



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

Date: Wednesday, 18 May 2016

**Committee:
Central Planning Committee**

Date: Thursday, 26 May 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 Central Planning Committee will be appointed at the Annual Council Meeting on 19th May 2016.

Your Committee Officer is:

Michelle Dulson Committee Officer

Tel: 01743 257719

Email: michelle.dulson@shropshire.gov.uk

AGENDA

1 Election of Chairman

2 Apologies for absence

To receive apologies for absence.

3 Appointment of Vice-Chairman

4 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the Central Planning Committee held on 28th April 2016.

Contact Linda Jeavons on 01743 252738.

5 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 5pm on Monday 23rd May 2016.

6 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.

7 Ashleys Wine Bar Ltd, 9 Shoplatch, Shrewsbury, Shropshire (16/00370/VAR)
(Pages 7 - 18)

Variation of Condition No. 4 attached to Planning Permission 09/00505/COU dated 08 July 2009 for change of use from A1/A2 to A3/A4 wine bar and cafe (hours of opening).

8 Ashleys Wine Bar Ltd, 9 Shoplatch, Shrewsbury, Shropshire (16/00371/VAR) (Pages 19 - 30)

Variation of Condition No. 5 attached to Planning Permission 10/01178/COU dated 03 June 2010 Application under s.73 for the change of use of pavement area for external seating and erection of 2no. awnings and 4no. heaters to front elevation (amended) (hours of opening).

9 Land Adj 38 Longden Road, Shrewsbury, Shropshire (15/05091/FUL) (Pages 31 - 50)

Erection of two residential dwellings; formation of driveway.

10 Ensdon Farm, Holyhead Road, Montford, Shrewsbury (15/04859/EIA) (Pages 51 - 82)

Erection of four poultry sheds, biomass building, office, photovoltaic panels, feed bins and associated plant, hardstanding and access.

11 Land South Of Calverton Way, Shrewsbury, Shropshire (15/04910/OUT) (Pages 83 - 94)

Outline Application for the erection of 4No residential units (to include access).

12 2 Oak Lane, Bicton Heath, Shrewsbury (16/00882/FUL) (Pages 95 - 102)

Erection of a two storey extension and attached garage.

13 Schedule of Appeals and Appeal Decisions (Pages 103 - 128)

14 Date of the Next Meeting

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 30th June 2016 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

26 May 2016

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 28 April 2016

2.00 - 4.09 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

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

Present

Councillor Vernon Bushell (Chairman)

Councillors Ted Clarke (Vice Chairman), Andrew Bannerman, Tudor Bebb, Dean Carroll, Roger Evans, Amy Liebich, Pamela Moseley, Peter Nutting, Kevin Pardy and Tim Barker (Substitute) (substitute for David Roberts)

102 Apologies for absence

An apology for absence was received from Councillor David Roberts (Substitute: Tim Barker).

103 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 3 March 2016 be approved as a correct record and signed by the Chairman.

104 Public Question Time

There were no public questions or petitions received.

105 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 15/05462/EIA, Councillor Tim Barker declared that he was Chairman of the Armed Forces Community Covenant Partnership and an Armed Forces Member Champion.

With reference to planning application 15/05462/EIA, Councillor Tudor Bebb stated that he knew of the applicant but had had no contact with him with regard to this application.

106 Proposed Temporary Closure of New College Road at London Road

The Area HDC Manager (North) introduced the application.

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 absence of Councillor Jane MacKenzie and in accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15), the Chairman read out a statement on her behalf (a copy of which would be appended to the signed minutes).

Mr P Marston, a local resident, spoke in support of the recommendation in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr G Glover, a local resident, 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), Councillor Ted Clarke, the local Ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement the following points were raised:

- He had received much correspondence from residents who were concerned that a closure of New College Road at its London Road end would have a detrimental impact on other roads in the vicinity; and
- In order that an informed decision could be made on which end to close he suggested that a six-month trial be undertaken to assess the merits of a closure at London Road against the current temporary TRO closure of the Wenlock Road/New College Road junction.

In the ensuing debate, Members noted the comments of all speakers and it was unanimously resolved as follows:

RESOLVED:

That:

- Contrary to the Officer's recommendation, the implementation of a temporary Traffic Regulation Order and closure of New College Road for access by all motor vehicles at its junction with London Road, be refused; and
- That a further proposal to formalise the existing temporary Traffic Regulation Order closure of the Wenlock Road/New College Road junction be submitted to a future meeting.

107 **Change in Order of Business**

RESOLVED:

That item No. 7 – Proposed Affordable Dwelling, Westbury, Shrewsbury, Shropshire (16/00120/FUL) be taken as the next item of business.

108 **Proposed Affordable Dwelling Westbury Shrewsbury Shropshire (16/00120/FUL)**

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He appraised Members of a further comment received from a local resident expressing concern regarding the safety of the access given its closeness to the crown of a bend and confirmed that Shropshire Council Highway Officers had responded and had raised no issues of concern.

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

Mr G Burns, 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 requested further clarification regarding the floor area and expressed concern regarding the access arrangements which would be located close to a bend in the road with no footpath and no lighting. In response to comments regarding the access, the Area HDC Manager (North) informed the meeting that he had visited the site himself that morning and he too expressed concerns regarding the access arrangements given the limited visibility due to the closeness of the bend in the road.

RESOLVED:

That this application be deferred to a future meeting for further clarification to be provided on the floor area of the proposed dwelling and the concerns expressed at the meeting by Highway Officers.

109 **Land Adjacent To The A5 Kinton Shrewsbury SY4 1AZ (15/05462/EIA)**

The Technical Specialist Planning Officer 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.

In the ensuing debate, Members considered the submitted plans. In response to comments, the Technical Specialist Planning Officer explained that appropriate landscaping conditions to protect and ensure negligible impact upon designated and undesignated heritage assets, including Nesscliffe Hill Camp, would be attached to any permission; the application had been the subject of a Habitat Regulation Assessment and Environmental Impact Assessment; and Condition No. 10 could be amended to reflect the MoD's comments as set out in paragraph 6.4.9 of the report.

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. 10 being amended to ensure that external lighting is designed to minimise adverse impact on the surrounding area as well as to minimise disturbance to bats, to reflect the comments made in paragraph 6.4.9 of the report:

and the following additional Condition:

No development approved by this permission shall commence until details of existing and proposed finished floor levels have been approved in writing by the local planning authority.

Reasons: To safeguard the visual amenities of the area.

110 Top Farm Kinton Shrewsbury Shropshire SY4 1AZ (16/00451/FUL)

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

RESOLVED:

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

111 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 28 April 2016 be noted.

112 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 26 May 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date
 Central Planning Committee
 26 May 2016

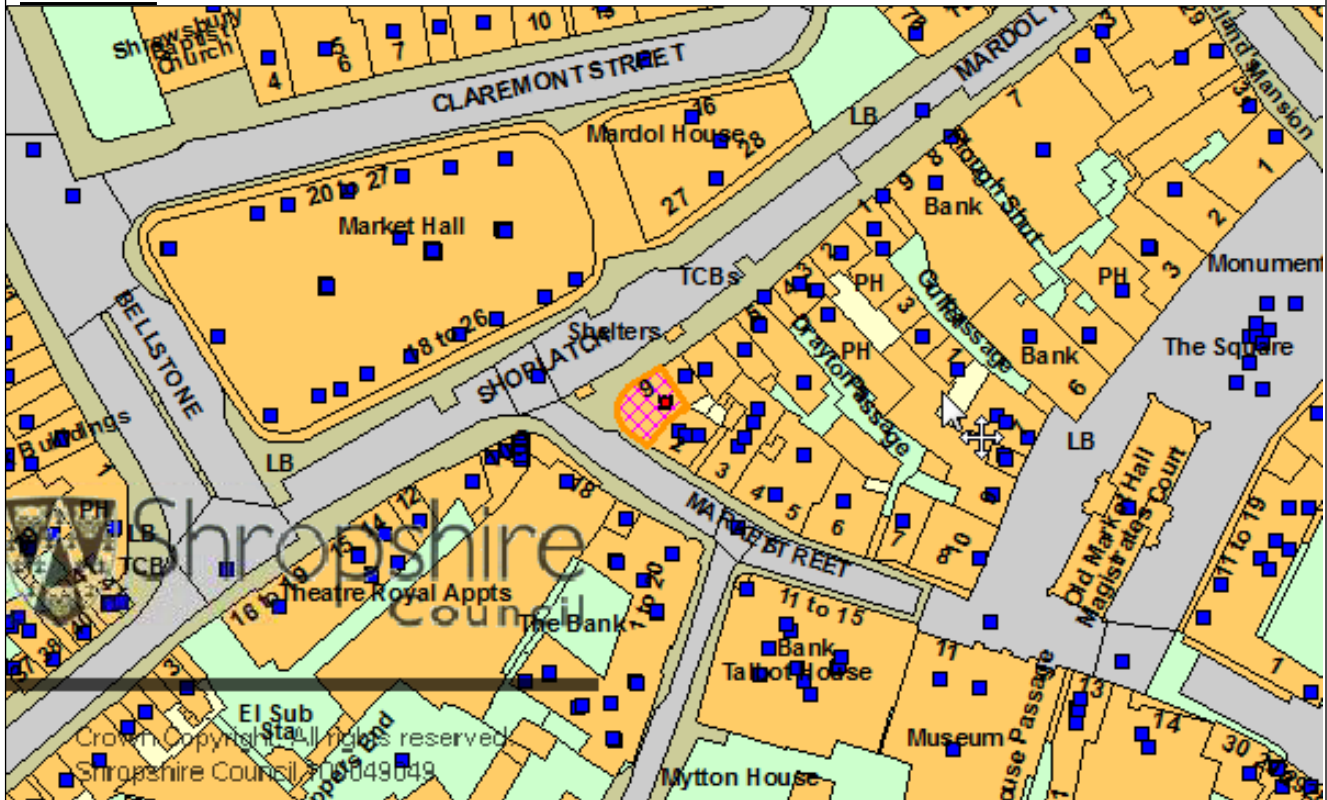
Development Management Report

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

Summary of Application

Application Number: 16/00370/VAR	Parish:	Shrewsbury Town Council
Proposal: Variation of Condition No. 4 attached to Planning Permission 09/00505/COU dated 08 July 2009 for change of use from A1/A2 to A3/A4 wine bar and cafe (hours of opening)		
Site Address: Ashleys Wine Bar Ltd 9 Shoplatch Shrewsbury Shropshire SY1 1HF		
Applicant: Ashleys Wine Bar Ltd.		
Case Officer: Frank Whitley	email: planningdmc@shropshire.gov.uk	

Grid Ref: 349053 - 312475



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks to vary Condition No. 4 attached to Planning Permission 09/00505/COU dated 08 July 2009 for change of use from A1/A2 to A3/A4 wine bar and cafe (hours of opening).
- 1.2 The application seeks to extend the currently approved closing time from 0000hrs to 0230hrs throughout the week, and from 0200hrs (as currently approved) on New Years morning to 0430hrs.
- 1.3 Condition No. 4 of 09/00505/COU states:
The premises shall not be open to the public/customers, nor any services be available to the public/customers outside the following hours: 10:00 to 24:00 Sunday, 08:00 to 24:00 Monday to Saturday and 08:00 to 02:00 the following morning on New Years Eve, nor shall any member of the public/customers remain on the premises outside these hours.
Reason: To safeguard the amenities of the locality.
- 1.4 A second planning application has been submitted concurrently to vary arrangements for outdoor seating (16/00371/VAR).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a four storey building (including basement) located on the corner of Shoplatch and Market Street with its entrance facing Shoplatch. The adjoining property in Market Street is an Estate Agent and the adjacent property in Shoplatch is a Sandwich Shop. Opposite is the Market Hall with predominantly retail premises beneath including a Pizza take-away. Opposite in Market Street and further along in Shoplatch on the same side of the road are residential apartments.
- 2.2 Within 100 metres of the site (in addition to Dominos Pizza) are a variety of late night restaurants and bars including Morgans and The Hole in The Wall.
- 2.3 The site is within Shrewsbury Conservation Area and is characterised in this part of the town by a mix of commercial, retail and residential properties.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution, as it falls within the following exception. The Town Council has submitted a view contrary to officers based on material planning considerations and the Local Member is supportive of the Town Council view.

3.2 The Chair of the Central Planning Committee has agreed that the issues raised are material considerations which should be debated by committee.

4.0 **Community Representations**

Consultee Comments

4.1 **SC Highways - no objection**

No objection to the variation of the condition in respect of the opening times of the business.

The application would appear to be seeking an amendment to the opening hours of the business to extend the time customers are able to drink. This is in essence an amenity matter and raises no highway implications.

4.2 **SC Archaeology - no comments**

4.3 **SC Public Protection**

Having considered this application I have no objection. It has been mentioned by residents that since the license review last year there has been an improvement in noise controls by the business. With the premises license controlling management aspects of the premises the licensing regime has the ability to control noise aspects to protect residents in the area. There is a condition on the premises license ensuring that a noise management plan is in place and followed to reduce any impacts of noise on the surrounding area. Additional controls using nuisance legislation and permit pavement restrictions offer additional control mechanisms.

4.4 **SC Conservation- no comments received**

4.5 **Shrewsbury Town Council**

Members do not see that the hours of operation of a neighbouring premise is justifiable reason for hours of licensable operation to be extended. This premise is nearer the town centre where there is an established precedence for earlier closing. In the interests of residential amenity (of which there is a greater concentration of residencies nearer to this premise than the neighbouring premise the applicant refers) opening hours should be restricted to 12.00am closure particularly during weekdays.

4.6 **Public Comments**

45 representation of support have been received, which state that the proposal would benefit the economy of the town centre and that there are unlikely to be noise problems associated with the late hours of operation.

39 objections have been received, including a petition (8 signatures) received from the residents of Cross Hill Sheltered Housing. Objections are mainly based upon concerns about noise impacts to residential amenity. The full range of issues is listed as follows:

- Will allow drinking on the street
- Effect on sleep patterns of local residents and children
- Assisting customers to smoke

- Establishment has flagrantly ignored previous restrictions
- Interference with reasonable passage of pedestrians on public footpath
- Breach of human rights to local residents
- Cannot open windows nearby due to noise
- Residents are entitled to undisturbed sleep during night
- Obstruction of highway
- Limited resources of Council to enforce drinking hours
- Effects of sleep deprivation to residents is a safety hazard putting lives at risk
- Drunkenness and anti-social behaviour, alcohol abuse
- Loss of character of town centre
- Ashleys wine bar has insufficient sound proofing
- Sets a precedent for late night drinking in town
- Morgans nearby has outside seating but for different clientele
- Risk to drunk pedestrians on road

4.7 **Shrewsbury Civic Society**

We understand this application is to vary the conditions laid down in the original change of use applications, permitted in 2009 and 2010. These were specifically set in order to retain this listed building's character and that of the immediate area.

We consider these applications to be inappropriate and detrimental to this part of the town centre. It would also undermine the considered views represented then in the variations. It is commonly known that these conditions have been flouted and needed a licensing review. To approve these applications would further tempt others to flout conditions and extend early morning drinking to new parts of the town.

We are already concerned about the way in which local voices appear to receive insufficient consideration in town centre applications. We hope that this application will be considered by councillors who can represent local experience. If allowed, the image that the buildings (and indeed the nearby area) will gain will undermine the importance of this streetscape. While the applicant suggests a need to keep up with "neighbouring" establishments, the fact is that late night drinking is some distance away – not in this area, that borders on residential and heritage buildings. Furthermore, it would be a disservice to undergraduates to suggest that most living in Mardol House will not require a good night's sleep in order to study well.

