both affordable housing and public open space levels in excess of local guidance are public benefits which weigh in favour of the grant of permission.

Other Matters

46. A number of matters were raised by interested both before and during the Inquiry. I now consider these before coming to an overall conclusion.
47. In terms of the proposed 'T-junction' with the A49, I heard concerns raised about how this would operate with regard to highway safety. The A49 is the main trunk road west of the M5 and M6 motorways and there have been some accidents and collisions along this road²¹. However, it is not clear how many accidents there have or have not been on the specific stretch of road relevant to the appeal site. What is more, the graph provided in Figure 2/2 on page 21 of the Transport Assessment²² shows that the provision of other junction solutions, such as a roundabout (or other type), would be an unnecessary overdesigned solution. I am reinforced in this view by the lack of formal objection to the scheme by Highways England and the local highways authority (subject to conditions). Concerns over the proposed highway junction with the A49 do not therefore justify the refusal of permission in this case.
48. I also heard concerns raised in respect of Foldgate Lane being partially closed by bollards in order to direct traffic arising from the development to the proposed access. Given the number of dwellings proposed and that only some of these would be located to the north of Foldgate Lane, the reality is that traffic crossing Foldgate Lane is likely to be infrequent and not to an extent that would result in a severe cumulative impact on existing and future residents. I also have no cogent evidence before me that access for emergency vehicles is not feasible or practical, and it is likely that such use would be very limited in duration and usage.

²¹ IP2, Statement of Mr Bernard H North

²² Core Document A08 – Land at Foldgate Lane, Ludlow Transport Assessment by David Tucker Associates
13 October 2014

49. I note concerns raised in terms of the development's location and links to the wider public transport network, including bus and railway networks. Given the edge of settlement location of the site and the various ways in which it can be integrated in terms of pedestrian and cycle links, I do not find that it would be isolated in respect of links to the wider public transport network.
50. There is a level crossing to the southern end of the site, providing access along a PROW to and from the Steventon Road through parts of the site. I saw that this takes the form of yellow coloured ground level platforms, accessed by stiles in boundary fences, but with no other barriers. Comments have been received from Network Rail, who have indicated that if a condition or obligation is imposed/agreed in which the appellant formally closed the PROW and level crossing (through a diversion under the provisions of Section 257 of the TCPA, for example) prior to occupation of the proposed development, they would not object to this development. At the Inquiry, a suggested condition to this effect was discussed and the main parties agreed that it would be appropriate. With no evidence to the contrary, I see no reason to disagree that such a condition would not be effective or meet the tests set out in Paragraph 206 of the Framework in this case.
51. In terms of Sustainable Urban Drainage Systems (SUDs) and local features such as culverts and swales, it is clear from photos²³ that in the past there have been some very limited localised flooding issues. With an absence of full details and analysis of these incidents, I cannot be certain whether these are a direct result of water run-off from the appeal site.
52. The appellant has submitted a *Pre-Inquiry Statement of Case - Flood Risk & Drainage* undertaken by BWB Consulting Limited.²⁴ Put simply, this identifies that there are no outstanding technical objections with respect to flood risk and drainage, and the mitigation measures are considered acceptable, robust and would satisfactorily account for the low residual flood risk to the development site in the event of localised blockages of the ditch network and accounting for climate change²⁵. With no evidence to the contrary, and with the ability to control such measures through planning conditions or other regulatory regimes, I see no reason to disagree with the conclusions of this report; even when taking into account the concerns raised by interested parties.
53. I heard concerns over sewerage capacity and that this is limited within the local area. However, no objection from the local sewerage body, Severn Trent Water, has been received in respect of the proposed development raising specific concerns. In such circumstances, there is no firm basis for me to conclude that the proposal would result in an unacceptable impact on the local sewerage network in terms of capacity.
54. I note the concerns raised in respect of the potential impact on livelihood of the occupiers of the retreat activities taking place at Foldgate Farm. I also note the important contribution that tourism makes to local economic activity more generally. However, there is no cogent evidence before me that demonstrates that the erection of 137 dwellings would, either directly or indirectly, lead to a materially harmful impact on the economic vitality of the local tourist industry.

²³ IP10

²⁴ Appendix 2, Pre-Inquiry Statement of Case – Flood Risk & Drainage, John Acres Proof of Evidence

²⁵ Ibid. Page 12 of 15

55. In respect of noise and disturbance during the construction phase, the duration of any works is likely to be limited. Moreover, any adverse effects could be mitigated through the use of appropriately worded conditions. In terms of noise and light pollution, whilst I appreciate the changed use of the site would increase such factors, I have not been provided with any detailed evidence that either factor would be to a materially harmful level. What is more, factors such as light pollution could be partially mitigated through the use of suitably worded conditions.
56. Concerns raised in respect of hedgerow protection under the 1997 Act, the protection afforded to Tree Preservation Order (TPO) trees and trees more generally under Section 197 of the TCPA are noted. However, these are matters which can be mitigated and protected through the use of conditions, and when considered with the enhancements proposed by the appellant, would mean that the proposal would not result in material harm to the local tree or hedgerow populations.
57. Parts of the appeal site comprise Grade 2 agricultural land, which is amongst the 'best and most versatile agricultural land' category (BMVAL). Paragraph 112 of the Framework indicates that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. I was not directed to any specific development plan policy that dealt with such matters. Furthermore, I have not been provided with any detailed evidence that the LPA has undertaken such an assessment in this case, nor where land of lesser quality exists within the LPA area. Indeed, I heard at the Inquiry that the main parties do not consider that the proposal would result in a significant development of agricultural land and that large areas of Shropshire benefit from high grading of agricultural land.
58. The proposal would see the development of around 36% or about 6 hectares developed out of a total 17 hectares, with the rest of the site used for public open space which, in itself, does not preclude the BMVAL from being used for agricultural purposes, such as the proposed orchard or supporting local biodiversity through the use of flower meadows for example. Nonetheless, there would still be a loss of BMVAL, albeit this would be a very small amount in the wider context of such land within Shropshire. This would loss would result in a limited degree of harm.
59. Interested parties raised the matter of the Human Rights Act 1998, and in particular referred me to Article 1 (Protection of property) and Article 8 (Right to respect for private and family life). I have considered the Act as a whole insofar as it is pertinent to the appeal and relates to all parties. At the Inquiry I sought the views of the advocates of the main parties, who had no specific observations. Given my careful consideration of the issues and matters raised in this decision, I am content that the proposal does not result in a conflict with the aims or Articles of the Human Rights Act 1998, in this case.
60. Policy MD3 of the SAMDev indicates that planning permission will be granted for sustainable housing developments having regard to the Local Plan. Paragraph 14 of the Framework sets out the 'presumption in favour of sustainable development' and what this means in planning terms. The Framework sets out at Paragraphs 7 and 8 that sustainable development

comprises three mutually dependent roles; economic, social and environmental.

61. In this case, the evidence indicates that the proposal would fulfil the economic role through the provision of factors such as jobs during construction and infrastructure in the form of CIL receipts. It would fulfil the social role through factors such as the provision of much needed housing for the needs of present and future generations including the desperately needed (in Shropshire) affordable housing units above policy requirements, and the close proximity of accessible local services in Ludlow. It would fulfil the environmental role through the provision of large areas of landscaped public open space, the creation of an orchard and recreational routes through the site and improving biodiversity for bats, birds and other creatures. There would be some limited localised landscape harm, but this could be mitigated.

Conditions

62. Prior and at the Inquiry, a list of suggested conditions was submitted by the Council²⁶. During the conditions session, the suggested conditions were discussed without prejudice to the cases presented by any and all parties. These led to a revised suggested schedule of 28 conditions, together with reasons for their imposition, agreed by the main parties²⁷. I have considered these latter conditions in the context of Paragraph 206 of the Framework and the Planning Practice Guidance in terms of the use of planning conditions. Where appropriate, I have reworded the conditions to those listed in Appendix A.
63. The submission of the reserved matters relating to appearance, landscaping, layout and scale and time limits for their submission and the start of development, the phasing of no more than 137 dwellings, and that the development be carried out broadly in accordance with drawings BIR.4452_21 and 2060/P13A, are necessary for the avoidance of doubt.
64. The submission of details relating to a Construction Management Plan, geotechnical assessment for earthworks, a Non Motorist User Audit, and the completion of access works shown on drawing 13177-06 Revision D are necessary and reasonable to ensure that the site can adequately and safely access both on and off the A49. Furthermore, the restriction of the use of Foldgate Lane by motorised vehicles, other than emergency vehicles, to access the dwellings is reasonable to ensure that the primary vehicular access is from the A49. For similar reasons, the Travel Plan Measures should be implemented to ensure that residents utilise sustainable transport modes.
65. The submission of a construction method statement is reasonable in order to ensure the proposal does not lead to unnecessary noise or disturbance for local residents, and where such matters arise, this is limited. A condition requiring certain soundproofing measures to be incorporated into the design of the proposed dwellings and their boundaries are necessary to ensure that the noise from road or rail traffic is adequately mitigated.
66. Conditions relating to drainage including the disposal and storage of surface water, and also of foul water, and their interaction with the public sewerage network, are reasonable in order to reduce the risk of flooding and pollution

²⁶ LPA5

²⁷ LPA9

within the local environment. The submission of a programme of archaeological work is necessary and reasonable as the site, or parts thereof, are known to hold archaeological interest and such a condition would allow their recording.

67. Conditions relating to trees, including root protection areas, a tree protection plan and that these are put in place before any work commences, and for the provision of all new tree planting (including details of species, size and so on), are necessary and reasonable in order to safeguard existing trees on site. A condition requiring the provision of an Environmental Management plan is reasonable in this case in order to ensure that any features of nature conservation interest are protected during construction work.
68. Conditions requiring the submission of a habitat management plan, a lighting design strategy for biodiversity, the location and design of at least 20 bat boxes and 20 bird boxes and precautionary method of working for Great Crested Newts in accordance with the Ecological Impact Assessment dated October 2014 are necessary and reasonable in order to protect any existing or potential protected species and to promote local diversity.
69. Lastly, a condition requiring the PROW across the railway line to be formally diverted before occupation of any dwellings is both necessary and reasonable. Such a condition would be in the interest of public safety (for both pedestrians and railway users) by ensuring that future occupiers close to the unmanned level crossing use other routes for crossing the main railway line that do not involve climbing over stiles and then traversing a platform without any safety barriers.