The granting of these applications is likely to encourage bit-by-bit erosion of the town's historic image; it's currently well-managed night-time economy; and the street pavement passage in this prominent position. It is therefore detrimental to the town's long-term economic future.

We therefore strongly object to this application and hope it will be rejected.

5.0 **THE MAIN ISSUES**

Principle of development
Residential Amenity
Other matters raised in objections

6.0 **OFFICER APPRAISAL**

6.1 Principle of development

- 6.1.1 Paragraph 18 of the NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
- 6.1.2 Paragraph 21 of the NPPF goes further and states that investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing.
- 6.1.3 The NPPF states at para 120 that to prevent unacceptable risks from pollution (in this case noise) planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.1.4 The importance of economic development and employment growth in Shrewsbury is integral to the strategy for the town. This will support the prosperity of Shropshire and ensure the sustainable and balanced development of the town. As well as the major employment land provisions made, Policy CS2, linked to Policies CS13, CS14 and CS15, also allows Shrewsbury to fulfil its strategic retail and commercial role and, as part of that, the safeguarding and enhancement of the role of the town centre.
- 6.1.5 Policy CS13 states that Shropshire Council, working with its partners, will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities. In doing so, particular emphasis will be placed on:
- Promoting Shropshire as a business investment location and a place for a range of business types to start up, invest and grow, recognising the economic benefits of Shropshire's environment and quality of life as unique selling points which need to be valued, conserved and enhanced;
 - Raising the profile of Shrewsbury developing its role as the county town, growth point and the main business, service and visitor centre for the Shropshire sub-region, in accordance with Policy CS2;
- 6.1.6 Shrewsbury Town Development Strategy states that the Shrewsbury Vision is to provide a sustainable and complementary mix of retail, community, employment and residential uses.
- 6.1.7 Core Strategy CS6 states that, in amongst other objectives, that development should contribute to the health and wellbeing of communities, including safeguarding residential and local amenity.
- 6.1.8 According to SAMDev Plan MD10A Shrewsbury is a Category C settlement with a

primary shopping area which includes primary and secondary frontages. Ashleys Wine Bar falls within a secondary frontage.

- 6.1.9 Within the Secondary Frontage additional main town centre uses will be acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses. Generally, there is a presumption in favour of proposals for main town centre uses within the wider town centre.
- 6.1.10 The business premises is set within the main town centre of Shrewsbury in close proximity to other drinking establishments. The main town centre is considered as a primary location for this type of use and it is considered appropriate that consideration is given to extending the hours of use of this business, though at the same time, striking a balance in relation to the impact made by extending these hours on levels of residential amenity.
- 6.1.11 A significant number of objections have been received. The vast majority are concerned about residential amenity, noise and anti-social behaviour. However those impacts, whether perceived or actual have to be considered against the established objective of strengthening the town centre economy, the approved operating hours of neighbouring premises. Although the planning merits of the application should be determined on their own, the existing licencing arrangements for Ashleys Wine Bar are a material consideration. The intention of the applicant at least is to align as far as possible the permitted hours of operation with the existing licence, so as to avoid confusion between the two permitting regimes.
- 6.1.12 The principle of development is established by way of 09/00505/COU which secured approval for change of use from A1/A2 to A3/A4 wine bar and café. However the determination of the application must have regard to whether the proposal will cause an unacceptable additional impacts upon other town centre uses, and in particular whether the proposal achieves a sustainable and complementary mix of town centre uses. In particular the determination must have regard to Core Strategy CS6, which amongst other objectives seeks to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity.
- 6.1.13 The principle of flexible hours of operation, if there is demand for it is considered established, though is subject to ensuring the this flexibility is not at the expense of reasonable residential amenity, in accordance with CS6.
- 6.2 **Residential Amenity**
- 6.2.1 The starting point for considering the impacts upon the amenity of the area is to review existing planning controls for similar establishments. Historically, drinking establishments have evolved in the town centre with no planning controls imposed, simply because there is no mechanism available to impose such controls unless a planning application is made for development which would in turn allow conditions to be imposed to control operating hours.
- 6.2.2 The accepted regime for controlling the sale of alcohol and the operation of licensed premises is licensing which is reviewed for individual premises. For

example neither the Hole in the Wall or Morgans Exchange have any planning controls relating to hours of operation. That said, Morgans Exchange can only use outdoor seating up to 2200hrs (by way of Condition 5, 09/00342/FUL, Change of use of public pavement to seating area and installation of window awnings).

- 6.2.3 A summary of planning and licensing controls (hours of operation only) in place currently is as follows: (Note- there are special provisions for 1st January).

	Planning condition control (hours of operation)	Licensing control (hours of operation)
Ashleys	0000 Mon-Sun 0200 1 st Jan	0230 Mon-Sun 0430 1 st January
Morgans	None	0200 Mon-Sun
Hole in the Wall	None	0030 Mon/Tues 0130 Wed/Thurs 0230 Fri/Sat

- 6.2.4 Ashley's Wine Bar is currently licensed to sell alcohol until 0200hrs throughout the week and is required close to customers by 0230hrs.

- 6.2.5 The Hole in the Wall is licensed to be open until 0230hrs Friday and Saturday and Morgans is licensed until 0200hrs Monday to Sunday. It is therefore necessary to consider whether continued imposition of the existing planning condition at Ashleys Wine Bar requiring midnight closing is reasonable in the context, when Morgans and The Hole in the Wall currently have no controls in place by way of the planning regime. It should also be noted that Ashley's is described as a "wine bar", but is permitted to be used as a drinking establishment under A4 Use Class, according to its 2009 permission.

- 6.2.6 The licensing regime already controls issues of disturbance from noise generated within the premises during opening hours, and noise from patrons leaving the premises late at night. Perhaps more importantly, the licence can be revoked if there are grounds to do so. This power extends far beyond that of a planning permission with conditions imposed.

- 6.2.7 Shropshire Council Public Protection has been consulted on this application and it is noted that since the licence review in 2015, there has been a substantial reduction in problems relating to local residential amenity. The consultation response states that the licensing regime has the ability to control noise in order to protect the amenity of residents. A noise management plan forms part of the licence and there is no evidence that this is not being followed. Nuisance legislation and permit pavement restrictions offer additional controls. It has been reported that Ashley's Wine Bar is already operating beyond the existing planning condition limit of midnight and no complaints have been received by Shropshire Council. Overall, officers consider that there is insufficient justification to refuse the application having regard to residential amenity since it appears that objections are more related to the perception and fear of disturbance rather than being evidence based on existing problems or specific incidents. The fallback position is that

issues of non-compliance can be dealt with if necessary through existing controls placed on Ashley's Bar through the licensing regime.

- 6.2.8 It should be noted that the occupiers of Cross Hill Court Sheltered Housing of whom eight signed a position are in excess of 100m from the premises with no direct view due to a number of buildings between.
- 6.2.9 The application proposes only an extension of hours of operation within the premises, and not outside the application site. Overall, it is not considered that the extended hours will cause disturbance such that residential amenity, and a sustainable mixed use in the town centre cannot be maintained in accordance with the requirements of CS6.
- 6.2.10 It is considered reasonable to extend opening hours to 0430 on 1st January, having regard to this being an exceptional provision and the licensing arrangements which already permit opening until this time.

6.3 **Other matters**

- 6.3.1 A range of concerns have been raised by way of representations received, beyond that simply of residential amenity impacts. Although they are legitimate concerns, they relate to the licensing regime and it is understood that any premises licence can be revoked if it is found to directly lead to, for example, anti-social behaviour. On balance there are considered no reasonable material planning grounds to justify a refusal of this application.

7.0 **CONCLUSION**

- 7.1 Overall the application to extend the hours of operation is considered acceptable, in the context of existing planning controls for similar premises in the locality, and having regard to existing licensing arrangements for premises locally. The application is considered to accord with the requirements of CS6, whilst achieving a sensible balance between the aims of CS2 and CS13. Planning permission is recommended.

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

Core Strategy and Saved Policies:

CS2, CS13, CS6

RELEVANT PLANNING HISTORY:

09/00505/COU Change of use from A1/A2 to A3/A4 wine bar and cafe GRANT 8th July 2009

10/01178/COU Application under s.73 for the change of use of pavement area for external seating and erection of 2no. awnings and 4no. heaters to front elevation (amended). GRANT 4th June 2010

10/02196/LBC Application under Section 73a The Town and Country Planning Act 1990 for the Installation of 4 No. radiant patio heaters, 2 No. extendable awnings and 6 No. downlighters GRLBC 27th August 2010

SA/92/0225 Street lighting improvements at the following locations within Shrewsbury Town Centre. 3, 69, 12, 62, 19, 22 and 28 Mardol, 22, 25, 37, 10A St John's Hill, 6 and 3 Cross Hill, 16 Swan Hill, Swan Hill House, 6, 3 Swan Hill, 1 Swan Hill Court, 13A, 8A College Hill, Music Hall - rear of College Hill, 2 College Hill, 9 Shoplatch, 2-5 Princess Street, 2-3 Milk Street, 20 Belmont, 11, 4, 13 Belmont, St. Winefride's Convent - College Hill, 5 Belmont, Granville House - Belmont Bank, Sycamore House - Belmont Bank, 3 and 4 Belmont Bank, Cornhouse Restaurant - St. Julian's Friars, The Acorn - St. Julian's Friars, 24 St. Julian's Friars, 40 and 45 High Street, 16A Princess Street, 5 Shoplatch, 6 Market Street, Hole in the Wall - Mardol Head, 1 Gullet Passage, 7 The Square, Music Hall, 72 Wyle Cop, Lion Hotel - Wyle Cop, Mews Apartments - Barracks Passage, 70 Wyle Cop, Oxleys Florist - Wyle Cop, 5 Belmont Bank. PERCON 1st July 1992

SA/99/0543 Erect and display 1 No. non illuminated hanging sign. PERCON 14th July 1999

SA/03/1503/ADV Erection of 5 no. non illuminated hanging signs REFUSE 5th January 2004

11. Additional Information

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

APPENDIX 1

Conditions

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

1. Condition 4 of planning permission 09/00505/COU dated 8 July 2009 , is hereby varied to read: The premises shall not be open to the public/customers, nor any services be available to the public/customers outside the following hours: 10:00 to 02:30 Sunday, 08:00 to 02:30 Monday to Saturday and 08:00 to 04:30 the following morning on New Years Eve, nor shall any member of the public/customers remain on the premises outside these hours.

Reason: To safeguard the residential amenities of the area, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy.

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Committee and date
 Central Planning Committee
 26 May 2016

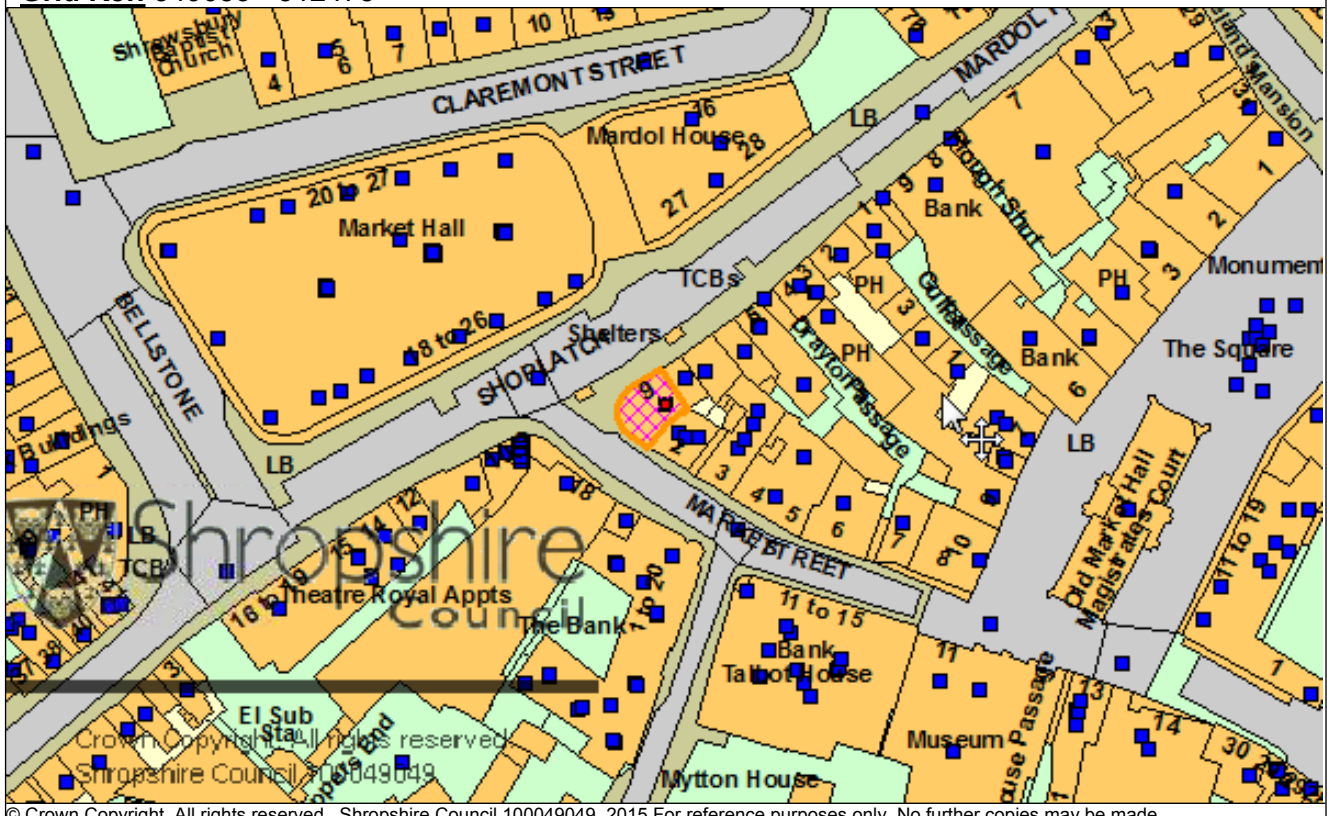
Development Management Report

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

Summary of Application

Application Number: 16/00371/VAR	Parish:	Shrewsbury Town Council
Proposal: Variation of Condition No. 5 attached to Planning Permission 10/01178/COU dated 03 June 2010 Application under s.73 for the change of use of pavement area for external seating and erection of 2no. awnings and 4no. heaters to front elevation (amended) (hours of opening)		
Site Address: Ashley's Wine Bar Ltd 9 Shoplatch Shrewsbury Shropshire SY1 1HF		
Applicant: Ashley's Wine Bar Ltd.		
Case Officer: Frank Whitley	email: planningdmc@shropshire.gov.uk	

Grid Ref: 349053 - 312475



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

REPORT

1.0 THE PROPOSAL

1.1 Variation of Condition No. 5 attached to Planning Permission 10/01178/COU dated 03 June 2010 Application under s.73 for the change of use of pavement area for external seating and erection of 2no. awnings and 4no. heaters to front elevation (amended) (hours of opening)

1.2 Condition 5 of 10/01178/COU states:
Between the hours of 2330 and 0800 the following morning, all tables, chairs or equipment associated with the use of the pavement seating area hereby approved shall be cleared from the pavement and stored within the building.

Reason: In the interests of amenity and highway safety.

1.3 The application as first submitted sought to vary the existing condition as follows:

Between the hours of 0200 and 0800 all tables, chairs or equipment associated with the use of the pavement seating area hereby approved shall be cleared from the pavement and stored within the building.

1.4 Discussion with the applicant has resulted in the proposal being amended to:

Tables, chairs and equipment associated with the pavement seating area shall not be used after 2330 and shall be cleared from the pavement and stored within the building between the hours of 0230 and 0800.

Reason: In the interests of amenity and highway safety.

1.5 A second planning application has been submitted concurrently seeking to extend the hours of operation inside the premises (16/00370/VAR).

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a four storey building (including basement) located on the corner of Shoplatch and Market Street with its entrance facing Shoplatch. The adjoining property in Market Street is an Estate Agent and the adjacent property in Shoplatch is a Sandwich Shop. Opposite is the Market Hall with predominantly retail premises beneath including a Pizza take-away. Opposite in Market Street and further along in Shoplatch on the same side of the road are residential apartments.

2.2 Within 100 metres of the site (in addition to Dominos Pizza) are a variety of late night restaurants and bars including Morgans and The Hole in The Wall.

2.3 The site is within Shrewsbury Conservation Area and is characterised in this part of the town by a mix of commercial, retail and residential properties.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution, as it falls within the following exception. The Town Council has submitted a view contrary to officers based on material planning considerations and the Local Member is supportive of the Town Council view.
- 3.2 The Chair of the Central Planning Committee has agreed that the issues raised are material considerations which should be debated by committee.

4.0 Community Representations**Consultee Comments****4.1 SC Highways - no objection**

The application 16/00371/VAR would appear to be seeking an amendment to extend opening hours of the business. The Highway Authority raises no objection to the principle of this with the Authority's concern being to maintain an appropriate and safe pedestrian/disabled access past the obstruction of the seating area on the highway.

The removal of the wording 'the following morning', would not appear to tie in with amendments to the opening times as sought in the application referenced above. The application would not however appear to be amending the agreed seating area from that previously approved and on that basis the Highway Authority raises no objection to the proposal.

4.2 SC Conservation - no comments received**4.3 SC Archaeology - We have no comments to make with respect to archaeological matters****4.4 SC Public Protection**

Having considered the proposals the application is looking to vary a condition to allow furniture used on the street to remain until 02:00 as opposed to 23:30 as is currently conditioned. This would have the effect of potentially bringing street furniture inside half an hour before the closing time specified on the premises license. I do not consider this achievable as there is no space inside for furniture to be placed while the premises remains open. I would advise that the times specified is altered to state 02:30 08:00 to ensure that this can be achieved in practise.

If the applicant were to propose this the condition would change to read as follows:

Between the hours of 02:30 and 08:00 the following morning all tables, chairs or other equipment associated with the use of the pavement seating area hereby approved shall be cleared from the pavement and stored within the building.

I would advise that the word OR in the above condition is not appropriate as it can be read as asking for tables and chairs OR other equipment to be brought inside. I

suggest Ashley applies to alter the wording to state AND not OR. This would provide clarity for all parties in future.

Should these alterations be accepted by the applicant I have no objection as I am of the opinion that between the planning and licensing regimes with the addition of pavement permitting and statutory nuisance powers adequate control of the premises functions will take place affording a suitable level of protection to local residents in respect to noise.

UPDATE: Following the amendments made to the proposal, Public Protection have further commented:

The only issue that this brings is the fact that there is not consistency between the regimes which introduces uncertainty for residents in the area regarding what is what which has been the issue causing complaint in the past however I have no objection to the proposed. From a noise perspective I have no objection to use of the external area until 00:00.

I can confirm that up until the beginning of this week no complaints have been received about this premises in the past 12 months which have been substantiated by the Public Protection.

4.5 Shrewsbury Town Council

Members are somewhat confused as to what the applicant is requesting. It would suggest that the applicant is not only requesting extensions to trading outside until 2.00am but also there shall no longer be any requirement to remove the furniture outside licensable times.

Members do not see that parity with a neighbouring premise is justifiable reason for extension of licensable hours. This premise is nearer the town centre where there is an established precedence for earlier closing. In the interests of residential amenity (of which there is a greater concentration of residencies nearer to this premise than the neighbouring premise the applicant refers) all activity outside should cease at 10.00pm in line with the existing permission.

Members also see that given the location on a busy footway with bus stops in the vicinity it is not unreasonable in the interests of highway safety that those tables and chairs be put away. This application would however need to be tied with application 16/00370/VAR so as not to conflict with hours of operation.

4.6 Shrewsbury Civic Society

We understand this application is to vary the conditions laid down in the original change of use applications, permitted in 2009 and 2010. These were specifically set in order to retain this listed building's character and that of the immediate area.

We consider these applications to be inappropriate and detrimental to this part of the town centre. It would also undermine the considered views represented then in the variations.

It is commonly known that these conditions have been flouted and needed a licensing review.

To approve these applications would further tempt others to flout conditions and extend early morning drinking to new parts of the town.

We are already concerned about the way in which local voices appear to receive insufficient consideration in town centre applications. We hope that this application will be considered by councillors who can represent local experience. If allowed, the image that the buildings (and indeed the nearby area) will gain will undermine the importance of this streetscape. While the applicant suggests a need to keep up with “neighbouring” establishments, the fact is that late night drinking is some distance away – not in this area, that borders on residential and heritage buildings. Furthermore, it would be a disservice to undergraduates to suggest that most living in Mardol House will not require a good night’s sleep in order to study well.

The granting of these applications is likely to encourage bit-by-bit erosion of the town’s historic image; it’s currently well-managed night-time economy; and the street pavement passage in this prominent position. It is therefore detrimental to the town’s long-term economic future.

We therefore strongly object to this application and hope it will be rejected.

4.7 **Public Comments**

27 objections have been received. Issues raised are summarised as:

- Disregard by applicant for current conditions set by Council
- Outdoor seating will inconvenience visitors, shoppers and users of nearby bus stop
- Disturbance to local residents
- Installation of outdoor heating environmentally harmful
- Conflict with Human Rights legislation
- Use of outdoor seating cannot be controlled by noise reduction measures (as can be indoors)
- Disturbance to University students nearby
- Health implications of sleep deprivation
- Anti-social behaviour will stretch police and A&E services
- A petition of 8 signatures has been received from residents of Cross Hill Sheltered Housing, objecting on the grounds of excessive noise.

5.0 **THE MAIN ISSUES**

Principle of development
Residential Amenity

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 Paragraph 18 of the NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 21 of the NPPF goes further and states that investment in business should

6.1.2 not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing.

6.1.3 The NPPF states at para 120 that to prevent unacceptable risks from pollution (in this case noise) planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

6.1.4 The importance of economic development and employment growth in Shrewsbury is integral to the strategy for the town. This will support the prosperity of Shropshire and ensure the sustainable and balanced development of the town. As well as the major employment land provisions made, Policy CS2, linked to Policies CS13, CS14 and CS15, also allows Shrewsbury to fulfil its strategic retail and commercial role and, as part of that, the safeguarding and enhancement of the role of the town centre.

6.1.5 Policy CS13 states that Shropshire Council, working with its partners, will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities. In doing so, particular emphasis will be placed on:

- Promoting Shropshire as a business investment location and a place for a range of business types to start up, invest and grow, recognising the economic benefits of Shropshire's environment and quality of life as unique selling points which need to be valued, conserved and enhanced;
- Raising the profile of Shrewsbury developing its role as the county town, growth point and the main business, service and visitor centre for the Shropshire sub-region, in accordance with Policy CS2;

6.1.6 Shrewsbury Town Development Strategy states that the Shrewsbury Vision is to provide a sustainable and complementary mix of retail, community, employment and residential uses.

6.1.7 Core Strategy CS6 states that, in amongst other objectives, that development should contribute to the health and wellbeing of communities, including safeguarding residential and local amenity.

6.1.8 According to SAMDev Plan MD10A Shrewsbury is a Category C settlement with a primary shopping area which includes primary and secondary frontages. Ashleys Wine Bar falls within a secondary frontage.

6.1.9 Within the Secondary Frontage additional main town centre uses will be acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses. Generally, there is a presumption in favour of proposals for main town centre uses within the wider town centre.

The business premises is set within the main town centre of Shrewsbury in close

6.1.10 proximity to other drinking establishments. The principle of outdoor seating is established by way of 10/01178/COU which secured planning permission for *the change of use of pavement area for external seating and erection of 2no. awnings and 4no. heaters.*

6.1.11 It is noted that Morgans, approximately 75m to the south west also has permission for outdoor seating by way of 09/00342/FUL (Change of use of public pavement to seating area and installation of window awnings). Condition 5 of that permission states:

The pavement seating area hereby approved shall not operate outside of the hours 0800 to 2200 on any day.

6.1.12 A significant number of objections have been received. The vast majority are concerned about residential amenity, noise and anti-social behaviour. However those impacts, whether perceived or actual have to be considered against the established objective of strengthening the town centre economy in line with CS2 and 13, and also against CS6.

6.2 Residential Amenity

6.2.1 It is noted that objections relate to the first submitted proposal, which if approved would have extended the use of outside seating until 0200. At least in part, the reason for the application being necessary is due to the separate proposal to extend hours of operation inside the premises. With customers inside, there is nowhere to store tables and chairs.

6.2.2 A revised proposal has been agreed with the applicant. This would permit tables and chairs to remain in situ after 2330, but not be used. Given that outdoor monitoring is required under the licensing arrangements, there is considered to be a sufficiently low risk of tables and chairs being used after the permitted times. The Council also has a monitoring team working within the town centre.

6.2.3 Once customers leave the premises after 0230, the proposed condition requires tables and chairs to be stored inside the premises for the remainder of the night.

6.2.4 It should be noted that the occupiers of Cross Hill Court Sheltered Housing of whom eight signed a petition against the application are in excess of 100m from the premises with no direct view due to a number of buildings between.

6.2.5 A representation has been received from a member of Shrewsbury Town Centre Residents Association, which is copied in full below for reference. The very comprehensive diary/log to which the representation refers shows that from 18 May 2015 to 20 March 2016, there were 79 occasions when tables were deployed after 2330, 66 occasions when the premises was open after midnight, and 4 occasions when loud music was heard by the diarist. Some additional instances are said to have been reported, but they are not accounted for in the log. Most relevant to this application is that no more than a single incident of “drinks on tables” is recorded.

6.2.6 *Members of the Shrewsbury Town Residents Association have monitored the above premises subsequent to the Licensing Hearing held 18th May last year. In*

general it would appear that the premises have largely complied with the revised conditions of the Premises Licence and fewer incidents of loud music and other disturbance have been recorded.

However the premises continue to flout the conditions of the current Planning Consent as can be seen from the many incidents recorded in the attached diary. We respectfully suggest that the application to vary the existing Planning conditions, specifically designed to protect the wellbeing of the many close residents, should be refused.

Although we are not aware of any recent enforcement that has taken place regarding Ashleys the many incidents of infringing Planning conditions by these premises raises the following important question. If the current Planning conditions are frequently ignored what guarantee is there that any revised conditions, allowing far later opening hours, will be honoured?

I hope the enclosed information will assist in Planning deliberations on this application.

6.2.7 The log appears to be indicating that residents' concerns are largely based upon non-compliance with existing conditions and the fear of harmful disturbance in the future.

6.2.8 It is considered that the evidence points otherwise- that the applicant has demonstrated his intention to balance his business interests with those of local residents. The applicant has implemented measures to significantly reduce disturbance and permission cannot reasonably be withheld because existing conditions are alleged to have been breached.

7.0 **CONCLUSION**

7.1 On balance, it is considered reasonable to permit tables and chairs to remain on the pavement without being used until 0230, after which time they should be cleared. There is the prospect of enforcement action in the event of non-compliance. The proposal is considered to achieve the aims of the NPPF, CS2 and CS13, whilst also secure reasonable residential amenity for local residents in accordance with CS6. Planning permission is recommended.

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

Core Strategy and Saved Policies:
CS2, CS6, CS13

RELEVANT PLANNING HISTORY:

09/00505/COU Change of use from A1/A2 to A3/A4 wine bar and cafe GRANT 8th July 2009

10/01178/COU Application under s.73 for the change of use of pavement area for external seating and erection of 2no. awnings and 4no. heaters to front elevation (amended). GRANT 4th June 2010

10/02196/LBC Application under Section 73a The Town and Country Planning Act 1990 for the Installation of 4 No. radiant patio heaters, 2 No. extendable awnings and 6 No. downlighters GRLBC 27th August 2010

SA/92/0225 Street lighting improvements at the following locations within Shrewsbury Town Centre. 3, 69, 12, 62, 19, 22 and 28 Mardol, 22, 25, 37, 10A St John's Hill, 6 and 3 Cross Hill, 16 Swan Hill, Swan Hill House, 6, 3 Swan Hill, 1 Swan Hill Court, 13A, 8A College Hill, Music Hall - rear of College Hill, 2 College Hill, 9 Shoplatch, 2-5 Princess Street, 2-3 Milk Street, 20 Belmont, 11, 4, 13 Belmont, St. Winefride's Convent - College Hill, 5 Belmont, Granville House - Belmont Bank, Sycamore House - Belmont Bank, 3 and 4 Belmont Bank, Cornhouse Restaurant - St. Julian's Friars, The Acorn - St. Julian's Friars, 24 St. Julian's Friars, 40 and 45 High Street, 16A Princess Street, 5 Shoplatch, 6 Market Street, Hole in the Wall - Mardol Head, 1 Gullet Passage, 7 The Square, Music Hall, 72 Wyle Cop, Lion Hotel - Wyle Cop, Mews Apartments - Barracks Passage, 70 Wyle Cop, Oxleys Florist - Wyle Cop, 5 Belmont Bank. PERCON 1st July 1992

SA/99/0543 Erect and display 1 No. non illuminated hanging sign. PERCON 14th July 1999

SA/03/1503/ADV Erection of 5 no. non illuminated hanging signs REFUSE 5th January 2004

11. Additional Information

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

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

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

1. Condition 5 of planning permission 10/01178/COU dated 3 June 2010, is hereby varied to read: Tables, chairs and equipment associated with the pavement seating area shall not be used after 2330 and shall be cleared from the pavement and stored within the building between the hours of 0230 and 0800.

Reason: In the interests of residential amenity and highway safety.