Overall Planning Balance and Conclusion

70. The proposal would result in a small conflict with elements of Policies MD7a and MD12 of the SAMDev, in terms of the minimal harm arising from the impact on the local landscape. This harm could be mitigated, and would be extremely localised in nature. Whilst the proposal would breach part of the policies of the development plan, the adopted development plan for the area should be taken as a whole and conflict with one or more policies does not mean that the proposed development does not comply with the plan in its entirety.
71. Set against this limited harm, which could be mitigated, and also the limited harm arising from the small loss of BMVAL, are a number of benefits including the provision of 137 homes, of which about 34 (25%) would be affordable housing, and the large areas of landscaped public open space which weigh significantly in favour of the proposal. There would also be modest benefits in the form of the creation of direct and indirect jobs of roughly 106 Full Time Equivalent (FTE), construction productivity of around £5.5 towards the economy of Shropshire, the provision of infrastructure in the form of CIL receipt of about £580,000, the new homes bonus and council tax payments, an increase in Ludlow's population by around 315 people which could help sustain services within the wider locality, local labour force expansion including higher skilled occupations, and the accessible location of the development on the edge of an existing settlement²⁸ which is identified as a focus for development within the CS.

²⁸ See Paragraph 7.20, Proof of Evidence Mark Lynch

72. When the small degree of harm to a local landscape is set against the overall thrust of the policies of the adopted development plan and the Framework, it is clear that the proposal would represent a sustainable development for which a presumption applies. Accordingly, I find that the proposal would accord with the development plan and there are no material considerations that indicate that the proposal should not be approved.
73. For the reasons given above, and having taken into account all matters raised, including those by both the main and interested parties, I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant of Counsel

Instructed by the Solicitor to the Council

He called:

Edward West, BA(Hons), MCD, MRTPI

Mark Lynch BSC, PGDipTP, PGCMS, MRTPI

Daniel Corden, BSc(Hons), MSc, MPLAN, MRTPI

Principal Policy Specialist
Planning Consultant

Senior Policy Officer (Planning Policy)

FOR THE APPELLANT:

Christopher Young, Barrister

Instructed by Mr John Acres

He called:

James Stacey, BA (Hons), DipTP, MRTPI

Jon Berry, BA(Hons), DipLA, CMLI, AIEEMA,
M.Arbour.A

Gail Stoten, BA(Hons), MCiFA, FSA

Dan Usher, BA(Hons), MA, MRTPI, MIED

Tom Jeremiah, MPLAN (Hons) MRTPI

John Acres, MSC, DipTP, MRTPI

Affordable housing
LVIA

Heritage
Housing need
5 year housing land supply
Planning balance

INTERESTED PERSONS:

Town Councillor Ginger

Mr Maddicott

Mr Spall, MRTPI

Parish Councillor Ms North

Mr Joyce

Councillor Boddington

Councillor Mrs Parry

Mr North

Mr Woodcock

Mr Treasure

Mr Currant

Mr Woodbridge

Ludlow Town Council

Local Resident

Interested person

Chairman Ludford Parish Council

Interested person (Conservation Architect)

Ward Member Ludlow North (Shropshire Council)

Ward Member Ludlow South (Shropshire Council)

Local Resident (Chartered Engineer)

Local Resident (Retired Engineer)

Conservation Building Contractors located in
Ludlow

Local Resident, though acting as voice for local
community in this case

Local Resident, though acting as voice for local
community in this case

DOCUMENTS SUBMITTED AT THE INQUIRY:

By the Local Planning Authority

| Document Reference: | Title |
|----------------------------|---|
| LPA1 | Justification paper for Planning Obligations |
| LPA2 | Opening on behalf of the LPA by G.A. Grant of Kings Chambers, Manchester-Leeds-Birmingham |
| LPA3 | Ludford Parish Map |
| LPA4 | Ludlow Conservation Area (showing Ludlow, Steventon and Victorian Conservation Areas) |
| LPA5 | Suggested schedule of conditions |
| LPA6 | Revised Table of contested supply sites (positions as at 3 August 2016) |
| LPA7 | Small sites with Planning Permission |
| LPA8 | Email from Anne Gerzon Solicitor Shropshire Council, to Mark Lynch dated 4 August 2016 relating to S106 |
| LPA9 | Suggested schedule of conditions (revised and with Reasons) |
| LPA10 | CV of Greg Ball (See Appendix K LPA's FOAN Report July 2016) |
| LPA11 | Email from Anne Gerzon Solicitor Shropshire Council, to Mark Lynch dated 5 August 2016 relating to S106 |
| LPA12 | Section 106 Agreement, Dated 8 August 2016: Received 12 August 2016 |
| LPA13 | Judgement of <i>St Modwen Developments Ltd v SoS CLG</i> , Neutral Citation number: [2016] EWHC 968 (Admin) |
| LPA14 | Appeal decision Ref: 3146986; Land to the north of Pulley Lane, Shropshire, dated 2 September 2016 |
| LPA15 | Appeal decision Ref: 3145470; Land at Shrewsbury Road, Shropshire, dated 19 September 2016 |
| LPA16 | Appeal decision Ref: 3146165; Woodlane Farm, Shropshire, dated 19 September 2016 |
| LPA17 | Appeal decision Ref: 3131686; Crawfortan, Shropshire, dated 21 September 2016 |
| LPA18 | Outline of Closing Submissions on behalf of the LPA, by G.A. Grant of Kings Chambers, Manchester-Leeds-Birmingham, dated 5 October 2016 |
| LPA19 | Email from Mr West (Shropshire Council) clarifying APP24 dated 6 October 2016 |

LPA20 Shropshire Council - *Five Year Housing Land Supply Statement* data to 31 March 2016, published 26 August 2016

By the Appellant

Document Reference:

Title

| | |
|-------|--|
| APP1 | Photos taken by Mrs Stoten of Foldgate Farmhouse and surrounds |
| APP2 | Letters and leaflet from Mr Maddicott entitled ' <i>Proposed housing development on Land around Foldgate Lane between Greenacres, Steventon and the A49</i> ' |
| APP3 | Opening statement on behalf of Richborough Estates Limited by Christopher Young of No5 Chambers, Birmingham-Bristol-East Midlands-London |
| APP4 | Site visit Itinerary (Agreed between main parties) |
| APP5 | Schedule of Plans August 2016 |
| APP6 | Landscape Masterplan 2060/P13a August 2016 |
| APP7 | Section 106 agreement (Unsigned) |
| APP8 | Judgement of <i>West Berkshire District Council v SoS for CLG and HDD Burghfield Common Ltd, Neutral Citation number: [2016] EWHC 267 (Admin)</i> |
| APP9 | Appeal decision ref: 3025042; Land north of Haygate Road, Wellington, Shropshire, dated 15 April 2016 |
| APP10 | d. Household Representative Rates |
| APP11 | Consent order of <i>Gladman Developments Limited v SoS for CLG and Telford and Wrekin Borough Council Claim Ref: CO/2082/2016</i> (quashing appeal ref: 3010085) |
| APP12 | DCLG - <i>Household Projections 2014-based: Methodological Report</i> , dated July 2016 Excerpts of Glossary Pages 31 & 32 |
| APP13 | List of disputed sites, (as at end of September 2016) |
| APP14 | Appeal decisions Ref: 3132791 & 31344743; Land at Kedleston Road, Derbyshire, dated 22 August 2016 |
| APP15 | Appeal decision Ref: 2186546; Land Between Iron Acton Way and North Road, South Gloucestershire, dated 8 April 2013 |
| APP16 | Appeal decision Ref: 2180060; Land east of Butts |

| | |
|-------|---|
| | Road, Devon, dated 14 December 2012 |
| APP17 | Turley letter entitled Further submission by Richborough Estates dated 29 th September 2016 |
| APP18 | Rebuttal Relating to housing land supply issue following public inquiry adjournment, dated 16 September 2016 (<i>excluding</i> Appendix 1 – Proof of evidence of Mr Andrew Timbrell) |
| APP19 | Revised summary table – Housing Land Supply – Positions of main parties as at 29 September 2016 (Hourigan Connelly figures on windfall further revised following oral evidence) |
| APP20 | Appeal decision Ref: 3147519; Land off Avenue Road, Shropshire, dated 31 August 2016 |
| APP21 | Appeal decision Ref: 3003171; Land at The Cross, Shropshire, dated 30 November 2015 |
| APP22 | Appeal decision Ref: 3147776; Land to the rear of 41 Furlongs Road, Shropshire, dated 28 July 2016 |
| APP23 | Closing submissions on behalf of Richborough Estates Ltd by Christopher Young of No5 Chambers, Birmingham-Bristol-East Midlands-London |
| APP24 | Copy of circular email from Ian Kilby (Operations Manager, Planning Services, Shropshire Council) to developers and agents dated 27 January 2016. |

By Interested Parties

| Document Reference | Identifying feature/Submitted by |
|---------------------------|---|
| IP1 | Barbara & Chris Woodcock |
| IP2 | Statement of Mr Bernard H North |
| IP3 | Stephen Evans |
| IP4 | Paul Baker |
| IP5 | Rosamund Sly |
| IP6 | Ludford Parish Council appeal statement July 2016 |
| IP7 | Appeal statement by Richard and Clare Maddicott August 2016 |
| IP8 | Stephen Treasure of Treasure and Son, Conservation Building Contractors |
| IP9 | Colin Richards, former Head of Conservation and Archaeology, Shropshire Council |

| | |
|------|---|
| IP10 | Photos of flooding at nearby property |
| IP11 | Nicholas Spall MRTPI |
| IP12 | Mr Carrant |
| IP13 | Nick Joyce Architect, heritage Statement on the historic setting of Foldgate Farm and the Steventon Conservation Area |
| IP14 | Letter from Richard Maddicott dated 14 September 2016 |