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Committee and date

Central Planning Committee

26 May 2016

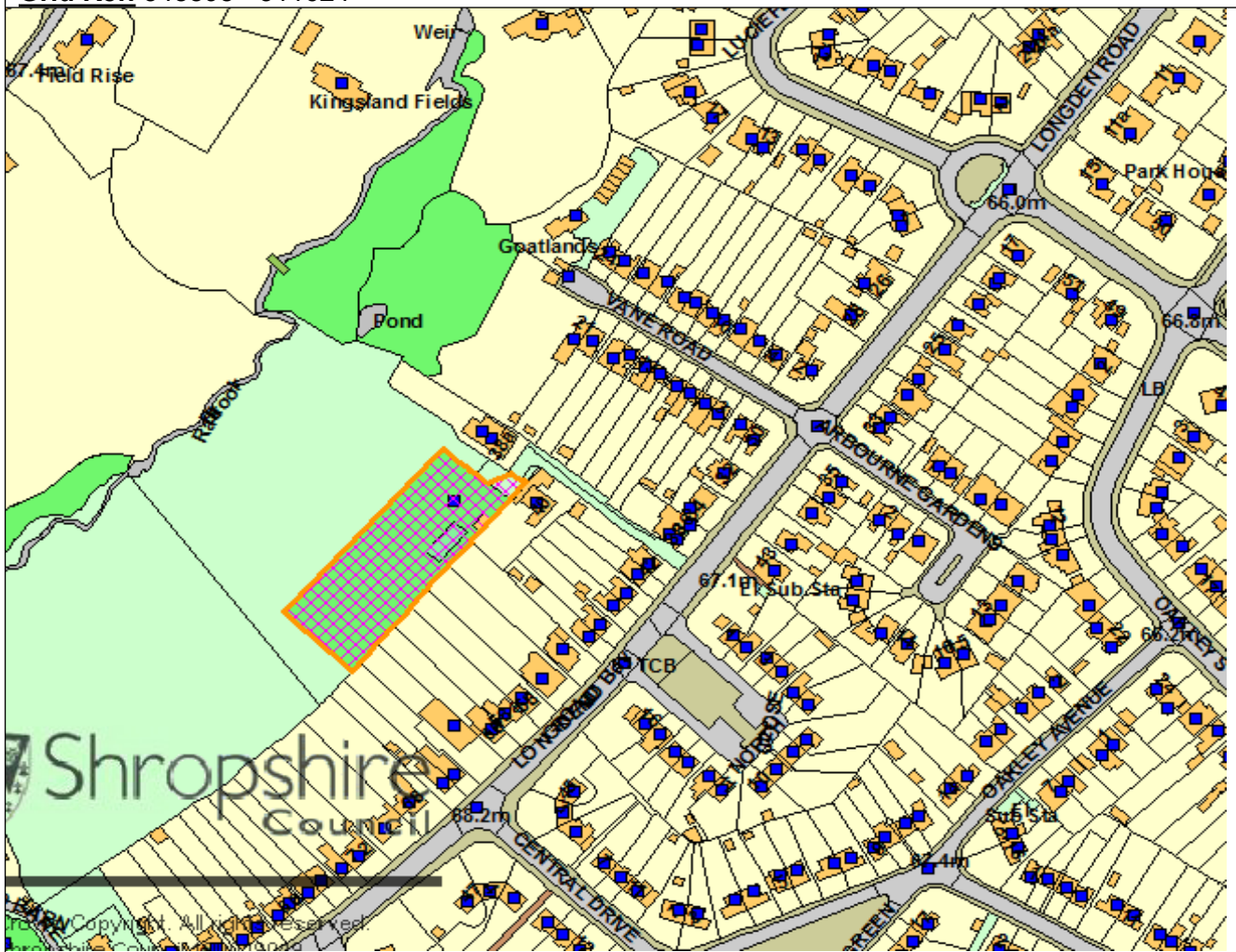
Development Management Report

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

Summary of Application

Application Number: 15/05091/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of two residential dwellings; formation of driveway		
Site Address: Land Adj 38 Longden Road Shrewsbury Shropshire		
Applicant: Mr D Davies		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348898 - 311624



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Recommendation:- Grant Permission subject to the applicants entering into a S106 agreement to secure affordable housing contribution and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for the erection of two detached dwellings and formation of a shared driveway.
- 1.2 The site has been subject of a previous appeal against non-determination of application ref: 14/00267/FUL. This previous application also sought planning permission for the erection of two detached dwellings and formation of a driveway. The appeal was dismissed on the grounds that the proposed dwellings because of their height and large footprint would result in an unacceptable visual intrusion into the valley and would neither preserve nor enhance the character or appearance of the Shrewsbury Conservation Area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the urban conurbation of Shrewsbury. The site lies within an area of green space that forms the valley surrounding the Rad Brook. The valley is bounded by the area of Kingsland to the north, with Coleham to the south and Roman Road to the west. Shrewsbury's town centre lies approximately 800 metres to the north.
- 2.2 The application site is set back approximately 80 metres from Longden Road with access gained via a shared private access track/driveway that runs to the north east of No.42 Longden Road. No's 38 & 40 Longden Road also utilise this track as their main access to their properties and the occupants of No.42 use the track to access a rear parking area. The site contains a derelict greenhouse that it is understood was formerly used as part of a market garden.
- 2.3 To the south-east of the development site lie the rear gardens of residential dwellings that front Longden Road. No.38 Longden Road is a bungalow, situated to the north east of the appeal site, with an access/opening to the adjacent field running between its south west boundary and the application site. No.40 is also set to the north east of the appeal site. To the north and west the site is surrounded by fields and trees that form part of the Rad Brook valley.
- 2.4 The application site is situated within the southerly boundary of the 'Kingsland Special Character Area' which forms part of the larger Shrewsbury Conservation Area, with the Conservation Area boundary coinciding with the sites south-eastern boundary. There are no listed buildings within the immediate vicinity of the property.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Shrewsbury Town Council and the Local Elected Member have submitted a view contrary to officers recommendation for approval based on material planning reasons that cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman or vice chairman agree that the Town Council and Local Member have raised material planning issues and should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Affordable Housing – No objection

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

4.1.2 SuDs – No objection

Suggested conditions and informatives should planning permission be granted relating to surface water drainage.

4.1.3 Cllr Chebsey (Locally Elected Member) – Objection

Having examined the application it appears to be very similar to previous proposed plans for the site. Therefore the same reasons for refusal apply to this current application. The fact remains that the new houses are encroaching into the Radvalley area which is a wild life haven and corridor within the urban area and the access is appalling and difficult. It is very important that the valley has no further development allowed in order to maintain this location for local residents to enjoy. For these two reasons I strongly object to this application.

There have been a number of applications for this site but still there is the problem of the dangerous access and egress on to Longden Road. It is many years since the site was used as a market garden and the volume of traffic on Longden Road has increased since that time. The lane will not support any further development, it is not simply the residents who may live in the new properties but also the access required during construction and thereafter servicing the properties.

Having just looked at the amended plans my earlier comments still stand. In principle I am against any development at this location due to the poor access and also any further erosion of the open space in the valley. This area should be kept as an amenity facility for the local residents and the green space should be preserved.

4.1.4 CPRE – Objection

Near repeat of previous application and CPRE objection to development of the site still stands; site is valuable open space previously identified by SABC as greenspace and is within the conservation area; this is one of the few remaining green corridors in town that the Council should preserve; access to the site is totally unsuitable as an access to further larger properties; will set a precedence of urban

creep into the Rad Valley; urge that this application is refused.

4.1.5 **Shrewsbury Town Council – Objection**

The Town Council has objected to the previous applications for this land as they feel that any development would encroach onto a rare green corridor in Shrewsbury, which they feel should be preserved for the benefit of both the residents and the wildlife in the area. Members are adamant that the green spaces within Shrewsbury should be protected and preserved without question and they have concerns that the proposals will have a negative visual impact to the detriment of a variety of people who use the area as an outdoor recreation space. The development will set a precedence of urban creep into the Rad Valley and an erosion of valuable green space. Shrewsbury Town Council objects to this application.

The Town Council has considered the updated plans for this application and in the light of few obvious changes to the details, members feel that their objections remained as previously stated.

4.1.6 **SC Archaeology – No comments**

4.1.7 **SC Highways – No objection**

No Objection – subject to the development being constructed in accordance with the approved details, and the recommended conditions.

The development seeks to construct 2 detached dwellings on land which once served a market garden site. The existing private accommodation track is narrow and somewhat overgrown along the adjacent property boundaries which could create difficulties with vehicles accessing the site. It is appreciated that the former use of the site (market garden) could possibly generate more traffic than could be expected by these two new dwellings and may also have included HGV's. Therefore it would not be appropriate to recommend refusal on this situation alone. However, there is the possibility of improving this track with appropriate pruning and vegetation clearance, which may also help make these new properties more marketable. The existing access onto Longden Road is considered acceptable to serve these two new dwellings, as the pedestrian and/or vehicular activity generated by this proposals is unlikely to be contrary to the interests of highway safety.

4.1.8 **SC Ecology – Comments**

Have read the above application and the supporting documents including the

- Extended Phase 1 Habitat Survey and Outline Ecological Impact Assessment and Confidential Appendix Pertaining to Badgers by Eco Tech both dated January 2014.
- Supplementary Information on Great Crested Newt dated May 2014
- Confidential report pertaining to badgers by Eco Tech dated February 2016

Recommend conditions and informatives.

The layout of the development has been amended on drawing SA20511 01 Rev A to provide a 15 metre new broadleaved tree planting belt on the western site boundary and a 15 metre buffer between this new planting and built development. I am satisfied that this planting, together with retention of trees on the northern site boundary, adequately protects the Environmental Network.

Partial conditions and informatives are suggested relating to landscaping, badgers, external lighting, and provision of bat boxes and protection of wild birds.

4.1.9 **SC Conservation – Objection**

Previously provided comments at the pre-application last September on this new application which follows on from an Appeal Decision dated March 26th 2015 which dismissed an appeal on the refusal to grant planning permission for two new dwellings on these lands.

The main issue of concern in terms of historic environment matters, confirmed in the Appeal Decision, was whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area. As noted in the Appeal Decision the site lies within the Kingsland Special Character Area, which forms part of the larger Conservation Area, and is part of the Rad Brook valley which provides an important 'green lung' extending into the heart of Shrewsbury and which makes a significant contribution to the setting of the historic town.

Two particular issues –

- a) the size, footprint and height of the proposed dwellings, and
- b) the impact of the dwellings on the trees on the site – were highlighted in the Appeal Decision.

While a revised house design with a smaller footprint and siting within the property has been submitted remain concerned that the dwellings still appear to be larger and taller than the existing dwellings at the end of the lane. Any revised proposal for these lands would need to more than adequately address this specific issue and remain concerned that the current proposal does not clearly demonstrate that the scheme would preserve and enhance the character and appearance of the wider Conservation Area and the immediate vicinity of this property. A high quality bespoke house design incorporating details, materials and finishes that better reflects and respects the nature and location of these valley lands should be considered. Also note that any revised proposal for these lands would also need to more than adequately demonstrate to our Trees Team that the substantial trees on the site would a) be protected and b) not impact adversely on the living conditions of the potential residents of the new dwellings and therefore not be subject to pressure for their removal.

Further comments dated 14th March 2016:

Further to the earlier comments dated January 21, 2016, revised plans have been submitted which add a planting buffer between the proposed built development and new planting on the site, moves the lots closer to the southern boundary of the site further from the trees along the northerly boundary, and which re-orientates the proposed building footprints on the site, with some detailing also added to the

building design, among other revisions described by the agent.

Reiterate that the main issue of concern in terms of historic environment matters, confirmed in the Appeal Decision, was whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area. While SC Trees Team have advised that subject to the inclusion of conditions the revised layout positions of the proposed dwellings are acceptable, the remaining issue highlighted in the Appeal Decision - the size, footprint and height of the proposed dwellings – in our view has not been adequately addressed. Having reviewed the further revised house design that has been submitted remain concerned that the dwellings do still appear to be larger and taller than the existing dwellings at the end of the lane. Reiterate that proposals for these lands would need to more than adequately address this specific issue, and remain concerned that the revised scheme does not clearly demonstrate that the proposal would preserve and enhance the character and appearance of the wider Conservation Area and the immediate vicinity of this property.

Had recommended in last comments that a high quality bespoke house design incorporating details, materials and finishes that better reflects and respects the nature and location of these valley lands and this specific site within them needs to be considered. Add that any development here needs to better assimilate with this predominantly wooded and natural area, and blend better with its surroundings. The proposed house designs reflect a more urban residential development which could appear out of context on this site. Should development on these lands be acceptable, the opportunity to better appreciate and understand the context of this site should be taken, and this should inform the design of development on these lands, including the incorporation of external materials, finishes and detailing which have better regard for the context of the site.

Further comments received 13th May 2016

Refer you to earlier series of comments on this application and would advise that while the height and design of the proposed Plot 1 house only has been reduced in scale, the March 14, 2016 comments are still relevant to this current revised scheme and direct you specifically to the last paragraph in these comments – the scheme including the house designs and site layout remains urban in nature and out of context with the valley land surroundings. Repeat that should development on this site be acceptable, the opportunity to better appreciate and understand the context of this site should be taken, and this should inform the development here including a higher regard for the context of the site.

4.1.10 **SC Trees – No objections**

The revised layout positions the dwellings at a more acceptable distance from the significant trees along the north west boundary. The development will still result in the loss of minor trees on the site; however this is being mitigated through planting of broadleaf trees to the south of the site. The species and exact positions of these new trees must be carefully selected to prevent any long-term impact to the residential amenity of the new properties.

Recommend conditions be applied to any grant of planning permission to protect retained trees and provide new planting.

4.2 - Public Comments

4.2.1 27 objections received from 8 different addresses and 1 petition (of 17 signatures from 9 different addresses) summarised as follows:

Principle

This scheme is not different than the previous scheme; should consist of affordable housing not luxury homes; contrary to policy including policies CS6 and CS17; should be a committee decision and not a delegated officer decision; market garden use ended on or before 1988 and its operation rarely required traffic/deliveries to site; SAMDev does not identify this area as suitable for housing

Visual Impact

New buildings should not be located within this part of the conservation area, detrimental to character and appearance; this area provides an important 'green lung' making an important contribution to this part of the setting of the town; damaging to local environment; retaining a few trees/landscaping shown will not provide sufficient mitigation; the shown elevation of the buildings is also a concern as they appear to be above the tree line and would be clearly visible in both summer and winter; visual blight; bland design makes no attempt to use the setting of the site and its views available; new dwellings would be a dominant feature in the landscape and will set a precedent; loss of 66 trees to this emerging woodland with many reaching over 12 metres in height will be a considerable loss of the immediate environment; excavation works will be required to link site to the main drainage; proposed house designs are still larger and taller than the bungalow to No.38;

Ecology

Loss of a range of habitat environments for wildlife; development will introduce additional artificial lighting; will cause ecological degradation replacing important environmental functions of the area with hard urbanisation; dislocating the subtle links between the open countryside and green spaces along the Rad Valley and into River Severn and Quarry; loss of 66 trees will reduce available habitat for insects, birds, animals and plants; local wildlife includes wild birds and badgers; the land is emerging woodland;

Residential Amenity

The construction and use of the proposed dwellings will have a detrimental impact on neighbours through noise and disturbance; vehicles will pass within 6 metres of the front of adjacent properties, including construction traffic; the site currently has no services and the application does not state how these will be provided; waste and recycling are only collected from the kerbside;

Highways Safety

The access track is substandard in width and also by its layout at its junction with the county road; intensified use of the track increases chance of vehicles meeting and times requiring vehicles to reverse into the road; no passing places; cars leaving the access track onto Longden Road have poor visibility and also cannot be seen by oncoming vehicles;

5.0 THE MAIN ISSUES

- Principle of development
- Previous appeal decision – Planning Inspectors conclusions
- Visual impact on the Conservation Area – current proposal
- Highway Safety
- Ecology
- Residential Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Relevant planning policies are contained in Shropshire Local Development Framework: Adopted Core Strategy and the Adopted Site Allocations and Management of Development (SAMDev) Plan. Core Strategy Policy CS2 (Shrewsbury - Development Strategy) of the core strategy identifies Shrewsbury as the primary focus for development in Shropshire. The policy also identifies that development will have regard to the promotion, conservation and enhancement of the town's natural and historic features, green corridors and spaces including the corridors of the River Severn and its tributaries. Policy MD1 of SAMDev also supports sustainable development in Shrewsbury. As this site is clearly located within the built area of Shrewsbury in principle the site is in an area where new residential development could be found to be acceptable subject to consideration of other material planning considerations.
- 6.1.2 Policy CS6 (Sustainable Development and Development Principles) and Policy MD2 (Sustainable Design) both set out the sustainable design and development principles of the Council and seek to ensure that the health and well being of communities, including residential and local amenity is safeguarded. These Policies also seek to ensure that development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate.
- 6.1.3 Core Strategy CS9 (Infrastructure Contributions) requires developments providing additional dwellings to help deliver more sustainable communities by making contributions to local infrastructure including contributions from residential developments towards affordable housing as also required by policy CS11 (Type & Affordability of Housing).
- 6.1.4 Policy CS17 (Environmental Networks) and policies MD12: The Natural Environment and MD13 The Historic Environment set out that developments will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. Both policies state that this will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological,

geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.

6.1.5 The Type and Affordability of Housing SPD was adopted by Shropshire Council on 12th September 2012. This SPD sets out the requirement for all new open market developments to make a contribution to the provision of affordable housing.

6.1.6 Policies CS9 and CS11 require new small scale housing developments to help deliver more sustainable communities by making contributions to local infrastructure including contributions from residential developments towards affordable housing. Such a contribution would usually be secured by a s106 legal agreement and the applicant's agent has submitted a proforma form confirming their clients are willing to pay the relevant contribution.

6.2 Previous appeal decision – Planning Inspectors conclusions

6.2.1 This site has been subject to a previous appeal (ref APP/L3245/A/14/2228392) that was dismissed. This previous scheme was also for the erection of two detached dwellings. The Planning Inspector set out that were two main issues to consider:

- Whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area;
- The impact of the proposal on highway safety.

6.2.2 Conservation Area - The Inspector expressed concerns relating to the size and design of the proposed dwellings and their impact on the trees on the site. He considered that many of the trees on site are self-set and their loss would not be significant but many of those trees on the northern and western boundaries are more substantial specimens. Although the dwellings were shown to be sited outside of the root protection area for these trees, the Inspector concluded that this relationship would have an adverse impact on living conditions through limited light, resulting in difficulty in resisting future pressure to have them removed. He considered that the loss of these more substantial trees would have an adverse impact on the character and appearance of the area and the proposed dwellings would be more obvious as a result.

The Inspector also considered that the proposed dwellings would be larger and taller than the two bungalows currently accessed off the track and whilst there is a building on site he considered that the proposed houses would because of their size (footprint and height) result in an unacceptable visual intrusion into the valley.

6.2.3 Highways – The Inspector acknowledged that the site had been previously used as a market garden and whilst it has not been used for some time, he found no evidence to show that it had been abandoned. He noted that such a use would likely generate traffic and possibly large delivery vehicles and concluded that the proposed two dwellings would not generate significantly more traffic than if the site returned to a commercial market garden. He determined that the proposals impact on highway safety would not justify the withholding of planning permission.

6.2.4 The Inspector therefore concluded that the proposed two dwellings would create harm to the conservation area and dismissed the appeal.

6.3 Visual impact on the Conservation Area – current proposal

- 6.3.1 The application site has been previously used as a market garden and this was noted by the previous appeal inspector. Whilst it appears that the site has not been used for this purpose in any commercial sense in recent years, no evidence has been put forward to indicate that this use has been abandoned. An old greenhouse still exists on the site and Officers note that this use could be continued. One of the main issues therefore for this site is the potential impact of the chosen designs of properties on the character and appearance of the surrounding conservation area.
- 6.3.2 Amended plans have been submitted for this application that have revised the design and size of the proposed dwellings significantly from the designs put forward on the earlier planning submission and subsequent appeal. The latest drawings now show both dwellings proposed set further towards the northern end of the site and so will be further away from existing mature trees. Plot 1, set closest to the site entrance is shown to be a detached 4 bedroom bungalow, and Plot 2 is a detached 4 bedroom two storey dwelling, its height just exceeding 7 metres at its tallest ridge height. The design of both properties has been chosen to reflect traditional housing, with pitched roofs and chimney detailing. The shared driveway to the properties would enter the site at its northern boundary, off the end of the existing private drive/access and will curve around the western side of both dwellings in order to allow the buildings to be set as far away from the retained trees as possible.
- 6.3.3 The submitted plans show the majority of self set trees within the centre of the site to be removed with most of the trees along the northern and western site boundaries retained. SC Tree & Landscape Officers have confirmed that they are satisfied that the revised layout positions are at a more acceptable distance from the significant trees along the north west boundary and have withdrawn their previous objections, with suggested conditions to secure details of new proposed planting and also a tree protection plan and Arboricultural method statement.
- 6.3.4 It is therefore considered that the revised positioning of the two dwellings within the site would overcome the previous Appeal Inspectors concerns relating to future pressures on the existing trees retention/removal. Conditions could be added to any consent granted withdrawing permitted development rights for both properties requiring that any extension works or outbuildings are subject to local authority consideration in order to preserve the new tree planting and existing trees on site.
- 6.3.5 As well as raising concern over the potential for future pressure of removal of the trees in the previous submission the appeal inspector also identified concerns relating to the size of both the footprint and height of the proposed dwellings and the visual impact this would have on the character and appearance of the conservation area.
- 6.3.6 The amended designs of both plots reduce the size of footprints previously considered at appeal and have also attempted to reduce the height of the dwellings. Plot 1 at the northern end of the site, situated closest to adjacent neighbours and at the highest part of the site in terms of land levels has been reduced in scale and height to a bungalow, with accommodation shown only at ground level. This design attempts to more closely reflect the scale and size of the

adjacent bungalow, No.38. It will also have less impact on the amenities of the closest neighbour, No.40 as discussed in the following sections of this report. Plot 2 whilst still a two storey dwelling has been reduced in size in terms of its footprint and although its overall height at its tallest ridge point has not been reduced since the previous application, the design incorporates a gabled design that includes differing ridge heights over different sections of the dwelling which aids to visually break up the overall mass of the dwelling.

- 6.3.7 Whilst it has been advised by SC conservation officers that the design of the development of this site should better assimilate with this predominantly wooded and natural area it is considered that the retained trees along the western site boundary as well as the additional deciduous tree planting indicated at the southern end of the site would further screen any new buildings. It is also noted that the design of the properties at No.38 and 40 are of traditional pitched roof designs utilising regular materials, brick, tiles etc. Whilst this site could have provided an opportunity for alternative designs and materials as hinted at by conservation officers it is considered that in this instance for the reasons above, the proposed designs are acceptable and would not result in any unacceptable visual intrusion into the valley. The proposed scheme is therefore considered to preserve the overall appearance and character of the conservation area.

6.4 Highway Safety

- 6.4.1 The site will be accessed via a private shared access that leads down from Longden Road. The application site is set at the end of this access drive. SC Highways Officers have not raised any objections to the proposed scheme. It is noted that the previous market garden use could be brought back into use with the potential to create more potential traffic movements than that of two dwellings. Officers consider that the existing access onto Longden Road is acceptable to serve these two new dwellings, as the pedestrian and/or vehicular activity generated by this proposal is unlikely to be contrary to the interests of highway safety.

6.5 Ecology

- 6.5.1 Submitted with the application were an Extended Phase 1 Habitat Survey; Outline Ecological Impact Assessment and Confidential Appendix pertaining to Badgers and Supplementary Information on Great crested Newts by Eco Tech dated January & May 2014 as well as supplementary Information on Great Crested Newt dated May 2014 and a further confidential report pertaining to badgers by Eco Tech dated February 2016. The LPA considers that the contents of the reports are satisfactory.
- 6.5.2 SC Ecologists also note that the layout of the development has been amended to provide a 15 metre new broadleaved tree planting belt on the western site boundary and a 15 metre buffer between this new planting and built development and are satisfied that this planting, together with retention of trees on the northern site boundary, will adequately protect the Environmental Network.

6.6 Residential Amenity

- 6.6.1 Objections have been raised by occupants of adjacent properties including Nos.38 & 40 Longden Road and the other properties fronting Longden Road to the south

east of the site. Their objections included loss of privacy and loss of amenity by noise and disturbance from the occupants of the new dwellings and likely traffic movements to and from the site.

- 6.6.2 Officers consider that the use of the site would not have any significant detrimental impact on residential amenity to immediate adjacent neighbours. The two residential properties proposed would be located within the appeal site at a sufficient distance away from No.40 Longden Road not to result in any direct overlooking and plot 1 has now been amended to a single storey dwelling which would further reduce any potential impacts. Between the appeal site and No.38 lays a vehicular access point to a field situated lower down in the valley and it is considered that this would help to ensure a sufficient degree of separation between the properties.
- 6.6.3 The houses located fronting Longden Road all have lengthy rear gardens that extend to the application sites eastern boundary. The submitted plans show land levels on the site fall away in a westerly direction down into the valley and also indicate the positions and heights of the new dwellings. Officers are satisfied that the new dwellings would not result in any significant opportunity for overlooking of these rear gardens and rear elevations of the properties fronting Longden Road.
- 6.6.4 Officers also consider that the traffic movements likely to be generated by the two residential properties included in this application would not have any significant detrimental impact on the residential amenity of occupants of adjacent dwellings through noise and disturbance.

7.0 CONCLUSION

- 7.1 The application site is situated within the built area of Shrewsbury and in principle the site is in an area where new residential development could be found to be acceptable subject to consideration of other material planning matters.
- 7.2 The application site is located within the Shrewsbury Conservation Area and also within the identified Kingsland Special Character Area. It is considered that the proposed amended scheme and the detailed proposed designs of the two dwellings to replace the former market garden use are acceptable. Their design and appearance as well as the amount of trees to be both retained and new trees to be planted on site, will cumulatively not result in any unacceptable visual intrusion into the adjacent valley. The proposed scheme is therefore considered to preserve the overall appearance and character of the conservation area and special character area. It is also considered that due to the proposed layout and size and design of dwellings proposed the development would not have any significant or detrimental impact on the residential amenity of adjacent or nearby neighbours.
- 7.3 The submitted ecological habitat reports and statements are acceptable and the development will not have any adverse impact on the surrounding natural environment and protected wildlife.
- 7.4 The likely traffic movements created by this development would be less than the potential traffic movements from the existing/latest market garden use. It is also considered that the existing access from the access drive out onto Longden Road

is acceptable as the pedestrian and/or vehicular activity generated by this proposal is unlikely to be contrary to the interests of highway safety.

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

Core Strategy and Saved Policies:

CS2: Shrewsbury – Development Strategy

CS6: Sustainable Design and Development Principles

CS9: Infrastructure Contributions

CS11: Type and Affordability of Housing

CS17: Environmental Networks

MD1: Scale and Distribution of Development

MD2: Sustainable Development

MD12: Natural Environment

MD13: Historic Environment

Type and Affordability of Housing Supplementary Planning Document (SPD)

RELEVANT PLANNING HISTORY:

14/00267/FUL Erection of two detached dwellings; formation of driveway NONDET 6th January 2015

Appeal

14/02171/NONDET Erection of two detached dwellings; formation of driveway DISMIS 26th March 2015

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items

containing exempt or confidential information)

Planning file: 15/05091/FUL

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Anne Chebsey

Appendices
APPENDIX 1 - Conditions

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until 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 (which ever is the sooner).
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.
4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction worksReason: To avoid congestion in the surrounding area and to protect the amenities of the area.
5. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.
 - a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and

particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

6. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a landscaping and tree planting scheme, prepared in accordance with of BS 8545: 2014 Trees: from nursery to independence in the landscape, has been submitted to and approved by the local planning authority and these works shall be carried out as approved. The submitted scheme shall also include:

Means of enclosure, including all security and other fencing;

Hard surfacing materials;

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting);

Planting plans, including wildlife habitat and features (e.g. hibernacula);

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, native species used to be of local provenance (Shropshire or surrounding counties);

Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;

Implementation timetables

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design and to ensure that there is no nett loss of trees from the urban area and to provide natural landscape features that help to integrate the development into the local environment.

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

7. Prior to the first occupation of the dwellings details of a minimum of three bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- hard surfacing
- fences, gates or walls
- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area.

9. No windows or other openings shall be formed above ground floor level in the South East (rear) elevations of either dwelling.

Reason: To preserve the amenity and privacy of adjoining properties.

10. The first floor windows in the South East elevation of Plot 2 shall be permanently formed as a high level top hung opening light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

11. No site clearance works or development shall commence until the badger sett on site has been closed under licence in accordance with details given in the Confidential report pertaining to badgers by Eco Tech dated February 2016

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

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

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

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Committee and date

Central Planning Committee

26 May 2016

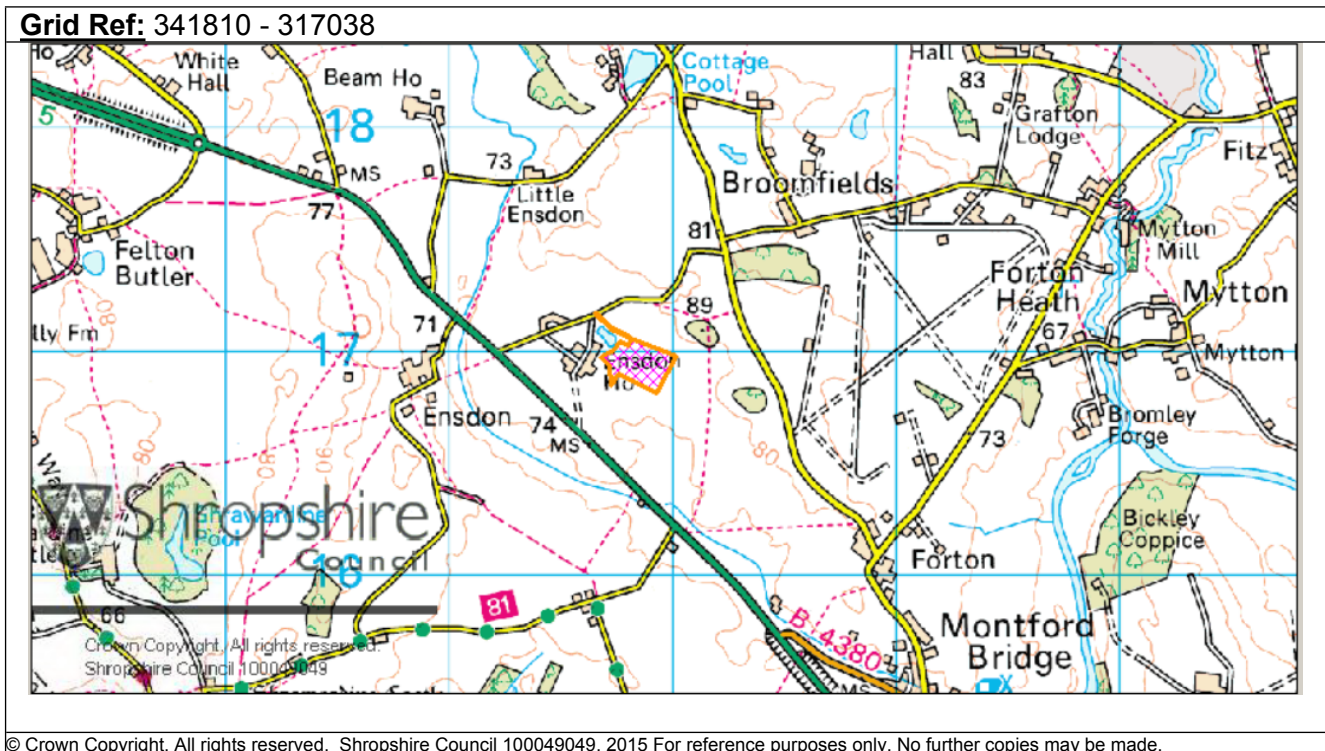
Development Management Report

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

Summary of Application

<u>Application Number:</u> 15/04859/EIA	<u>Parish:</u>	Montford
<u>Proposal:</u> Erection of four poultry sheds, biomass building, office, photovoltaic panels, feed bins and associated plant, hardstanding and access		
<u>Site Address:</u> Ensdon Farm Holyhead Road Montford Shrewsbury SY4 1EJ		
<u>Applicant:</u> C.E.B.Draper & Sons Ltd		
<u>Case Officer:</u> Kelvin Hall	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 341810 - 317038