Appendix A – List of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place 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 take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted is for no more than 137 dwellings and no development shall take place until a programme of phasing for implementation of the whole development has been submitted to and agreed in writing with the local planning authority. Such a programme of phasing shall include the overall number of years for delivery, and the projected number of dwellings to be delivered each year, including the type of housing. Any amendments to this phasing must be first agreed in writing with the local planning authority. Thereafter, the development shall be carried out in accordance with the agreed details.
- 5) The submission of the reserved matters and implementation of the development shall be carried out substantially in accordance with the Proposed Indicative Masterplan by Pegasus Urban Design drawing number BIR.4552_21 and Landscape Masterplan - Tyler Grange drawing number 2060/P13A, in so far as it relates to new structural landscaping and the location of areas of public open space, buffer zones, play areas and broad areas of built development.
- 6) No development hereby permitted shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49). The CMP shall, at the very least, include details of:
 - i) Parking facilities for site operatives and visitors;
 - ii) Routes for construction traffic to and from the site;
 - iii) Methods for the prevention of mud and other substances being carried onto the public highway, including details of wheel washing facilities and their location;
 - iv) Measures to protect pedestrians and cyclists;
 - v) Any temporary traffic restrictions, and;
 - vi) Arrangements for the turning of vehicles within the site.Thereafter, the development shall be carried out in accordance with the agreed details.
- 7) The development hereby permitted shall not take place until a geotechnical assessment relating to the proposed site access earthworks has been submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49 and the Highways England Formal Recommendation Letter v.2 July 2015). The geotechnical data shall be in accordance with

- DMRB 4.1.2 HD22/08 'Managing Geotechnical Risk', or any similar replacement document, and include provision for a staged assessment and approval process throughout the construction period. The development shall be carried out in accordance with such details thereafter.
- 8) The site access works hereby approved shall not commence until a Non Motorist User Audit (NMUA), which shall be in accordance with DMRB 5.2.5 HD42/05, or any similar replacement document, has been submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49). The development shall be carried out in accordance with such details thereafter.
 - 9) Prior to the commencement of any building works or structural development within the site, the site access work shown on DTA drawing 13177-06 Revision D shall be completed in accordance with details submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49). The development shall be carried out in accordance with such details thereafter.
 - 10) With the exception of emergency access (as shown on drawing DTA 13177-11), no motorised vehicular access to any dwelling hereby approved shall be made via Foldgate Lane.
 - 11) The Travel Plan Measures (as shown in David Tucker Associates SJT/NES/13177-04A-Travel Plan dated 13 October 2014) shall be implemented within one month of the first occupation of any part of the residential development. The Travel Plan Measures shall relate to the entirety of the development, and reflect the phasing of occupation as appropriate.
 - 12) With the exception of work to provide access onto or from the A49, construction works shall not take place outside of the following times:
 - i) Monday to Friday 07:30 to 18:00;
 - ii) Saturday 08:00 to 13:00, and;
 - iii) Not at any times on Sundays, Public or Bank Holidays.
 - 13) No development hereby approved shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall, at the very least, include details of:
 - i) The loading and unloading of plant and materials;
 - ii) The storage of plant and materials used in construction of the development;
 - iii) The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing and information where appropriate;
 - iv) Measures to control the emission of dust, dirt and other substances during construction, and;
 - v) A scheme for the recycling and disposing of waste resulting from any demolition and construction works.

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

No dwelling hereby permitted shall be first occupied until the drainage scheme approved has been implemented and completed in accordance with the submitted details, and not until written confirmation, in terms of the foul sewerage system improvements, is made by Severn Trent Water Limited (or any replacement body) and provided to the local planning authority.

- 15) The development hereby permitted shall not commence until details of the drainage plans for the disposal of surface water have been submitted to and approved in writing by the local planning authority. Such details shall include the time that the surface water drainage plans shall become effective. The details shall be implemented as approved and thereafter retained in the approved form.
- 16) No development shall take place until details of the implementation of a programme of archaeological works in accordance with a written scheme of investigation have been submitted to and approved in writing by the local planning authority. Any such archaeological works shall be carried out in accordance with such details thereafter.
- 17) No development shall take place until an Arboricultural Method Statement (AMS) is submitted to and approved in writing by the local planning authority. The AMS should where any construction works is to take place within the Root Protection Areas (RPAs) of any retained trees, large shrubs or hedges. The AMS shall also include details on how and when the works will take place and be managed, and how the trees, shrubs and hedges to be retained will be protected during the construction process.
- 18) No ground clearance, demolition, or construction works shall take place until a scheme has been submitted and approved in writing by the local planning authority to safeguard trees to be retained on the site as part of the development. The submitted scheme shall include the provision of a tree protection plan that reflects the guidance given in *BS5837:2012* (or any such replacement guidance). The approved details shall be implemented and retained for the duration of construction works on the site.
- 19) No demolition or construction work should take place until the local planning authority is notified in writing of the full establishment of the tree protection measures and the local planning authority has given written confirmation that such measures have been implemented as approved.
- 20) No works or development shall take place until a specification of all proposed tree planting has been submitted to and approved in writing by the local planning authority. This specification shall include details of the quantity, size, species, position and proposed planting time of all trees to be planted, together with an indication of how they integrate with the

proposal in the medium to long term with regard to their mature size and anticipated routine maintenance. All tree, shrub and hedge planting included within that specification shall be carried out in accordance with that specification and in accordance with *BS8545:2014 –Trees from nursery to independence in the landscape recommendations* (or any such replacement document). Such specification shall also include details of how and when any tree may be replaced should they die, become uprooted, destroyed, or removed, and confirmation that they will be replaced within the first five year period of tree planting with a suitable tree of similar size and species.

- 21) No development shall take place until an Environmental Management Plan (EMP) shall be submitted to and approved in writing by the local planning authority. The EMP should include details of;
- i) A five metre high Heras (or similar) fence stand off to watercourses;
 - ii) Strict pollution control measures;
 - iii) The personnel responsible for the implementation of the plan.
- The EMP shall be carried out as approved by the local planning authority.
- 22) Prior to occupation of the development hereby permitted, a 'Lighting Design Strategy for Biodiversity' shall be submitted to and approved in writing by the local planning authority. The Strategy shall:
- i) Identify those areas or features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging, and;
 - ii) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding and resting places. Such lighting should also seek to reduce, so far as practicable, light pollution from the site.
- All external lighting shall be installed in accordance with the specifications and locations set out in the Strategy, and these measures shall be retained thereafter.
- 23) As part of the reserved matters details, the location and design of no less than 20 bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented as approved prior to the occupation of the dwellings hereby approved and shall thereafter be retained.
- 24) No development shall take place on site until work and details, in accordance with Precautionary Method of Working for Great Crested Newts in accordance with the Ecological Impact Assessment by Atkins dated October 2014, are submitted to and approved in writing by the local planning authority. Such work shall be undertaken by a suitably qualified ecologist and any recommendations approved shall be carried out in accordance with the approved details.
- 25) Prior to the first occupation of the dwellings hereby permitted, details of the location and type of no less than 20 artificial nests suitable for small

birds species such as the robin, blackbird, tit, sparrow and swallow, shall be submitted to and approved in writing by the local planning authority. The details shall be implemented as approved prior to the first occupation of the dwellings and shall thereafter be retained.

- 26) No development shall take place until a Habitat Management Plan (HMP) shall be submitted to and approved in writing by the local planning authority. The HMP shall include:
- i) A description and evaluation of the features to be managed;
 - ii) Ecological trends and constraints on site that may influence management;
 - iii) Aims and objectives of management;
 - iv) Appropriate management options for achieving aims and objectives;
 - v) Prescriptions for management actions;
 - vi) 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);
 - vii) Personnel responsible for the implementation of the plan;
 - viii) Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be carried out as approved for the lifetime of the development.

- 27) The reserved matters shall include:
- i) 4-12-4mm glazing (or similar) in all rooms on the eastern façade of properties which run alongside the A49;
 - ii) A 1.8 metre solid timber close boarded fence (or similar noise reducing acoustic boundary treatment) to the western boundary of the site where external residential garden areas face the railway line, and;
 - iii) Enhanced glazing and ventilation requirements on the western facades of properties closest to the railway line.
- 28) The development hereby approved shall not be occupied until the Public Right of Way crossing the railway line using the Ludford 1 pedestrian level crossing has been formally diverted. The Ludford 1 pedestrian level crossing shall be permanently closed thereafter.

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Appeal Decision

Site visit made on 27 September 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 14 November 2016

Appeal Ref: APP/L3245/W/16/3154199

Land opposite Village Hall, Hopton Wafers, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Brian Perry against the decision of Shropshire Council.
 - The application Ref 14/04354/FUL, dated 23 September 2014, was refused by notice dated 14 January 2016.
 - The development proposed is 6 No dwellings and private access to parking.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr & Mrs Berry against Shropshire Council. This application is the subject of a separate decision.

Preliminary Matter

3. The appellants have referred to an appeal decision concerning a site at Teal Drive in Ellesmere (APP/L3245/W/15/3067596) in which the Inspector concluded that the Council was unable to demonstrate a 5 year forward Housing Land Supply (HLS) as required by paragraph 49 of the National Planning Policy Framework (Framework). The Council lodged a legal challenge to that decision and it has subsequently been quashed in the High Court. I have no other evidence before me that the Council is unable to demonstrate a 5 year HLS and have, therefore, considered the appeal on the basis that it is able to do so.

Main Issues

4. The main issues are;
 - (a) Whether the site is a suitable location for residential development having regard to the position of Hopton Wafers in the Council's approved spatial strategy;
 - (b) The effect on the safe operation and use of the adjacent highway having regard to the visibility splay available at the proposed site access and the level of parking required to serve the development;
 - (c) The effect on the character and appearance of the village; and

- (d) Whether sufficient information has been provided to ensure that the proposal would have no unacceptable effects on protected species or their habitats.

Reasons

Suitability of the site

5. The spatial strategy that underpins the adopted Shropshire Council Core Strategy (Core Strategy) seeks to steer the majority of new housing development to sites in Shrewsbury, the market towns, other key centres and named villages which have been designated as Community Hubs or Community Clusters under Policy CS4. Although the appellants' written statement puts forward various comments about this strategy it is comprised in two parts of the Local Development Framework which have been subject to examination and been found to be sound. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 the appeal must be determined in accordance with any relevant policies of the adopted development plan unless other material considerations indicate otherwise.
6. Within the adopted Core Strategy Hopton Wafers, together with nearby Doddington, has been designated as a Community Cluster where new market housing is supported as a means of encouraging more sustainable development in rural communities. The proposal would provide reasonably priced, 2-3 bedroom houses at the lower end of the size range that would be capable of meeting local housing needs; it would therefore be acceptable in principle. This provision would appear to be in line with the type of housing need which has been identified in the Community Led Plan for the village.
7. The Council contends that, in combination with completed dwellings and other schemes with planning permission, the proposal could result in the provision of some 14 new dwellings within the designated cluster compared to the development guideline of 12 new dwellings over the plan period to 2026 as set out in Core Strategy Policy CS6.2. The development guideline in CS6.2 (ii) is given as 'around 12 additional dwellings' rather than an exact figure and Paragraph 3.21 of the Council's Site Allocations and Management of Development Policies Document (SAMDev) (2015) states that the guidelines are not to be treated as maximum figures.
8. Paragraph 3.21 states that development which goes beyond the guideline by too great a degree could result in unsustainable development that stretches infrastructure and community goodwill to breaking point. There is no evidence that exceeding the guideline by one or two additional dwellings in the Hopton Wafers and Doddington Cluster would result in either of these outcomes and I do not consider that a refusal of permission can be sustained on these grounds. I note that no development has been carried out or permitted in the Doddington component of the cluster but, as that village is located within an Area of Outstanding Natural Beauty, the opportunities for new development are likely to be more constrained than in Hopton Wafers.
9. The proposal does not constitute the development of a single development plot but, whilst Policy CS6.2 states that such development may be acceptable, it does not say that other forms of development would not be. The appeal site may not comprise a single plot but is located between existing residential development on either side and opposite the Village Hall and the former school.

It is clearly within the existing built area of the village and I see no sound reason why it should not be considered to be a suitable infill plot within the context of that existing development.

10. There are few facilities and services available within Hopton Wafers but it has been designated as part of a community cluster where limited residential development would help to support those services and to encourage a more sustainable community. The development of 6 market houses would be compatible with that spatial strategy and its objectives. That compatibility would not be reduced by reason of the size of the site being slightly larger than what the Council might have envisaged as likely to be available within existing villages when the development plan was prepared, or because the proposal may result in one or two dwellings over the development guideline. Accordingly, I find that the proposal would not conflict with Core Strategy CS6.2 or CS4 insofar as these policies seek to achieve sustainable development within the designated hubs and clusters.
11. SAMDev Policy MD3 states that the development guidelines are a significant policy consideration and that, where development would result in a more dwellings than indicated in the guideline, decisions will have regard to a number of matters. I have no information to suggest that the other sites with planning permission will not be delivered but the scale of increase over the guideline of around 12 dwellings would be very small and the potential benefits in terms of meeting local housing needs are clear. The proposal would, therefore, comply with Policy MD3 if the site specific effects of the development are found to be acceptable. I consider these below.

Highway safety

12. The appellants' site plan indicates that a visibility splay of 2.4 metres (m) x 30m can be achieved to the north of the proposed site access but that the Y distance of 30m would fall below the minimum requirement, as set out in the Manual for Streets 2 guidance, for a road subject to a speed limit of 30mph. No splay to the south of the junction is indicated on the site plan but, due to the curvature of the road there would be minimal visibility available in this direction even if all of the existing boundary hedge was to be removed. Traffic volumes are relatively low but the road from which access is proposed is an important link from the village centre to the A4117 and appears to be well used by a variety of vehicles. No average speed measurements have been submitted to demonstrate that a shorter Y distance to the north is acceptable and no information has been provided to show that a satisfactory splay can be achieved to the south. Hence, I am unable to conclude that the proposed access would operate in a safe and satisfactory manner.
13. The Highway Authority has indicated a requirement for 2 parking spaces per dwelling in light of the rural location of the appeal site and the relatively poor provision of public transport connections from the village. The appellants contend that 1 space is adequate for dwellings of less than 100 square metres but no evidence has been submitted to demonstrate that such provision would be in accordance with any published standards or that an exception to those standards would be appropriate. I note the appellants' reference to the grant of planning permission on a site in Bridgewater but understand the accessibility of that site to be quite different from that of the appeal site. Accordingly, I

- have no information which would enable me to conclude that 12 spaces should not be required.
14. As the Village Hall car park is privately owned and is required for users of the hall it cannot be relied upon to meet the parking needs of visitors to the proposed houses and my observations on my site visit confirm that there is very limited opportunity to park safely on the streets near to the site. Hence, an adequate level of on-site parking is required to meet the needs of the proposed development. It is also necessary that the parking provision should be capable of access and use in a reasonably straightforward manner and that cars can access and leave the parking area in forward gear. The proposed site layout would not meet those requirements.
 15. The proposed 'doubling up' of the parking spaces for Plots 5 & 6 reflects a frequently used arrangement where space is limited and might be acceptable. However, the arrangement of the other spaces is severely compromised by the position of the telegraph pole and does not provide adequate width for manoeuvring into and out of spaces; it would also provide minimal width for cars to access the parking area if the southernmost space allocated for Plot 4 is in use. The inadequacy of the layout would likely discourage some residents and visitors from using the allocated spaces and lead to on-street parking in locations where parked vehicles would impede the safe operation of the roads through the village. There would also be a danger of drivers trying to reverse out onto the lane because they are unable to turn within the site; this would be a dangerous manoeuvre at a point where the lane is very narrow and forward visibility on the approach to the site access is limited.
 16. For these reasons, I find that the site access and parking arrangements would be likely to give rise to unacceptable effects on the safe operation of the local highway network and to put users of the access and other road users at risk. The proposal would not generate a significant amount of traffic and, hence, is not one to which the advice in paragraph 32 of the Framework strictly applies; however, it would not provide safe and suitable access for all users. The proposal would conflict with Core Strategy Policy CS6 which requires that development should be designed to be safe and to have adequate parking provision. Although the Council has referenced SAMDev Policy MD2 in the second and third reasons for refusal my reading of that policy suggests that it is concerned with matters of sustainable design rather than safety and I do not see any conflict with the policy in this regard.

Character and appearance

17. My assessment is that the core of the village has a generally open and spacious appearance and character. These attributes are most evident in the physical extent of the churchyard and in the way in which the adjacent houses are set back behind a broad expanse of open green land either side of Mill Brook. Although the former school and schoolhouse front on to the road the village hall is set back behind its parking area and the detached properties to the west stand in generous plots. A sense of spaciousness is maintained in this central part of the village and the open nature and use of the appeal site, and the views that it provides down to the brook, make an important contribution to that sense of spaciousness. The boundary hedge and vegetation within the site also contribute to the distinctly rural character of the village and a sense of it having developed in a slow and organic way.

18. The existing buildings within the village display a range of architectural styles and the proposed design of the dwellings would not be out of keeping within that context. However, the continuous frontage development proposed would be discordant with the generally looser and more spacious form of development in the core of the village. In addition the proposal would result in the loss of nearly all of the open land within the site, the loss of the existing hedge and grass bank to the roadside boundary, and the blocking off of views towards the brook. Taken together, these effects of the proposal would cause significant harm to the character and appearance of the village.
19. There would be a benefit to be derived by the provision of a footway to the site frontage. However, the need for the loss of the roadside hedge and bank in order to achieve that provision and the frontage access to the houses as proposed suggests that the scheme would represent an overdevelopment of the site; the inability to provide adequate car parking in a safe and satisfactory manner supports that conclusion.
20. Accordingly, I find that the proposal would result in significant harm to the character and appearance of the village and would conflict with Core Strategy Policy S6 which requires that development should be of a high quality that respects and enhances local distinctiveness and be appropriate in scale, density and design taking account of the local context and character. It would also conflict with SAMDev Policy MD2 which states that development proposals should respond to the form and layout of existing development including plot sizes and density and contribute to and respect locally distinctive character.

Ecology

21. Although it may have been extensively grazed in the past, large parts of the site appear overgrown and relatively undisturbed and there is dense vegetation along the eastern boundary with the Mill Brook. The existence of the brook along this boundary gives rise to the possible presence of water vole and otter and their habitats on or near to the site. This would provide sufficient justification for a Phase 1 Habitat survey to be carried out even if it did not meet the trigger level set out within the Council's Natural Environment Development Guidance Note 1 for such an assessment to be required.
22. Although the appellant asserts that there is minimal scope for wildlife on the site no evidence has been submitted to support that assertion. Given the potential for the presence of protected species and their habitats on or close to the site, I cannot conclude that the proposal would not give rise to any harm to ecological interests without any assessment having been carried out. The appellant's statement that the slope to the brook would be unaffected by the development is inconsistent with the proposed site layout that shows this land within the curtilage of two of the proposed dwellings. That layout would not achieve the 20m wide buffer that the Council's ecologist advises is required between the development and Mill Brook.
23. There is insufficient information to enable me to conclude that the proposal would not have an unacceptable effect on any protected species or their habitats or on any other features of ecological value. Accordingly, the proposal would conflict with Core Strategy CS17 which seeks that all development should protect and enhance Shropshire's environmental assets and networks and should not adversely affect the ecological value or function of such assets, their immediate surroundings or their connecting corridors. It would also

conflict with SAMDev Policy MD12 which states that proposals which are likely to have a significant adverse effect on priority species or habitats and ecological networks will only be permitted if it can be demonstrated that there is no alternative or that the social and economic benefits outweigh the harm. Without adequate information as to the value of the site and its surroundings and the harm that might be caused by the proposal these policy tests set cannot properly be addressed.

24. The appellants state that they were not directly informed of the need for an ecological assessment but the Council's evidence is that the consultation response stating that requirement was posted on line and would have been accessible to their agent had he been checking those responses.

Other Matters

25. A number of the third parties have raised concerns about flood risk. However, I have no evidence to demonstrate that there would be an increased risk of flooding if the site were to be developed as proposed and no objection on these grounds was received from the Council's drainage department or the Environment Agency.
26. The six dwellings proposed would make a useful contribution to meeting housing provision in the district and their proposed size means that they would be likely to be affordable and to meet locally identified needs. The proposal would also bring economic and social benefits by contributing to the sustainability of the community cluster. However, the progress that has already been made towards meeting the identified guideline figure for new homes in the cluster over the period to 2026 suggests that there is no urgent or pressing need for the provision of additional dwellings in this part of the district.
27. These social and economic benefits should be given weight in the appeal. However, I do not consider them sufficient to outweigh the harm to highway safety and the character and appearance of the village and the potential harm to protected species and other features of ecological value or the resultant conflict with the development plan. In view of that harm the proposal would not constitute sustainable development in accordance with the policies of the Framework notwithstanding its location within a designated community cluster.