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Recommendation: That Members delegate authority to the Planning Manager to grant planning permission for the proposed development subject to the conditions as set out in Appendix 2 and subject to satisfactory resolution of issues raised by Highways England regarding A5 junction improvements

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application seeks permission for the erection of four poultry rearing buildings, a biomass boiler building, an office, eight feed bins and other ancillary buildings. Each poultry building would accommodate 50,000 birds, with a combined total of 200,000 bird places. Each shed would measure approximately 115 metres x 27 metres with a height of 2.5 metres to eaves and 4.8 metres to ridge. Each shed would include a fan canopy and baffle area to the rear, and roof extraction outlets protruding to a height of 5.6 metres. A small control room would be attached to each shed, measuring 3 metres x 3 metres.
- 1.2 The biomass boiler building would be sited between the two central sheds and would measure 40 metres long x 10 metres wide, and 6 metres to eaves and 6.9 metres to ridge. It would be constructed of concrete composite panel walls with box profile metal sheeting above with a profile metal sheet roof. The feed bins would be of cylindrical design with a conical top and bottom. Their diameter would be 2.5 metres, and height would be 7.5 metres. The colour of the proposed buildings and feed bins is proposed to be a dark receding colour to be aged. Other development proposed includes six gas tanks within a safety compound, and a water tower 6 metres high and 3 metres diameter. Surface water attenuation would be provided by an existing pond situated to the north-west of the site.
- 1.3 The original planning application proposed the installation of ground-mounted solar panels covering an area of 0.36 hectares on land to the north-west of the proposed poultry buildings. The planning application has now been revised to omit this element of the proposed development.
- 1.4 A hedgerow with hedgerow trees would be planted around the perimeter of the site. Additional hedgerow trees would be planted in other hedgerows to the north and east.
- 1.5 Production process: Prior to the crop cycle the sheds would be pre-warmed to 31⁰c in preparation for chick delivery from the hatchery, and bedding litter would be spread on the building floors. Chicks would be delivered from the hatchery and placed in the sheds. The birds would be 'thinned' when they reach around five weeks old. This would involve the catching and transport of a proportion of chicks over a two day period. When the birds are around six weeks old the remainder would be caught and removed from the site. Bird catching and removal would take place during the day time and night time over two days. At the end of the growing period the used litter would be taken away in covered vehicles and stored in fields off-site prior to spreading on agricultural land. Wash down and disinfection would then take place ready for the next crop. The wash water would be collected in underground tanks before being spread to agricultural land. The biomass boiler would provide heat for the poultry sheds, using wood chip or home grown straw.
- 1.6 As detailed in section 6.1.1 below, the planning application is accompanied by an Environmental Impact Assessment (EIA), and this includes a detailed set of reports assessing the potential impacts of the development.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located at Ensdon Farm, approximately 1.8km to the north-west of Montford Bridge. The application covers an area of approximately 3.4 hectares and spans parts of two agricultural fields. To the west of the site are the agricultural buildings and farmhouse forming part of Ensdon Farm. To the north-west is a pond with perimeter trees. Other land surrounding the site comprises agricultural fields.
- 2.2 Access to the site would be gained via a new access track, approximately 170 metres in length, which would connect to an unclassified public highway to the north of the site. This links directly to the A5 trunk road to the west. The nearest residential property to the proposed poultry sheds is the applicant's farmhouse, Ensdon House, approximately 170 metres to the west. The nearest other residential properties are the nine dwellings at Claybury Crescent, approximately 290 metres to the north-west.
- 2.3 Ensdon House is a Grade II listed building, and the traditional farm buildings adjacent to it are considered to be curtilage listed. The nearest public right of way runs in a generally north-south orientation approximately 250 metres to the east of the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposals comprise Schedule 1 EIA development and the Council's Scheme of Delegation requires that such applications are determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

- 4.1.1 **Montford Parish Council** No objections. The proposal would have no serious adverse effects on neighbours or the location.
- 4.1.2 **Environment Agency** No objections.

Environmental Permitting Regulations: Intensive pig and poultry sites are regulated by us under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. Farms that exceed capacity thresholds >40,000 birds require an Environmental Permit (EP) to operate. For completeness, the total number of bird places proposed would exceed the capacity thresholds and require an EP to operate. For information, we issued an EP to C.E.B Draper & Son Limited in July 2015, to rear up to 320,000 broilers.

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

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

Development Proposals: Key environmental issues that are covered in the EP include

odour, noise, ammonia, bio-aerosols and dust. These relate to any emissions that are generated from within the EP installation boundary, including biomass boilers.

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

As part of the EP application it is the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of an EP we will take action in-line with our published Enforcement and Sanctions guidance.

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

Water Management: The Water Framework Directive (WFD) waterbody in closest proximity to the proposed development site is the 'River Severn – confluence of Bele Brook to confluence of Sundorne Brook' (Waterbody Reference GB109054049142), which is classified as a 'moderate' waterbody. Any development should not cause any deterioration in water quality or hamper efforts to improve waterbody status to 'good' by 2027. Clean Surface water can be collected for re-use, disposed of via soakaway or discharged directly to controlled waters. Dirty Water e.g. derived from shed washings, is normally collected in dirty water tanks via impermeable surfaces. Any tanks proposed should comply with the Water Resources (control of pollution, sludge, slurry and agricultural fuel oil) Regulations 2010 (SSAFO). Yard areas and drainage channels around sheds are normally concreted.

Shed roofs that have roof ventilation extraction fans present, may result in the build up of dust which is washed off from rainfall, forming lightly contaminated water. The EP will normally require the treatment of roof water, via swales or created wetland from units with roof mounted ventilation, to minimise risk of pollution and enhance water quality. For information we have produced a Rural Sustainable Drainage System Guidance Document, which can be accessed via: <http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

Flood Risk (Surface Water): Based on our 'indicative' Flood Map for Planning (Rivers and Sea), the proposed development site is located within Flood Zone 1 which comprises of land assessed as having a less than 1 in 1000 annual probability of river flooding (<0.1%). Reference should be made to our Area 'FRA Guidance Note 1 - for development over 1ha in Flood Zone 1' and we recommend that you consult with your Council's Flood and Water Management team (Lead Local Flood Authority) in relation to the following: The increase in hardstanding area could result in an increase in surface water run-off. Evidence should be included with the planning application (Environmental Statement) to show that surface water is not increased when compared to existing run-off rates. This should be done by using Sustainable Drainage Systems (SuDS) to attenuate to at least Greenfield runoff, including confirmation of attenuation to the 100 year plus climate change storm event and where possible achieving betterment in the surface water runoff regime.

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

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations. We can confirm that Ensdon Farm is located within a NVZ.

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

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

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

- 4.1.3 **Natural England** The application site is within or in close proximity to an internationally designated site and therefore has the potential to affect its interest features. These 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 Fenemere SSSI which is a component site of the Midlands Meres and Mosses Phase 1 Ramsar site* and Hencott Pool SSSI a component of the Midlands Meres and Mosses Phase 2 Ramsar Site. and also Shrawardine Pool a Site of Special Scientific Interest (SSSI).

*Listed or proposed Wetlands of International Importance under the Ramsar Convention (Ramsar) sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

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

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the international site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any international site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out.

The Environmental Statement correctly states that a HRA will be required and that the likely environmental pathway is through air pollution. However the chapter goes on to state that this will not be dealt with by that chapter of the Environmental Statement. The ES states that the potential for air pollution is to be considered as part of a different chapter of the Environmental Statement though it does not appear to have been provided to us. The ES screens out impacts on designated nature conservation sites due to the ammonia screening as part of the Environmental Permit considerations undertaken by the Environment Agency (EA). You may be able to refer to the EA's considerations to inform your HRA but it does not appear that the permit of ammonia screening has been included with the planning application as yet.

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](#).

Protected Species: We have not assessed this application and associated documents for impacts on protected species. Natural England's Standing Advice on protected species should be applied to the application, as a material consideration, in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

Biodiversity enhancements: This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if

it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

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

Habitats Regulations Assessment: This application is for four poultry sheds, to accommodate 85,000+ broiler chickens.

This site has had pre-application advice from the Environment Agency (reference EPR/QP3538WP/A001) for 320,000 broiler places. This document, which includes an ammonia screening assessment, has been provided to SC Ecology.

The Environment Agency (EA) has based their pre-application advice on 320,000 broiler places. In line with the information that the applicant has provided in support of their pre-application, the EA has stated that the applicant does not need to submit detailed modelling with their permit application. This is because the impact of ammonia deposition from the proposed development has screened out below the critical level threshold that the EA has set for designated sites.

The proposed application has obtained an Environmental Permit from the EA. Shropshire Council, under Regulation 61 of the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. SC Ecology has therefore used the Environmental Permit and the supporting evidence which was used to secure the permit to complete the assessment of air pollution impacts for European Designated Sites within 10km, National Designated Sites within 5km, and Local Wildlife Sites/Ancient Woodlands within 2km.

SC Ecology is satisfied that the proposed application is unlikely to have a significant effect on the internationally important interest features of any European or Nationally Designated Sites, alone or in combination with other plans or projects.

A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented

Natural England will be formally consulted on this planning application and the Local Planning Authority must have regard to their representations when making a planning decision. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European or Nationally Designated Site.

Habitats and species: An ecological assessment was carried out on this site in February 2015 and this was followed by great crested newt surveys in May.

Habitats: The majority of this site is arable field, with some improved grassland in the

west of the site and a few arable weeds.

The northern boundary is formed by a species-poor, managed hedgerow.

An access track 'will run across improved grassland fields and will cross three hedgerows before exiting onto the lane to the west' of the site. All of these hedgerows are species-poor.

Just to the west of the site is a pool, surrounded by trees, scrub and ruderal vegetation.

338m of new hedgerow (including standard trees) and species-rich rough grassland will be planted on the site. This will increase the ecological value of the site.

Great crested newts: 'The site generally supports poor terrestrial habitat [for great crested newts]; however, the hedgerows and the nearby pool surround may be of higher potential value.'

A Habitat Suitability Index assessment was carried out on the pool. This calculated the pool as having 'Poor' suitability to support great crested newts. However, due to the close proximity of the pool, great crested newt presence/absence surveys were carried out on.

No great crested newts were recorded during the surveys but common toads (and their tadpoles) were recorded.

'Several other pools are located in the surrounds but all are well over 500m to the north and east. A circular old silo pit/tower resembles a small pool on the aerial photograph. Another area in the yard is a concrete silage pit which fills with run-off from the yard, but the water is polluted and lacking any vegetation.'

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by amphibians. Trenches should be covered over overnight or contain a ramp so that any animals which become trapped have a means of escape.

Bats: None of the trees bordering the site are suitable to support roosting bats. Bats are likely to use the hedgerow and the adjacent pool and 'woodland' habitats for foraging and commuting. New lighting on the site should be sensitive to bats and avoid illumination of the hedgerows and poolside vegetation. The Bat Conservation Trust's guidance on lighting should be followed.

Birds: The hedgerow and vegetation surrounding the pool provide potential nesting bird habitat. Buzzard, dunnoek, mallard, pheasant, robin, wood pigeon and wren were observed during the survey and a skylark 'was heard at some distance from the site [during] the initial survey'.

Removal of the sections of hedgerow should take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check for active nests will be needed and if any nests are present then removal cannot take place until the young birds have fledged.

The new hedgerow planting will provide additional nesting, foraging and roosting opportunities for birds.

Other species: No evidence of any other protected or priority species was observed on the site and no other impacts are anticipated.

Lighting: It is recommended that a condition is imposed on the decision notice requiring that a lighting plan is submitted for approval prior to the erection of any external lighting (see Appendix 2).

4.1.5 **Historic England** Do not wish to comment in detail. Do not consider that the application will affect designated heritage assets. The area, however, is known to contain a number of undesignated heritage assets, including the course of a Roman Road that is thought to follow the course of the A5, along which Roman settlement is more likely to have been established than elsewhere. It is recommended, therefore, that the County Historic Environment team is consulted so that they can advise upon an appropriate approach in line with the NPPF paragraph 128. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4.1.6 **SC Archaeology** Recommends a condition.

The proposed development consists of a poultry unit comprising four broiler sheds, a biomass building, feed bins, an office building, photovoltaic panels, associated plant, and ancillary works including access track and landscaping. It would occupy an area of approximately 3.36ha and would be located immediately to the east of the existing farmstead at Ensdon Farm, which currently comprises a number of large modern portal framed sheds as well as some extant traditional farm buildings. Ensdon House, immediately to the south of the farmstead, is a Grade II Listed (NHLE ref. 1055117) mid-late 18th century small country house of red brick with a two span slate roof.

At present, there are no known heritage assets with archaeological interest on the proposed development site itself. However, Shropshire Historic Environment Record holds records of seven archaeological cropmark sites, which are likely to range in date from the Early Bronze Age to Roman period, within a one kilometre radius of the site boundary. These provide evidence for long term human activity within this part of the landscape in the later prehistoric and Roman periods. As such, and when also taking into account its extent, on present evidence the proposed development site is considered to have moderate archaeological potential.

The submitted heritage assessment satisfies the requirements set out in Paragraph 128 of the NPPF with regard to the archaeological interest of the proposed development site. In view of the findings contained in the Environmental Statement, and in line with Paragraph 141 of the NPPF, it is advised that a phased programme of archaeological work be made a condition of any planning permission for this part of the proposed development. This would comprise an initial geophysical survey of the whole of the proposed development site, to be followed by further archaeological mitigation as appropriate but as a minimum a watching brief during the intrusive groundworks during any preparatory works and the construction phase of the development (see condition in Appendix 2).

- 4.1.7 **SC Conservation** This application proposes four large poultry sheds, ground mounted photovoltaic panels and related works on lands south-east of the Grade II listed Ensdon House, described in the listing as a large 18th Century farmhouse/small country house of red brick construction. Its associated farmstead has been identified and classified by the Council's Historic Farmsteads Characterisation Project, and described as a regular courtyard with multiple yards; our archival mapping indicates that the extensive range of farm buildings immediately east of Ensdon House is a combination of extant traditional farm buildings which would be considered as curtilage listed to the main farm house, and more modern agricultural buildings. These buildings would likely provide some screening to the listed farmhouse from the proposed development.

In considering this 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, the Planning Practice Guidance, and Sections 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

While there does not appear to be a formal Heritage Impact Assessment included with the material submitted for this application, we note that Historic England has reviewed the proposal and is of the view that the application will likely not affect designated heritage assets, however the Archaeology half of our Team should be consulted in terms of impacts on possible Roman settlement in the area. To fully mitigate potential impact on heritage assets we recommend that conditions requiring the prior approval of all building materials (including decorative finishes) should be included in the Decision Notice to minimise any visual obtrusiveness of the development, and that conditions should also be applied requiring the landscape retention and planting scheme is fully implemented as part of the proposal.

Should the application be recommended for approval, conditions requiring approval of full details of external materials and finishes on all buildings and features proposed within the site, as well as a landscape retention and implementation scheme, should be imposed (see Appendix 2).

- 4.1.8 **Highways England** In relation to the application as originally submitted Highways England advised that the development is likely to have a detrimental impact on road safety, and recommended that planning permission is not granted for a period of three months to allow time for the applicant to investigate alternative access arrangements. Revised plans have been submitted to improve the junction between the A5 trunk road and the unclassified public highway that leads to the proposed site entrance. It is understood that these improvements are satisfactory for Highways England. However at the time of writing this report confirmation of their position was awaited.