Conclusions

28. For the reasons set out above and having regard to all matters raised I conclude that the appeal should fail.

Paul Singleton

INSPECTOR

Costs Decision

Site visit made on 27 September 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 14 November 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3144199 Land opposite Village Hall, Hopton Wafers, Shropshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Brian Perry for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for 6 No. dwellings and private access to parking.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The appellants seek a full award of costs, arguing that the appeal would not have been necessary had the Council properly applied its own development plan policies and, also that it should not have been necessary to address highways and ecology issues in the appeal.
3. The designation of a village within a Community Cluster under the Shropshire Council Site Allocations and Development Management Plan (SAMDev) is not a site allocation and should not be interpreted as such. It is an indication that the settlement has been identified as being suitable for and capable of accepting additional residential development in line with the Council's overall spatial strategy. Residential development proposals on sites within such clusters need to be assessed against the criteria set out in SAMDev Policy S6.2 (ii); the Council undertook such an assessment and concluded that the appeal site did not meet those criteria.
4. The Council's conclusions with regard to Policy S6.2 (ii) were not based solely on the risk that the proposal might result in the total volume of new housing within the cluster exceeding the development guideline, but on the assessment of the proposal against all of the criteria in the policy. I agree that the officer report on the application did not expressly set out a full assessment of the proposal against SAMDev Policy MD3.2, which is applicable in situations where a development would result in the provision of more dwellings than the development guideline; however, the various impacts and benefits of the

development were clearly considered within the report and taken into account in reaching the decision to refuse permission. An adequate defence of the first reason for refusal was set out in the Council's Statement of Case.

5. In my determination of the planning appeal I find that no significant harm would be caused by virtue of the site being larger than a single infill plot or in the event that the proposal could result in the total volume of new housing within the cluster slightly exceeding the development guideline. However, having regard to its site specific effects I find that the proposal would not constitute sustainable development and would not, therefore, be consistent with Policy MD3 or the development plan as a whole. Accordingly I do not accept the appellants' contention that the appeal was unnecessary.
6. The ecology consultation response was placed on the Council's website on the 30 October 2014 and, although it would have been helpful for this to have been sent directly to the appellants' agent, it was not unreasonable for officers to expect that the agent would be monitoring such responses within those first few weeks after the application had been validated and registered. The appellants have produced no evidence to support their assertions that a lower parking ratio than that required by the Highway Authority would be acceptable; nor have any speed surveys been carried out to demonstrate that a visibility splay below the recommended standards would provide for a safe access to the site. Given that I have supported the Council's concerns with regard to these matters in my appeal decision I do not accept that the Council acted unreasonably in identifying these as reasons for refusal or that any unnecessary or wasted expense has been incurred by the appellants as a result.
7. I accept that the determination of the application took considerably longer than might reasonably have been expected but that of itself does not lead to a conclusion that the appeal should not have been required.

Conclusions

8. I conclude that no unreasonable behaviour on the part of the Council has been demonstrated and that the application for an award of costs should be refused.

Paul Singleton

INSPECTOR

Appeal Decision

Site visit made on 27 September 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 17 November 2016

Appeal Ref: APP/L3245/W/16/3152344

Land in Middleton, Ludlow, Shropshire SY8 3 EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Wiggin against the decision of Shropshire Council.
 - The application Ref 14/02442/OUT, dated 20 May 2014, was refused by notice dated 14 December 2015.
 - The development proposed is erection of 6 No open market dwellings and 7 No 2 bed dwellings to rent, traffic calming and estate road.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mark Wiggin against Shropshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with all matters reserved for subsequent approval.
4. The Council's decision alleges conflicts with the South Shropshire Local Plan, which has now been superseded by the adoption of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) and no longer forms part of the statutory development plan. Both parties have made submissions as to the application of the relevant SAMDev policies to the appeal proposal and there is, therefore, no disadvantage to either party in my considering the proposal on the basis of those policies and the relevant policies in the adopted Shropshire Core Strategy (Core Strategy) which also forms part of the development plan for the Council's area.
5. The appellant has referred to an appeal decision concerning a site at Teal Drive in Ellesmere (APP/L3245/W/15/3067596) in which the Inspector concluded that the Council was unable to demonstrate a 5 year forward Housing Land Supply (HLS) as required by paragraph 49 of the National Planning Policy Framework (Framework). The Council lodged a legal challenge to that decision and it has subsequently been quashed in the High Court. I have no other evidence before me that the Council is unable to demonstrate a 5 year HLS and have, therefore, considered the appeal on the basis that it is able to do so.

Main Issues

6. The main issues in the appeal are: (a) whether the site is a suitable location for residential development having regard to the Council's approved spatial strategy, and (b) whether sufficient information has been made available to demonstrate that the proposal would not give rise to unacceptable effects with regard to the risk of flooding.

Reasons

Suitability of the site

7. The spatial strategy underpinning the Core Strategy steers the majority of new housing development to sites in Shrewsbury, the market towns, other key centres and named villages which have been designated as Community Hubs or Community Clusters. Policy CS4 states that, in the rural areas, communities will become more sustainable by focusing investment in designated hubs and clusters and not allowing development outside of these settlements unless it meets Policy CS5.
8. The appellant is critical of the spatial strategy and questions whether it is capable of meeting the district's development needs. However, the strategy is comprised in the two parts of the Council's Local Development Framework which have been subject to examination and been found to be sound. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 (2004 Act) the appeal must be determined in accordance with any relevant policies of the adopted development plan until other material considerations indicate otherwise.
9. The Core Strategy identifies Ludlow as a market town and the focus for the development of services and facilities for its wider hinterland with a balance between employment and housing growth. Middleton has not been designated either as a community hub or community cluster. It has, therefore, to be treated as being within the open countryside and subject to Core Strategy Policy CS5 which states that new development will be strictly controlled in accordance with national planning policies protecting the countryside other than in a limited number of circumstances where new development will be permitted.
10. The appellant questions the basis on which community hubs and clusters were designated and argues that these designations, together with the site allocations made in the SAMDev plan, provide insufficient capacity to meet the level of development proposed in the rural areas. The SAMDev Examining Inspector commented on the heavy reliance on windfall sites. However, she found the Council's expectation that 35% of the overall residential development will be provided in rural areas to be realistic, given the past record of completions and that some 67% of the assumed windfall dwellings would be needed to achieve the development guidelines for the designated hubs and clusters. She also concluded that Council's approach of relying on windfalls rather than site allocations in the hubs and clusters is consistent with the higher proportion of windfall sites needed in the rural areas. The Inspector found the SAMDev Plan to be sound and I must consider the proposal in light of the relevant policies of that recently adopted plan.

11. The relevant national policy to which Policy CS5 defers is mainly comprised in paragraph 55 of the Framework. Due to the site's location within an existing village the proposal would not result in new isolated homes in the countryside and would not conflict with paragraph 55 in that regard. The policy states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Middleton has no services or facilities of its own and the future occupiers of the proposed dwellings would need to go to Ludlow, some 4 kilometres (km) away, for the majority of the essential services that they would need and to travel over 3km to the nearest convenience store. Children from Middleton are transported by bus to the primary school in Bitterley but, with this exception, those occupying the proposed development would be dependent on car journeys to meet most of their everyday needs.
12. Paragraph 55 advises that, where there are groups of smaller settlements, development in one village may support services in a village nearby and the proposal could help to support the long term sustainability of the school in Bitterley. However, the absence of shops and other services accessible by foot or public transport weighs heavily against the proposal having regard to paragraph 55's key objective of promoting sustainable development in rural areas. Accordingly, I find that the appeal proposal is not supported by paragraph 55 and, as it would not fall within any of the categories of development which are permitted under Policy CS5, that it would conflict with that policy.
13. The proposal would conflict with SAMDev Policy MD7a which states a strong presumption against new market housing outside of Shrewsbury, the market towns, key centres and community hubs and clusters. The exceptions to that general presumption include exception site dwellings, residential conversions, essential housing for rural workers and replacement dwellings. Although the proposal would provide some homes for rent it has not been promoted as an exceptions site and the market housing component would not fit within any of the listed exceptions.
14. SAMDev Policy MD3 states that, in addition to supporting the development of the allocated sites set out in the settlement policies, planning permission will be granted for other sustainable housing development having regard to other policies of the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a. The explanatory text, at paragraph 3.18 of the Plan, notes the importance of windfall development both within settlements and in the countryside and on both brownfield and greenfield sites. The policy does not give unqualified support for windfall sites in the open countryside but the words "*having regard to*" should not be taken to mean that a proposal must be in full compliance with other policies of the Plan. In my view, this part of the MD3 requires the decision maker to give consideration to the degree of consistency or conflict that the proposal would have with other relevant policies.
15. In this case I find that the proposal would conflict with Core Strategy Policy CS5 and with CS4 which presumes against development outside of the designated hubs and clusters unless it meets the exceptions within Policy CS5. I have also found that the proposal would be contrary to the provisions of SAMDev Policy MD7a. Policies CS1 and MD1 are concerned with the overall spatial strategy and settlement hierarchy; the proposal would clearly not

- support the achievement of that strategy and would be inconsistent with those policies.
16. Given the extent of conflict with the various policies which are cross referenced in SAMDev Policy MD3 the proposal would not derive any support from that policy. Due to the absence of local amenities and facilities in Middleton and the poor accessibility to essential services which future occupiers of the proposed dwellings would have, the proposal would not constitute sustainable housing development and would not be consistent with Policy MD3 in this regard.
 17. The appellant has referred to an appeal decision on a large windfall site in Ludlow (APP/L3245/W/15/3001117) in which the Inspector found that SAMDev Policy MD3 gave strong support to a proposed development for up to 215 dwellings. It is clear from my reading of that decision that the site, which is on the edge of Ludlow and is both physically and visually associated with the urban area of that market town, is in a much more sustainable location than the current appeal site. The West Felton appeal decision also referred to by the appellant (APP/L3245/W/15/3003171), was issued prior to the adoption of the SAMDev Plan and was determined in a different policy context. The appeal site in that case is close to a convenience store, public house and other businesses, with schools within walking distance, and set in a village in which the Inspector found there to be a thriving local community with numerous activities taking place in a number of locations. None of those locational sustainability credentials apply to the site in the current appeal.
 18. In the Knowbury appeal (APP/L3245/W/16/3144703, the Inspector found that the development would regenerate an unused brownfield site and improve the character of the countryside. The site also had access to some services within the village itself and was found not to be completely isolated from facilities. The development of the greenfield site in Middleton would bring no such benefits and the future residents of the proposed dwellings would be isolated from the majority of the facilities and services required to meet their everyday needs. The circumstance of the proposal and site in the Craven Arms decision (APP/L3245/W/16/3143403) relied upon by the appellant are also quite different to those in the current appeal.
 19. For the reasons set out above I find that the site would not be a suitable and sustainable location for the proposed residential development and that it would give rise to conflict with Core Strategy Policies CS1, CS4 and CS5 and with SAMDev Policies MD3 and MD7a and with the development plan as a whole. In accordance with s38(6) of the 2004 Act and paragraph 11 of the Framework planning permission should not therefore be granted unless other material considerations support such a decision contrary to the provisions of the development plan.