Original comments made 11/12/15

The submitted detail on drawing no. SK21511-09, which supports the application, indicates that the road width of the minor road leading to the bell mouth junction with the A5 is 3.3m. Furthermore, the submitted detail on drawing no. SK21511-05 indicates that there is insufficient space within the bell mouth to allow for a HGV turning off the A5 to fully exit the carriageway if a vehicle is waiting to enter the A5.

It is notable that the applicant recognises the potential for vehicle conflicts associated with the development at the junction and attempts to mitigate the concerns by the provision of HGV passing bays on the minor road directly to the east of the junction. Nonetheless, these passing bays are unlikely to mitigate the risks associated with vehicles standing on the A5 whilst other vehicles attempt to join it.

Highways England considers that the proposed alterations to the minor road, to provide passing bays in order to mitigate the risks associated with the increase in HGV movements at the priority junction is insufficient and therefore the development is likely to have a detrimental impact on the safety of road users using the SRN.

It is therefore recommended that the application not be granted planning permission for a period of 3 months, due to its non-compliance with Paragraph 10 of DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development. This will allow time for the applicant to explore alternative methods of providing an acceptable access arrangement to the proposed development; which will not have a detrimental impact on the continued safe operation and functionality of the SRN.

4.1.9 **SC Highways** Recommends conditions.

It is noted that Highway England (HE) maintain their stance to prevent planning permission being granted in order that the applicant consider improvements being carried out to the A5 junction. As part of the requirement for the applicant to improve the A5 junction, which provides the access route to the site, it is implicit that this will impact upon part of the road maintained by Shropshire Council. The effective boundary between the A5 strategic road network and the Shropshire Council's responsibility is the hedge line across either side the junction bellmouth. Whilst clearly a section of Shropshire Council's road will therefore be affected by the requirements of the HE, we are supported of the HE's position. Provided suitable design details can be agreed with the HE then this can be conditioned accordingly.

We would however point out the narrow nature of the access approach route to the site access from the A5 junction and it is considered that 2 passing places are required along this route. The highway authority are satisfied that this can be dealt with via a Grampian style condition on the basis that the applicant is in control of land on both sides of the approach road leading to the site. Conditions are recommended to require the provision of 2 HGV passing places between the A5 junction and the site access, and the submission of a Construction Traffic Management Plan for approval (see Appendix 2).

4.1.10 **SC Drainage** The surface water drainage proposals in the Flood Risk Assessment are acceptable in principle. Details of the drainage scheme, pond and contaminated water management should be submitted for approval, and can be dealt with by planning condition (see condition in Appendix 1).

4.1.11 **SC Public Protection** No objections.

Comments 30/3/2016

Having considered the location I do not consider it likely that there will be any impact from any existing noise sources on the site applying for consent. I am of the opinion, based on experience of poultry farms and their internal noise environment, that existing noise will

not have any adverse impact on the proposed development. Noise will be below the Lowest Observed Adverse Affect Level (LOAEL) cited in the Noise Policy Statement for England. Although the Noise Policy Statement for England clearly considers noise in relation to human impact the term LOAEL is a useful phrase to express the likelihood of noise impact. As a result it is not considered proportionate to request a noise assessment and it is not considered appropriate, relevant or reasonable to place any condition in relation to noise given what is considered to be a low potential for any adverse impact

Comments 10/3/2016

In respect of odour I do not consider there will be a significant detrimental impact on the amenity of the area as a result of the proposed development. As a result I have no further comment on this front.

In relation to noise I am aware that the MoD have placed an objection due to the impact of noise from MoD related activities on the proposed development. Having read the comments submitted by the applicant which respond to the MoD comments I can confirm that I generally agree with the applicants comments for the following reasons. The MoD comments refer to an impact from noise of current activities on the proposed poultry. As the poultry will be housed internally in a well insulated building there is no likely significant impact on the poultry expected from external noise, particularly from the MoD site referred to stated as being 3km away.

It should be noted that the NPPF, Noise Policy Statement for England, British standards in relation to noise and World Health Organisation documentation refer to relevant receptors, sensitive receptors and human receptors. Poultry are not covered by any of these decisions and therefore are not relevant to this discussion.

There are several poultry units in close proximity to noise sources including aircraft bases and flight paths in Shropshire. No evidence reported suggests and welfare impact on the poultry. In respect of animal welfare I do not consider it suitable in this instance to consider this element at the planning stage. Welfare of animals is covered by specific legislation. Furthermore third party auditors and enhanced welfare schemes will dictate improvements if required in future. However, despite this I have no reason to believe that poultry welfare will be impacted by external noise levels in this instance.

In conclusion I have no objections to this application and no conditions to recommend as there is no likely significant impact in terms of noise or odour. Additionally the Environment Agency will issue and regulate the installation under an environmental permit which will add additional safeguards to protect the surrounding area from noise and odour.

4.1.12 **Ministry of Defence (Defence Infrastructure Organisation)**

[The MoD has submitted detailed objections. They are summarised below. The full letters can be viewed on the online planning register.]

Comments 16/2/16

Background

- The application site is located approximately 3km metres from the eastern boundary of the Army's Nesscliffe Training Area (NTA) and 0.5km west of Montford Bridge Airfield (MBA). The NTA is used extensively throughout the year by the MoD's

Defence Helicopter Flying School (DHFS) which conducts helicopter training in support of front-line activity

- The NTA is an intensively operated MoD site. Much of the helicopter training activity currently takes place between 09:00 and 17:00 hours (daylight permitting) Monday to Friday albeit weekend and night flying (for Night Vision Device training) also occurs at periodic intervals
- The NTA is generally used up to 4 no. times a day Monday to Friday (09:00 to 17:00 hours) with phased night flying lasting a period of 5 no. weeks
- The Defence Infrastructure Organisation cannot disclose the particular details of the helicopter training activity undertaken by the Military at NTA for national security reasons
- The training activity undertaken at NTA generally involves the following: Daily circuits of 300 ft and 500 ft specific to all areas of NTA; approaches and departures to field sites and clearings
- Due to the narrow shape of the NTA, helicopters will not generally be able to remain within the NTA when conducting training exercises, however aircrew try to avoid overflying houses and other sensitive receptors in the surrounding area wherever possible
- The MoD use MBA from time to time, for helicopter training purposes
- The training activity at MBA involves: circuits of 300 ft and 500 ft; approaches and departures and aircraft emergency handling; used as a starting point for navigation routes
- The MoD supports the basic principle of agricultural related development in the local area
- MoD's concerns include the potential noise levels that would be experienced at the application site as a result of the training activities undertaken at NTA and MBA and the associated impact on the poultry that would inhabit the proposed poultry rearing buildings (and the application site in general), and the potential impact of the proposed development on the training activities undertaken at NTA, as well as other concerns including down draught and lighting concerns

Noise

- the proposed development would represent the introduction of a sensitive receptor to the prevailing acoustic environment in the immediate locality of NTA and MBA; the training activity undertaken at NTA and NBA will likely constitute a source of noise disturbance to the local area; these activities produce a significant amount of low frequency noise which can be particularly disturbing
- there is a 25.0m Small Arms Range at NTA which will also likely constitute a source of noise disturbance to the local area. This Range, used by military personnel to improve firing accuracy, is not subject to planning control with regard to restrictions which limit the nature of operations undertaken on the site including: the nature of weapons operated, days/hours of operation, noise limit restrictions, etc.
- reference is made to relevant parts of the NPPF and the National Policy Statement for England; and to British Standard BS 5502 – Buildings and structures for agriculture
- animal welfare falls within the remit of DEFRA, protected by The Animal Welfare Act 2006, which is supplemented by the Welfare of Farmed Animals (England) Regulations 2007 (as amended)
- All animals, including farmed poultry, must be looked after in ways that meet their welfare needs, ensuring that they do not experience any unnecessary distress or

suffering

- An owner, e.g. a farmer, is legally responsible for his animals' welfare and has a duty to provide for their needs under the Animal Welfare Act 2006
- With regard to poultry management, it is advisable that the level of sound experienced by poultry is minimised and that poultry should be protected from constant or sudden noise
- Noise impact associated with the proposed development has been scoped out of the EIA
- the impact of the training activities undertaken at NTA and MBA do not appear to have been taken into consideration by the Applicant; this is inappropriate
- in the absence of this, the Local Planning Authority are not in a position in which to objectively assess the impact of noise associated with the proposed development, and the impact of noise from the MoD site and MBA
- the Applicant should submit a Noise Impact Assessment to include appropriate noise monitoring surveys and appropriate noise modelling, and include an assessment of noise generated outside the site that might enter any building on site; noise generated inside the site or a building on site that could affect people outside the site/building; and the effect of the proposed development on the existing ambient noise outside the site
- should the Local Planning Authority decide to grant planning permission for this agricultural development on the application site, within close proximity to NTA and MBA, the MoD will bear no responsibility for any complaints or claims from the Applicant/Developer in respect of matters of noise and will refer the complainants to Shropshire Council.

Down Draught

- by virtue of the nature of helicopter training activity undertaken at NTA and MBA, the proposed development could face severe down draught problems. Non-fixed objects within the application site could potentially become airborne, and cause potential missiles in a severe down draught scenario, particularly at times of high winds. As a result, this could well present potential health and safety concerns of personnel and animals within the application site.

Lighting Proposals

- any external lighting could have potential to restrict the MoD's night time flying programme
- should permission be granted, a condition should be imposed requiring the submission of external lighting for approval, in consultation with the MoD.

Comments 29/3/16 – in relation to the noise information submitted by the applicant's agent

- the applicant has provided details of the insulation of the building but has failed to submit any evidence which would demonstrate knowledge of the noise levels experienced at the application site in the first instance;
- the applicant's comments that the insulation would provide excellent noise insulation and that external noise sources would be all but muted out, is premature and particularly misleading
- the applicant has not provided detailed information on insulation in order to outline its efficacy in respect of noise insulation
- the applicant has not provided any evidence that the noise generated by the 50,000

- birds and plant/machinery would screen out external noise sources
- guidance referred to by the MoD does not state that it is for humans only
- MoD wishes to ensure that the proposed development is not adversely affected by the MoD's training activities which could result in possible future damage claims being brought forward against the MoD
- The MoD are aware that the chickens are not free range
- noise from external sources would fall outside of the scope of the Environmental Permit

4.1.13 **Shropshire Fire Service** No comments.

4.2 **Public comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition, 11 residential properties in the local area have been individually notified. No public representations have been received.

5.0 **THE MAIN ISSUES**

- Environmental Impact Assessment
- Planning policy context; principle of development
- Siting, scale and design; impact upon landscape character
- Local amenity considerations
- Historic environment considerations
- Traffic and access considerations
- Ecological considerations
- Drainage and pollution considerations

6.0 **OFFICER APPRAISAL**

6.1 **Environmental Impact Assessment**

6.1.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. The proposed development would provide 200,000 bird places, and as such it is EIA development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.2 **Planning policy context; principle of development**

6.2.1 Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations include the National Planning Policy Framework (NPPF), and this advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprise in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the planning system should contribute to and enhance the natural and local

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

6.2.2 The proposed development is located in an area of countryside, and Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be place on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.

6.2.3 The above policies indicate that there is national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing farming business.

6.2.4 The proposed development would result in significant investment in the applicant's existing farming business, and would contribute towards enhancing the sustainability of the farm. The application states that the proposal would generate two new full time employment positions, and that other labour requirements would include feed delivery and poultry collection drivers, and cleaning and manure removal teams.

6.2.5 In principle it is considered that the provision of a poultry unit development in this location can be supported. However policies also recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.

6.3 Siting, scale and design; impact on landscape character

6.4.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings. The proposed poultry development would be sited approximately 70 metres from the nearest agricultural buildings at the farm, and in visual terms would therefore be seen as functionally and physically related to the existing farmholding.

6.4.2 The planning application as originally submitted proposed the installation of ground-mounted solar panels covering approximately 0.36 hectares. Following discussions with

Officers this element of the proposal has now been removed from the application.

6.4.3 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) undertaken by a chartered landscape architect. This notes that the site lies within an undulating landscape which includes several small scale woodland blocks and groups of trees around farmsteads. There are no national or local landscape designations affecting the application site or surrounding area. The LVIA assesses the local landscape as having medium landscape quality. It states that the site is well contained visually to the west by the existing farm buildings, and tree cover in the area. It also states that to the north and east visibility is restricted by the undulating topography, woodland blocks and roadside hedgerows. It states that the only open views towards the site are from the public rights of way to the south-west of the A5. The LVIA considers that the proposed landscaping would help to assimilate the development into its surroundings, and the site is capable of accommodating the development without giving rise to unacceptable effects on the character of the local landscape. It states that, once the new landscape planting has become fully effective, the scale of effect on landscape character would reduce to low/medium adverse. In conclusion the LVIA considers that there would be no significant adverse landscape or visual effects.

6.4.4 Officers generally concur with the findings of the LVIA. The proposed poultry buildings would comprise relatively low structures and this would restrict their visibility in the landscape. There are few visual receptors in the vicinity of the site. Views of the proposed development would be restricted from the west, which includes the nearest residential properties. Views from the public right of way to the east would be limited due to the undulating topography and distance, and would be seen against a backdrop of existing trees and farm buildings. Views from public rights of way to the south-west would be seen in the context of the A5 trunk road which is a generally dominating component of the local landscape.

6.4.5 The proposed development would inevitably be visible within the landscape due to its scale. Nevertheless it is considered that there would be generally limited visibility due to the few visual receptors in the area. It is considered that the proposed landscaping would provide satisfactory mitigation for landscape and visual effects of the development. This, comprising approximately 352 metres of new hedgerow planting and 44 new hedgerow trees, would also provide some landscape benefits. Overall it is considered that the proposal would not have an unacceptable impact upon landscape quality of the area.

6.5 Local amenity considerations

6.5.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity.

6.5.2 The Environment Agency has issued an Environmental Permit for the proposed poultry operation, and this Permit would regulate the detailed management of the operation including operating techniques and emissions to water, air and land including odour and noise.

6.5.3 Noise: The application site is located 280 metres from the nearest non-financially linked residential property. Given this distance, and the presence of the intervening large

agricultural buildings, it is considered that noise levels generated by the development would not adversely affect residential amenities.

6.5.4 The Environmental Statement advises that noise impact is one of the issues that has been scoped out of the assessment. This is on the basis that the applicant considers that this issue is of less potential importance in relation to this particular development proposal. Nevertheless a detailed objection has been received from the Ministry of Defence (MoD) – Defence Infrastructure Organisation on the grounds of the potential impact that the proposal would have on the MoD’s training activities in the area. The MoD advise that the application site is located approximately 3km metres from the eastern boundary of the Army’s Nesscliffe Training Area (NTA) which is used extensively for helicopter flying throughout the year in support of front-line activity. It is also located approximately 0.5km to the west of the Montford Bridge Airfield, which is used from time to time for helicopter training.

6.5.5 The MoD advise that helicopters are generally not able to remain within the confines of the NTA when conducting training exercises. The MoD has significant concerns including the potential noise levels that would be experienced at the application site as a result of training activities. The MoD also note that there is a Small Arms Range at the NTA and raise concern over the impact of noise from this on the proposed development.

6.5.6 The MoD advise that, in the absence of the consideration of noise impact as part of the Environmental Statement, the local planning authority is not in a position in which to objectively assess the impact of noise from the MoD site. The MoD has requested that a Noise Impact Assessment is submitted.