Flood Risk

20. The appellant's Flood Risk Assessment (FRA) (October 2014) noted two recent flooding events within the vicinity of the site and that the site was affected by flooding in the 2008 event. Having considered the possible causes of those events the FRA suggested that surface water and fluvial drainage to Dogditch Brook to the south is interrupted by the remains of a former railway embankment, with this embankment forming a barrier to flood flow and directing it west towards the site and the adjacent residential estates. The FRA proposed that new culverts be constructed beneath the former embankment to

'reinstate' the former flow paths to the brook and concluded, at paragraphs 3.8 and 4.2 that, if the flood flow was able to avoid that barrier, the probability of flooding of the site and the adjacent residential estates would be very much reduced. Point 9 of the FRA Summary (Section 5) stated that flood risk to the appeal site has been increased by the presence of the former embankment and that, with the proposed mitigation in place, the development would be in accordance with the flood risk provisions of the Framework. It is clear that the proposed mitigation is required in order to render the development acceptable in terms of flood risk, albeit that the proposed works could also help to alleviate an existing risk to adjacent dwellings in Westview and Ledwyche Close.

21. The second consultation response from the Council's Flood and Water Management (FWM) officer, dated 21 January 2015, was issued after the FRA had been received and considered by the Council. The FWM officer's response acknowledged that the FRA identified potential mitigation measures to alleviate flooding risk to existing and proposed developments. However, it clearly stated a requirement for additional modelling to ensure that flooding to properties to the south of Dogditch Brook and Ledwyche Brook would not be made worse as a result of the suggested mitigation works and for confirmation that the proposals identified in the FRA are a realistic proposition regarding land ownership, ditch depths and impact on the fields where the ditches would be installed.
22. Confirmation as to land ownership was given on 23 January 2015 in emails to the Council from the appellant and his agent. However, I have seen no evidence that the additional modelling requested by the FWM officer has been carried out or that the information needed to demonstrate that the proposed mitigation is realistic in terms of ditch depths and impact on the fields where the proposed ditches would be installed has been submitted.
23. The additional modelling and assessment requested by the officer is required to provide confirmation that the mitigation proposals represent a realistic solution to the significant flooding risk that had been identified in the FRA. That additional information would need to be available and be assessed prior to the grant of outline permission in order to confirm that there would be no residual risk to the site and adjacent properties and no increased risk of flooding elsewhere. It is not appropriate that these matters be left to be dealt with by means of a planning condition or reserved matters application.
24. As that additional information has not been provided I am unable to conclude that there would be no residual flood risk. Accordingly I find that the proposal would conflict with Core Strategy Policy CS18, which requires that all development is designed to be safe with regard to the risk of flooding, and with the provisions of paragraphs 101-103 of the Framework and its objectives of steering new development to areas with the lowest probability of flooding.

Other Matters

25. I acknowledge that the proposed flood mitigation works could be of benefit in terms of alleviating the existing flood risk to the neighbouring residential estates and helping to avoid a repeat of recent flooding events. However, as it has not been demonstrated that those works would achieve their intended purpose without increasing risks elsewhere, I am unable to give that claimed benefit any weight. The appellant contends that the proposal would be of benefit by introducing traffic calming on the main road through the village but

the mini roundabout proposed is not acceptable to the Local Highway Authority and no alternative proposals have been put forward.

26. A Unilateral Undertaking has been submitted which includes the provision of affordable housing in accordance with the prevailing rate as defined in the Council's Type and Affordability of Housing Supplementary Planning Document (SPD). At the 20% rate specified in the current SPD that commitment would secure the provision of the equivalent of 2.6 dwellings through on-site provision and/ or financial contributions to off-site provision.
27. The provision of 13 new homes would make a useful contribution to meeting overall housing needs in Shropshire and would provide a social benefit in that respect. However, only a small proportion of those new houses would be affordable homes and the evidence from the Parish Council is that the form of housing proposed would not be well matched to locally identified needs; the weight to be given to that contribution is reduced by those considerations. The proposal would provide economic benefits in terms of the investment and employment involved in its construction, New Homes Bonus and the future expenditure of the occupiers of the properties in good and services.
28. Whilst these social and economic benefits must be given some weight I do not consider them sufficient to override the conflict with the development plan that I have identified.

Conclusions

29. For the reasons set out above and having regard to all matters raised I conclude that the appeal should be dismissed.

Paul Singleton

INSPECTOR

Costs Decision

Site visit made on 27 September 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 17 November 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3152344 Land in Middleton, Ludlow, Shropshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Mark Wiggin for a partial award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for erection of 6 No open market dwellings & 7 No 2 bed dwellings to rent, traffic calming and estate road.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The appellant contends that the Council acted unreasonably in using flood risk concerns as a reason for refusal and that he has incurred unnecessary expense in dealing with these matters as part of the appeal.
3. The initial consultation response from the Council's Flood and Water Management (FWM) officer indicated that details of the proposed drainage of the site could be dealt with by means of planning conditions. The FWM officer's second consultation response, dated 21 January 2015, noted the evidence within the appellant's Flood Risk Assessment (FRA) of the flood risk events that had occurred in 2008 and that this suggested that the Environment Agency's model is incorrect and that flooding is more widespread. That information clearly provided a changed context in which that officer needed to assess the likely risk to the proposed development and to provide technical advice to the planning officer. Given the FRA's clear acknowledgement of the level of flood risk to the site and its surroundings, it is unrealistic for the appellant to seek to rely upon the earlier consultation response as setting out the FWM officer's position on the planning application.
4. The second consultation response noted the potential solutions put forward in the FRA. However, it clearly identified the need for further flood modelling to provide a more accurate assessment and for additional information to be provided to demonstrate that the proposed mitigation works provided a realistic proposition regarding land ownership, ditch depths and the effect on

the fields where the ditches would be installed. The planning case officer sent the FWM officer's consultation response to the appellant's agent on the 22 January 2015 (the day following her receipt of it) and both the appellant and the agent then sent emails on the 23 January to confirm that the land needed for the mitigation works is in the appellant's ownership. However, although a large number of further emails were sent by the agent to the case officer in the ensuing 11 months, no further information was submitted in relation to the other matters raised and no additional modelling appears to have been carried out.

5. As set out in my decision on the planning appeal, I consider that the additional information requested by the FWM officer would need to be available and to be assessed prior to the grant of outline permission in order to provide confirmation that there would be no residual risk to the site and adjacent properties and that the proposed mitigation would not give rise to an increase risk of flooding elsewhere. Accordingly, it would not have been appropriate for these matters to be left to be dealt with by means of a planning condition or reserved matters application as the appellant has argued.
6. For these reasons I find that there was no unreasonable behaviour on the Council's part in refusing the application on grounds concerning flood risk. Given that finding, I do not accept that the appellant has incurred any unnecessary or wasted expenditure in seeking to respond to that reason for refusal as part of the appeal.
7. I therefore conclude that the application for a partial award of costs should be refused.

Paul Singleton

INSPECTOR



Appeal Decision

Site visit made on 11 October 2016

by Aidan McCooey BA MSc MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/L3245/X/ 16/3150793

Presthoke Caravan Park, Presthoke, Much Wenlock, TF13 6DQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr S Nedic against the decision of Shropshire Council.
 - The application Ref 15/05447/CPL, dated 5/11/2015, was refused by notice dated 3 February 2016.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use for which a certificate of lawful use or development is sought is use of land for the siting of static caravans throughout the year for the purposes of human habitation.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the extent of the proposed use which is considered to be lawful.

Procedural matters and Background

2. An LDC in relation to the use of the site (Presthoke Caravan Park, Presthoke, Much Wenlock, Shropshire) was granted by the Council on 28 August 2015¹. The lawful use of the site was set out in the first schedule as:

"Application for LDC in respect of existing use as a caravan site and occupied as such by the Caravan Club 1970".

3. I shall refer to this LDC as the extant LDC in this decision.
4. The reason given by the Local Planning Authority for its decision was:

"The evidence submitted demonstrates that, on the balance of probability, the land outlined in red ink on the submitted site location plan has been used as a caravan site (not for permanent residential occupation) for a continuous period of at least ten years preceding the date of the application. The use is therefore immune from enforcement action by virtue of Section 191 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991), and hence is lawful."

5. The application the subject of this appeal was refused for the following reason:

¹ Application no. 15/01944/CPE

"The existing lawful use of the Presthope Caravan Site, as set out in the LDC ref. 15/01944/CPE, is as a caravan site and occupied as such by the Caravan Club 1970. By reference to the Articles of Association and byelaws of the Caravan Club, and other information available, it is not considered that the occupation of the site by the Caravan Club would permit its use as a site for static caravans for the purposes of human habitation throughout the year. As such the existing LDC does not provide for such use, and planning permission for such use would be required".

Main Issue

6. This is whether, on the balance of probability, the decision not to grant a LDC was well-founded, having regard to the lawful use of the land.

Reasons

7. Section 191 (6) states that the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed. The extant LDC is therefore the starting point for the consideration of this appeal. An LDC can only be interpreted on its face without recourse to other extraneous material or further advice from the Local Planning Authority.
8. Section 191 (5) sets out what an LDC shall contain and this includes (b) describe the use, operations or other matter in question. The Planning Practice Guidance advises that the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision.
9. The Council's case is provided in terms of the officer report on the application. The Council imports a definition of a "caravan" and "caravan club site" from the caravan club byelaws. It is claimed therefore that occupation by the caravan club restricted the site to members and use by touring caravans or motorhomes and not for permanent occupation. That is as maybe. However, the term caravan has an established legal definition in planning caselaw² and precedent. It cannot be qualified by using a club definition, even if that is the club that occupied the site. The proper manner to restrict the use of the site would have been to set out the lawful use in the LDC and include all the restrictions that the Local Planning Authority are now seeking to infer from the phrase "*and occupied as such by the Caravan Club 1970*". For example, the LDC could have been framed as "use as a caravan site for touring caravans, motorhomes, trailer tents or folding campers and not for permanent occupation" or words to that effect. The number of caravan pitches could also have been specified. There is no reference to any of these matters in the first schedule of the extant LDC. The only reference at all is to *not for permanent residential occupation* in the reason for granting the LDC. There is not even a restriction to use for the stationing of caravans that meet the caravan club definition of a caravan.
10. The Act states that caravan site has the meaning given in section 1(4) of the Caravan Sites and Control of Development Act 1960. The persons or organisation in occupation of the site cannot alter this definition. The Local Planning Authority's argument that this limits the type of caravan that can be stationed on the site and prohibits permanent occupation of those caravans cannot therefore be supported.

² The appellant refers to *Wyre Forest DC v Secretary of State for the Environment and Another 1990*, which concluded that there was no basis to depart from the statutory definition of a caravan and caravan site in the Caravan Sites and Control of Development Act 1960

11. There is no such entity as *Caravan Club 1970*, which is acknowledged as an incorrect term by the Council. This error implies that the Council merely utilised the exact wording on the original application without any proper consideration of the implications of this for the lawful use of the site. I have concluded that the Council's reliance on the articles and byelaws of the club and other information available on the club's website is unfounded. There is therefore no need to consider the extent of any restrictions that would be in place as a result of them, as explored by the appellant.

Conclusion

12. The Council claims that the reference to the occupation by the Caravan Club in the extant LDC limits both the type and permanent occupation of caravans on the site. This is supported by reference to the articles and byelaws of the club and other information available on the club's website. I have two principal difficulties with this approach. It seems to infer an occupancy restriction to a lawful use of land, which cannot be correct. It also requires the holder of the LDC to research the articles and byelaws of the caravan club in order to understand the scope of the extant LDC. This cannot be correct either.

13. I conclude that the Local Planning Authority has granted an LDC for use as a caravan site without restriction on the type of caravan or permanent occupation of said caravans. In these circumstances, the appeal must succeed and the LDC sought should be granted.

A L McCooey

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 5 November 2015 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in pink on the plan attached to this certificate would be lawful within the meaning of section 192(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

A valid lawful development certificate exists for *Application for LDC in respect of existing use as a caravan site and occupied as such by the Caravan Club 1970* on the land that is the subject of the application. The proposed use would fall within the definition of a caravan site and there being no effective restrictions on the use of the lawful caravan site by virtue of the extant certificate, the proposed use would be lawful at the date of the application.

Signed

A L McCooey

Inspector

Date **18 November 2016**

Reference: APP/L3245/X/ 16/3150793

First Schedule

Use of land for the siting of static caravans throughout the year for the purposes of human habitation

Second Schedule

Land at Presthope Caravan Park, Presthope, Much Wenlock, Shropshire, TF13 6DQ

NOTES

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would be lawful, on the certified date and, thus, would not be liable to enforcement action, under Part 7 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.



The Planning Inspectorate Yr Arolygiaeth Gynllunio

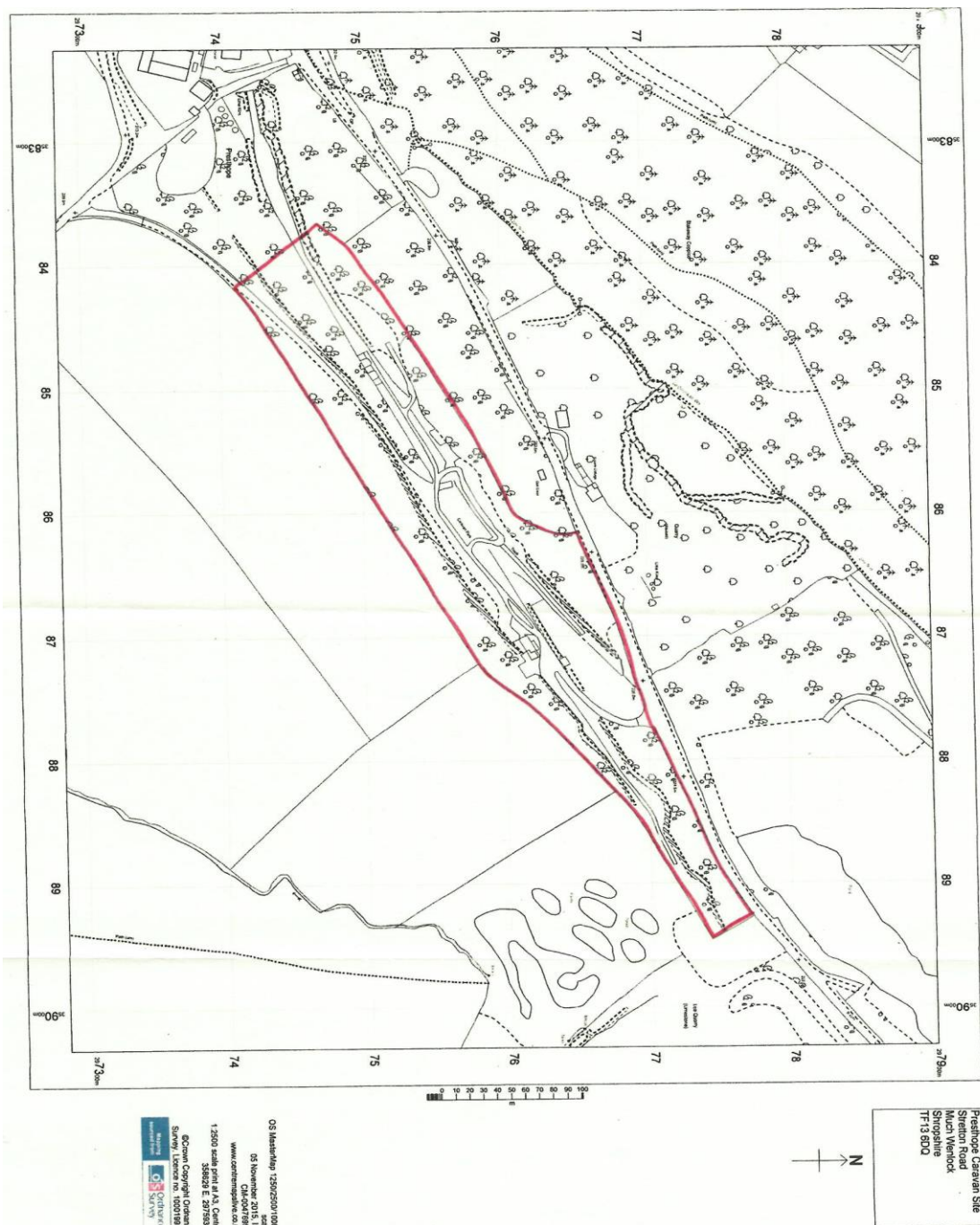
Plan

This is the plan referred to in the Lawful Development Certificate dated: **18 November 2016**

by **Aidan McCooley BA MSc MRTPI**

Land at: Presthoke Caravan Park, Presthoke, Much Wenlock, Shropshire, TF13 6DQ

Reference: APP/L3245/X/16/3150793



Appeal Decision

Site visit made on 14 September 2016

by David M H Rose BA (Hons) MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/L3245/W/16/3150475

Land opposite North Farm, Whitcliff, Ludlow, Shropshire, SY8 2HD¹

- 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 Peter Dickin against the decision of Shropshire Council.
 - The application Ref 14/03832/FUL, dated 15 August 2014, was refused by notice dated 18 November 2015.
 - The development proposed is a dwelling and garage.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Peter Dickin against Shropshire Council. This is the subject of a separate Decision.

Main Issues

3. The main issues are:- firstly, whether the proposal would be in conflict with the distribution of development set out in the development plan; secondly, whether or not the proposal would preserve or enhance the character or appearance of the Ludlow Conservation Area; thirdly, the potential effects of the proposal on ecological interests; and finally, whether sufficient information has been submitted to demonstrate that the project would not have a material adverse effect on the well-being of an existing roadside tree.²

Reasons

The development plan

4. The development plan comprises the Shropshire Council Core Strategy Policies (Core Strategy) and the Site Allocations and Management of Development Plan (SAMDev). The saved policies of the South Shropshire District Local Plan are no longer material.

The distribution of development

5. The strategic approach of the Core Strategy, expressed in Policies CS1 and CS4, outside main settlements, is to enable the rural areas to become more sustainable through a 'rural rebalance' approach, accommodating around 35% of Shropshire's residential development over the plan period. Development and investment is to be located predominantly in community hubs and community clusters with contributions to social and economic vitality.

¹ Address taken from planning application form as opposed to decision notice

² The Council refers to the tree as a Sycamore whereas Drawing No 1409/4 describes it as an Oak – nothing turns on its precise identification

6. Community hubs and community clusters are set out in detail in SAMDev Policy MD1. The appeal site falls within the open countryside, outside any defined settlement, hub or cluster and Core Strategy Policy CS4 makes plain that in such locations development will not be permitted unless it meets Core Strategy Policy CS5. In this regard, Core Strategy Policy CS4 has to be read as a whole and there is nothing to suggest that it is permissive of development in the open countryside even though the provision of market housing would trigger a payment towards the delivery of affordable housing.
7. Core Strategy Policy CS5 and SAMDev Policy MD7a relate specifically to new development in the countryside which will be strictly controlled, other than in defined circumstances, including improving the sustainability of rural communities.
8. Policy CS5 makes provision for '*..... dwellings to house agricultural, forestry or other essential countryside workers applicants will be required to demonstrate the need and benefit for the development proposed. Development will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate*'.
9. In turn, Policy MD7a confirms:- '*Dwellings to house essential rural workers will be permitted if, in the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the enterprise for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing such dwellings will be subject to occupancy conditions*'.
10. The appellant has long-standing association with the rural economy, which he seeks to retain, and his work is formally supported by Ludlow and District Riding for the Disabled Association (RDA). In this regard, the RDA claims that the appellant needs to build a dwelling to remain close to North Farm in order to 'delegate' the family business to his daughter, and to enable him to continue his work with the RDA. Without a new dwelling, it is said that he would be forced to sell North Farm resulting in the demise of the RDA.
11. I am in no doubt that the RDA is an important and valued community asset which depends heavily on the contributions of the appellant and this is a factor of significant weight. However, no tangible evidence, beyond the apparent desire and convenience of the appellant, has been submitted to demonstrate that a new dwelling in this location would be a prerequisite to the continued operation of the RDA. In particular, the requirements of Policy CS5, relating to demonstrable need and expected location, and the terms of Policy MD7a, with particular reference to establishing a functional need, would not be fulfilled. There is also no proffered mechanism to ensure that the dwelling would be treated as affordable and restricted in occupation.
12. Overall, the benefit claimed would appear to be more in the nature of a personal advantage as opposed to a clearly evidenced need with local economic and community benefits as the development plan anticipates. Moreover, the proposed dwelling would stand in isolation and away from any recognisable settlement or established group of buildings. Its purported link to North Farm would not be apparent.
13. The sustainability of the site is prayed in aid with its proximity to Ludlow town centre. However, part of the route into the town involves considerable gradient, it lacks continuous footways and routine walking or cycling would be an unlikely prospect and car journeys would likely be the norm. Whilst

consideration needs to be given to the appellant undertaking car journeys to work, if he were to live in Ludlow, his intended eleven years of employment before retirement would be considerably less than the lifespan of the dwelling and its longer term car movements and ongoing lack of sustainable travel.

14. Overall, the proposal would lack a proven economic or social role and building in the open countryside, without good reason, would run counter to the environmental role of sustainable development. It follows that it would not gain support from SAMDev Policy MD3.
15. Although it is claimed that the SAMDev will not deliver the Core Strategy objectives of rural rebalance or anticipated housing numbers in general, and much is said about the process leading to adoption, the SAMDev is nonetheless part of the adopted development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determination to be made in accordance with the plan unless material considerations indicate otherwise.
16. The National Planning Policy Framework sets out the manner in which local planning authorities should boost significantly the supply of housing through the plan-making process and for housing applications to be considered in the context of the presumption in favour of sustainable development.
17. Whilst these principles were rehearsed in the appeal decision referred to by the appellant,³ that proposal can be clearly distinguished from the current project. In this regard, the decision has to be read in the round and it is apparent that the Inspector, in allowing the appeal, gave significant weight to the socio-economic benefits of up to 215 market and affordable homes and the related development leading to a conclusion which engaged the presumption in favour of sustainable development.
18. In the appeal before me, the scale of benefits would be wholly different and of minimal weight; and the proposal would fail to achieve the three interdependent roles of sustainable development.
19. It follows that the erection of a new dwelling in the open countryside, without due justification, would be in conflict with the distribution of development set out in the development plan and it would thus be in conflict with Core Strategy Policies CS1, CS4 and CS5 and also with SAMDev Policies MD1, MD3 and MD7a.

Conservation Area

20. The appeal site lies adjacent to the Ludlow Conservation Area and, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Council takes no issue on this matter as it is satisfied that the dwelling would be well-designed and would be likely to have minimal impact on the historic environment.
21. For my part, the character and appearance of the historic town owes much to its wider landscape setting and significant areas of open countryside are

³ APP/L3245/W/15/3001117: Land off A49 and Bromfield Road, Ludlow, SY8 1DY: residential development comprising up to 215 dwellings a commercial building (ClassB1(a) or (b) – business) and/or neighbourhood store (Class A1 – retail)

included within the designated area. Whilst scattered development on the periphery of the town is an established component, and the proposed dwelling would be masked to a large degree, the domestication of the land would result in a marked loss of countryside character and its overwhelming rural appearance. This would be particularly incongruous and damaging, given adjacency to the Conservation Area and the acknowledged importance, to the designated area, of the high woodland and common to the south and west of the town.

22. As such the proposal would have an adverse impact on the designated asset and it would neither preserve nor enhance the character or appearance of the Ludlow Conservation Area.
23. In terms of the National Planning Policy Framework, the proposal would amount to 'less than substantial harm'. Nonetheless, when considering the harm to an asset, great weight should be given to the asset's conservation; and, the more important the asset, the greater the weight should be. Where it is found that a development proposal would lead to less than substantial harm to the significance of the designated asset, the harm should be weighed against the public benefits of the proposal. In this case the benefits would be personal to the appellant and permission should be refused.

Ecological interests

24. The Council's concern, in the wording of the second reason for refusal, is whether sufficient information has been provided in order to reach a conclusion on whether or not the proposal would cause an offence under the Conservation of Habitat and Species Regulations (2010).
25. Its appeal statement elaborates on the areas of concern and reference is made to paragraph 99 of Circular 06/2005 notably:- *'..... 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 planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'*.
26. The appellant's Protected Species Report, undertaken by a competent person, records findings and an overall assessment following two visits to the site (summer and autumn/winter). The field survey was carried out in accordance with the guidelines in the handbook for Phase 1 Habitat Surveys (the guidelines).
27. The Phase 1 habitat classification and associated field survey techniques provide a relatively rapid system to record semi-natural vegetation and other wildlife habitats. The report confirms that no evidence of any protected species was found on the site.
28. Whilst the surveyor expressed the view that the proposed development was unlikely to have impact on any protected species that might be found in the area, the report does not contain any form of transparent assessment or details to support that conclusion.
29. In particular, whilst the site itself has been used for grazing and it contains no particular features which might support habitats, it is bound on two sides by hedgerows and there is substantial tree cover on its eastern side and in the wider locality. The guidance confirms that *'..... sites of relatively limited*

conservation interest may nevertheless be of strategic importance to nature conservation, acting for instance, as wildlife corridors or "stepping stones".

30. In my opinion, the local planning authority's criticism of the limitations of the survey, in relation to potential bat, badger and reptile activity is well founded. Moreover, whilst regular grazing of the land is likely to have impoverished the plant species to be found within the site, the land forms part of the larger Whitcliffe Common Local Wildlife Site and it lies adjacent to the Whitcliffe Common Reserve. Moreover, it is telling that the appellant has not sought to respond to any of the criticism levelled by way of further details other than by placing continuing reliance on the presumed robustness of the original assessment.
31. Whilst it is said that broad habitat types were recorded and mapped, and that desk study did not identify any known presence of protected species within 250 metres of the site which could be impacted on by the proposed development, the overall level of information was superficial with no clear assessment of the potential role of the site within its wider context.
32. Core Strategy Policy CS17, reinforced by SAMDev Policy MD12, requires developers to identify, protect, enhance, expand and connect Shropshire's environmental assets, including reference to ecological assets, their immediate surroundings or their connecting corridors. In my opinion, the level of information provided by the appellant fell well below the threshold required to discharge the onus placed on the developer to provide an adequate evidential basis.
33. Overall, the report fell short in assessing potential direct impacts on the Whitcliffe Common Local Wildlife Site and potential indirect impacts on the adjacent Whitcliffe Common Reserve and the wider environmental networks. The shortcomings, and the potential effects of the proposal on ecological interests, run counter to Core Strategy Policy CS17, SAMDev Policy MD12 and the aim of the National Planning Policy Framework to minimise impacts on biodiversity, including by establishing coherent ecological networks.

The roadside tree

34. A well-established tree, of considerable amenity value, stands adjacent to the access into the site. Although the existing access point into the field is grassed over, and the existence of the stoned surface is not apparent, it has been confirmed that no excavation would take place around the tree and the subsequent surface would be permeable.
35. However, the access is of a somewhat informal nature and it is said that it was formed by the Water Board for their machinery when a new pipe was laid across the field. In this regard, there is no detailed information as to its construction or its relationship with root systems and no consideration appears to have been given to the consequences of likely significantly increased use to serve a dwelling. All of these elements, with any necessary mitigation, should have been set out in an arboricultural assessment in order to demonstrate that the project would not have a material adverse effect on the well-being of the tree.
36. Without these details, the proposal would be in conflict with Core Strategy Policy CS17 and SAMDev Policy MD12 which seek to ensure the protection of natural assets, including trees.

Other matters and planning balance

37. With regard to the claim that the site is previously developed land, part of the plot is occupied by a small observation bunker. Whilst the diminutive above-ground structures remain apparent, these are a minor and subsidiary element set within an area of rough pasture. As such, the bunker provides an insufficient basis to justify the erection of a dwelling and its related domestic curtilage which would itself retain the bunker.
38. In conclusion, having considered all of the policies drawn to my attention, the proposal would be in conflict with the development plan when read a whole and in particular to the spatial distribution of development. The claimed sustainability benefits of the proposal, the need for additional housing and the personal aspirations of the appellant do not outweigh the harm identified and accordingly I conclude that the appeal should be dismissed on this ground alone.
39. The proposed dwelling would also fail to preserve the character or appearance of the Ludlow Conservation Area and in the absence of any clearly confirmed public benefits, the harm identified is a further, stand-alone, reason to dismiss the appeal.
40. The inadequacy of the ecological information and the absence of an arboricultural assessment are further factors to be added to the compelling harm identified above.
41. Having regard to the above, and to the consideration of all other matters raised, the appeal is dismissed.

David MH Rose

Inspector

Costs Decision

Site visit made on 14 September 2016

by David M H Rose BA (Hons) MRTPI

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

Decision date: 18 November 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3150475 Land opposite North Farm, Whitcliff, Ludlow, Shropshire, SY8 2HD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Peter Dickin for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for a dwelling and garage.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Although the application is for a full award of costs, there is no allegation of unreasonable behaviour in relation to the first reason for refusal. In any event, I have found the proposal to be at odds with the distribution of development set out in the development plan. No unreasonable behaviour has occurred.
4. In terms of the second reason, it is important that the potential effects of development on ecological interests are properly understood at application stage. Whilst the appellant submitted a Protected Species Report, I have endorsed the deficiencies identified by the local planning authority as set out in my appeal decision. The matters raised were not unreasonable.
5. As to the third reason, the Design and Access Statement explains that the existing access is already stoned and, apart from some maintenance, it is not intended to make any alterations. Nonetheless, as indicated in my appeal decision, this by itself does not provide a sufficient basis to reach an informed conclusion. Without further information, set out within an arboricultural assessment, the local planning authority had reasonable grounds to include this as a reason for refusal.
6. Overall, I consider that the Council's reasons for refusal were not unreasonable and it has provided sufficient evidence to support its decision. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

David MH Rose

Inspector

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