6.5.7 The applicant’s agent has provided a response to the MoD’s concerns, including:

- The proposed poultry buildings have extremely high insulation levels which is primarily designed for heat retention but also provides excellent noise insulation. The walls will be constructed with 200mm of “rockwool” insulation. The roof is constructed with 300mm of “rockwool” insulation. External noises are all but muted out.
- Noise levels within the poultry buildings are significant with the movement and calling of approximately 50,000 birds in each building, and additional noise from the extractor fans and feed blower. The proposed development is also very close to the A5 trunk road which would provide a significant background noise
- Absence of evidence that overhead flying causes bird welfare issues;
- Any hovering over the poultry buildings in such close proximity to the A5, would in any event cause a dangerous distraction to passing vehicles.

6.5.8 In response the MoD consider that further evidence should be submitted to substantiate the comments made by the applicant.

6.5.9 Para. 109 of the NPPF states that the planning system should contribute to and enhance the local environment by preventing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution. Officers recognise that a noise assessment has not been undertaken as part of the Environmental Impact Assessment, and that such an assessment would provide evidence as to whether the poultry would be likely to be adversely affected by the noise climate of the area. However Officers do not consider that it would be reasonable or proportionate to request that the applicant carries out a noise assessment. The reason

for this is that it is not considered likely that the proposed development would be adversely affected by unacceptable levels of noise pollution. This is based upon the likely noise attenuation that would be provided by the proposed poultry sheds; the likely internal noise climate of the sheds; the existing noise climate of the area which includes the relatively busy A5(T); the absence of issues identified as a result of other operational poultry developments in the area; and the advice of the Council's Public Protection Officer.

6.5.10 Down draughts: The MoD have also raised concern that the proposed development could face severe down draught problems as a result of overflights of helicopters over the application site. They advise that non-fixed objects within the application site could potentially become airborne and cause potential missiles in a severe down draught. The applicant has been advised of this concern, and has advised that modern poultry units have an extremely sterile setting and that feed is delivered in lorries and blown directly into the feed hoppers hence there are no plastic bags lying around.

6.5.11 Odour: The separation distance between the proposed poultry buildings and residential properties would reduce the likelihood of adverse odour impacts in the local area. It is noted that the Environment Agency has issued an Environmental Permit for the poultry development. The Agency has advised that, through the determination of the Permit, issues relating to odour will be addressed. The Council's Public Protection Officer does not consider that the proposal would have a detrimental impact on the area due to odour emissions.

6.5.12 External lighting: Lighting would only be required during bird catching at night. This would be restricted to a 100w downward facing lamp at the northern gable end of each building, with a cowl to restrict light spillage. The MoD have expressed concern that external lighting may restrict the MoD's night time flying programme. In view of the concerns of the MoD a condition can be imposed to require that full details of the specification for external lighting is submitted for approval.

6.5.13 Overall it is considered that the proposal has been designed to ensure that the facility can be operated without adversely affecting local amenity due to noise, odour or other impacts. In addition satisfactory safeguards would be provided as part of the Environmental Permit to address any specific issues. The proposal is therefore in line with Core Strategy Policy CS6.

6.6 **Historic environment considerations**

6.6.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan Policy MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.6.2 A Heritage Assessment has been undertaken as part of the Environmental Impact Assessment. This has assessed the impact of the proposal on heritage assets within a 1km radius of the site. This identifies that the proposal would have no direct or indirect

impact on the Grade II listed Ensdon House.

6.6.3 The presence of intervening modern agricultural buildings would provide significant screening of the proposed development from Ensdon House and the curtilage listed buildings. As such it is not considered that the setting of these heritage assets would be adversely affected by the proposal. Conditions can be imposed on any planning permission granted to require that details of external materials and landscaping are agreed, as recommended by Historic England and the Council's Conservation Officer.

6.6.4 There are no known heritage assets with archaeological interest within the site, and a condition requiring that a programme of archaeological work is undertaken, as recommended by the County Archaeologist, can be imposed.

6.7 **Traffic and access considerations**

6.7.1 Core Strategy policy CS6 requires that development is designed to be safe. Policy CS7 seeks the maintenance of safe transport infrastructure. The existing access track to the farm joins the public highway at a point close to the residential properties at Claybury Crescent. It is proposed that a dedicated access road to the poultry development is constructed. This would join the public highway approximately 130 metres away from these properties, thereby reducing the level of potential disturbance to these residents from HGV turning into and out of the site.

6.7.2 Traffic associated with the proposed development would fluctuate during the crop cycle. The application states that the most significant level of HGV movements would be those associated with bird removal. This activity would take place over two two-day periods during each crop cycle. Bird collections would generally take place between 0200 and 0900 hours. During this time there would be no more than two HGV movements to/from the site per hour. There would be a maximum of ten HGV movements during this period. The application notes that on 27 days of the crop cycle there would be no HGV movements. Over the course of each crop cycle there would be 79 HGVs (158 movements). The application states that a routing strategy would be put in place to ensure that there is no possibility of these vehicles meeting each other on the public highway.

6.7.3 No objections have been raised by either Highways England or the Council's Highways Officer in respect of the level of traffic associated with the proposal. In view of the limited width of the unclassified highway between the site and the A5, highway improvement works are proposed. These comprise the provision of a passing place either side of the highway, and the widening of the junction of the unclassified road and the A5 trunk road. The Highways Officer has confirmed that the passing places can be secured by a planning condition. The works affecting the A5 trunk road are under the jurisdiction of Highways England. It is understood that they consider that the revised improvement works are acceptable, however at the time of writing the report confirmation of this had not been received. Members will be updated on this issue in advance of the Committee meeting.

6.7.4 Subject to confirmation being received from Highways England that the road widening works are acceptable it is considered that the proposal would not result in adverse highway related impact in the local area.

6.8 Drainage and pollution considerations

6.8.1 Detailed controls over any emissions from the site, including to groundwater, would be covered within the Environmental Permit for the proposed operation. Nevertheless Core Strategy Policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity.

6.8.2 Surface water drainage: The site is located within Flood Zone 1, and therefore the risk of surface water flooding is assessed as being low. It is proposed that surface water arising at the site would be managed through a sustainable drainage system. This would capture all surface water from the buildings and hardstandings and direct this to French drains. These would convey the water to the pond to the west of the site which would act as an attenuation feature. Full details of this can be required by planning condition (see Appendix 2).

6.8.3 Foul water drainage: At the end of each cycle the internal areas of the poultry buildings would be washed, and wash water would be directed to underground collection tanks. These would be emptied as necessary and the wash water can be spread on agricultural land. The Council's Drainage Officer has confirmed that this element of the proposals can be agreed as part of a planning condition (see Appendix 2). Further control would be provided under the Environmental Permit for the site.

6.8.4 Poultry manure management: Spent litter would be removed from the site and stored in in-field stores before being applied to land as organic manure. The Environment Agency has confirmed that the applicant will be required to submit a Manure Management Plan as part of the Environmental Permit. In addition the Agency regulate the application of manure to fields under the Nitrate Pollution Prevention Regulations. This element of the poultry rearing operation will therefore be controlled under separate legislation.

6.9 Ecological consideration

6.9.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan Policies MD2 and MD12 require that developments enhance, incorporate or recreate natural assets. Para. 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity.

6.9.2 Protected species: The submitted Ecological Impact Assessment presents the findings of an extended Phase 1 habitat survey and a Great Crested Newt survey. No GCNs were recorded. No evidence of any other protected or priority species was observed on the site and no other impacts are anticipated. It is considered that the proposed planting of hedgerow and trees at the site would provide some biodiversity enhancements to the area. A condition requiring that details of external lighting are agreed can be imposed on any planning permission.

6.9.3 Habitats Regulations Assessment: The Environment Agency has assessed the proposal in relation to potential impacts upon designated ecological sites as a result of ammonia emissions. This assessment has concluded that potential impacts from ammonia deposition would be below the critical level threshold and therefore that further detailed modelling is not required.

6.9.4 The Council's Ecologist has used this evidence to complete an assessment of air pollution impacts, under the Habitats Regulations, and has concluded that the application is unlikely to have a significant effect on the internationally important interest features of any European or Nationally Designated Sites, alone or in combination with other plans or projects. The relevant screening matrix is provided in Appendix 1.

6.9.5 On the basis of the evidence available it is considered that the proposal would provide satisfactory protection and enhancement to the ecology of the area, and that it can therefore be accepted in relation to Core Strategy policy CS17 and SAMDev Plan policy MD2 and MD12.

7.0 CONCLUSION

7.1 The proposed poultry rearing development at Ensdon Farm would comprise an appropriate development of the existing agricultural business and would be acceptable in principle in this rural location. The proposal would be functionally and physically well related to the existing farmholding, and is of an acceptable design. Visibility within the landscape would be generally limited, and proposed mitigation through landscape planting would ensure that it would not have an unacceptable impact on landscape character of the area or on visual amenity. There would be a satisfactory buffer distance to residential properties to ensure that adverse impacts on amenity do not arise and the proposal would not adversely affect the setting of heritage assets in the area. Further controls over the operation would be provided by the Environmental Permit for the site that has been issued by the Environment Agency. It is not considered likely that the birds within the buildings would be adversely affected by military training activities in the general area. The proposal would not be likely to adversely affect the ecology of the area, and biodiversity enhancements would be provided through landscape planting. Surface water and dirty water management measures are acceptable in principle and full details can be agreed by planning condition.

7.2 In principle the proposed improvements to the local public highway and junction with the A5 are acceptable to maintain highway safety. Subject to confirmation from Highways England that these improvements are satisfactory it is considered the proposal is in line with Development Plan and national policies, and other material considerations. As such it is recommended that Members delegate authority to the Planning Manager to grant planning permission for the proposal subject to the conditions as set out in Appendix 2 and subject to satisfactory resolution of issues raised by Highways England regarding the design of A5 junction improvements.

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

10.1 Relevant Planning Policies

10.1.1 Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS13 (Economic Development, Enterprise and Employment)

- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)

10.1.2 SAMDev Plan

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

10.2 Central Government Guidance:

10.2.1 National Planning Policy Framework (NPPF)

10.3 Relevant Planning History: None.

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
The application ref. 15/04859/EIA and supporting information and consultation responses.

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr David Roberts (Loton)

Appendices
APPENDIX 1 – Habitats Regulation Assessment – Screening Matrix
APPENDIX 2 - Conditions

APPENDIX 1 - Habitats Regulations Assessment (HRA) Screening Matrix

Application name and reference number:

15/04859/EIA
Ensdon Farm Holyhead Road Montford Shrewsbury SY4 1EJ
Erection of four poultry sheds, biomass building, office, photovoltaic panels, feed bins and associated plant, hardstanding and access

Date of completion for the HRA screening matrix:

15th January 2015

HRA screening matrix completed by:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Table 1: Details of project or plan

Name of plan or project	15/04859/EIA Ensdon Farm Holyhead Road Montford Shrewsbury SY4 1EJ
Name and description of Natura 2000 site	European Designated Sites within 10km: Fenemere (part of Midland and Mosses Ramsar Site Phase 1) Hencott Pool (part of Midland and Mosses Ramsar Site Phase 2) For completeness, the SSSIs within 5km and Local Sites within 2km are listed below: SSSI's within 5km: Shrawardine Pool River Severn at Montford Local Sites within 2km: The Knolls Cottage Plantation Pools River Severn (Montford - Shrewsbury)
Description of the plan or project	Erection of four poultry sheds, biomass building, office, photovoltaic panels, feed bins and associated plant,

	hardstanding and access
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	Not Applicable – Where there will be no likely significant effect on a European Designated Site (see modelling from the Environment Agency) then consideration of the in-combination effects test is not recommended by Natural England or the Environment Agency. Shropshire Council is taking advice from the EA and NE throughout the Habitats Regulations Assessment process.

Statement

This site has had pre-application advice from the Environment Agency, reference EPR/QP3538WP/A001, for 320,000 broiler places. This document, which includes an ammonia screening assessment, has been provided to SC Ecology.

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

- Emissions of ammonia under 4% of the critical level for a European Designated Site (within 10km)
- Emissions of ammonia under 20% of the critical level for a SSSI (within 5km)
- Emissions of ammonia under 50% of the critical level for a local wildlife site or ancient replanted woodland (within 2km)

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

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

The Significance test

Based on the Ammonia Screening output which has been provided by the Environment Agency, and using the modelling and thresholds agreed by Environment Agency and Natural England, there is no likely significant effect of the proposed activity under planning application 15/04859/EIA at Ensdon Farm Holyhead Road Montford Shrewsbury SY4 1EJ for the erection of four poultry sheds, biomass building, office, photovoltaic panels, feed bins and associated plant, hardstanding and access.

The Integrity test

There is no likely effect on the integrity of any European Designated Site from planning application 15/04859/EIA at Ensdon Farm Holyhead Road Montford Shrewsbury SY4 1EJ for the erection of four poultry sheds, biomass building, office, photovoltaic panels, feed bins and associated plant, hardstanding and access.

Conclusions

The Habitats Regulations Assessment screening process has concluded, supported by the evidence from Environment Agency, that there is no likely significant effect and no likely effect on integrity of the European Designated from planning application 15/04859/EIA at Ensdon Farm Holyhead Road Montford Shrewsbury SY4 1EJ on any European Designated Site.

An Appropriate Assessment is not required and there is no legal barrier under the Habitats Regulations Assessment Process to planning permission being issued in this case.

Guidance on completing the HRA Screening Matrix

The Habitats Regulations Assessment process

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

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

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

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

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

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

Habitats Regulations Assessment Outcomes

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

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

Duty of the Local Planning Authority

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

APPENDIX 1 - Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

4. No development hereby permitted shall take place until details of the external materials and colour treatment of all plant and buildings have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details, and retained as such for the lifetime of the development.

Reason: To ensure a satisfactory appearance of the development.

5. Prior to the commencement of development full engineering details of the provision of 2 hgv passing places to be implemented between the A5 junction and site access are submitted to and approved in writing by the Local Planning Authority; the passing places shall be fully implemented in accordance with the approved details prior to the development hereby permitted being first brought into use.

Reason: In the interest of highway safety.

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

Reason: In the interests of highway safety.

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

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

8. Prior to the commencement of development a landscape plan shall be submitted to and approved by the local planning authority. The plan shall include:

- Planting plans, including wildlife habitat and features (e.g. bird and bat boxes, hedgerow planting, tree planting, beetle bank/buffer strip)
- Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- 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).
- Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- Implementation timetables.

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

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

9. 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 minimise adverse impact on the surrounding area, and 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 adverse impact on the surrounding area and minimise disturbance to bats, a European Protected Species.

Informatives

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

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

Central Government Guidance:
National Planning Policy Framework

National Planning Practice Guidance

Shropshire Core Strategy and saved Local Plan policies:

Policy CS5 (Countryside and Green Belt)

Policy CS6 (Sustainable Design and Development Principles)

Policy CS13 (Economic Development, Enterprise and Employment)

Policy CS17 (Environmental Networks)

Policy CS18 (Sustainable Water Management)

SAMDev Plan policies:

Policy MD2 (Sustainable Design)

Policy MD8 (Infrastructure Provision)

Policy MD12 (Natural Environment)

Policy MD13 (Historic Environment)

3. 1. The surface water drainage proposals in the FRA are acceptable in principle.

A contour plan and cross sections of the existing pond with pond water levels should be provided with calculations to show that the pond has the capacity to store the 1 in 100 year storm event plus 20% climate change. An outfall from the pond to limit the discharge rate equivalent to a greenfield runoff rate should be detailed.

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

2. 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.

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

- o Water Butts
- o Rainwater harvesting system
- o Permeable surfacing on any new access and hardstanding area
- o Attenuation
- o Greywater recycling system
- o Green roofs

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

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 and scrub removal 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 for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

5. The storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.

6. 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.

-



Committee and date

Central Planning Committee

26 May 2016

Development Management Report

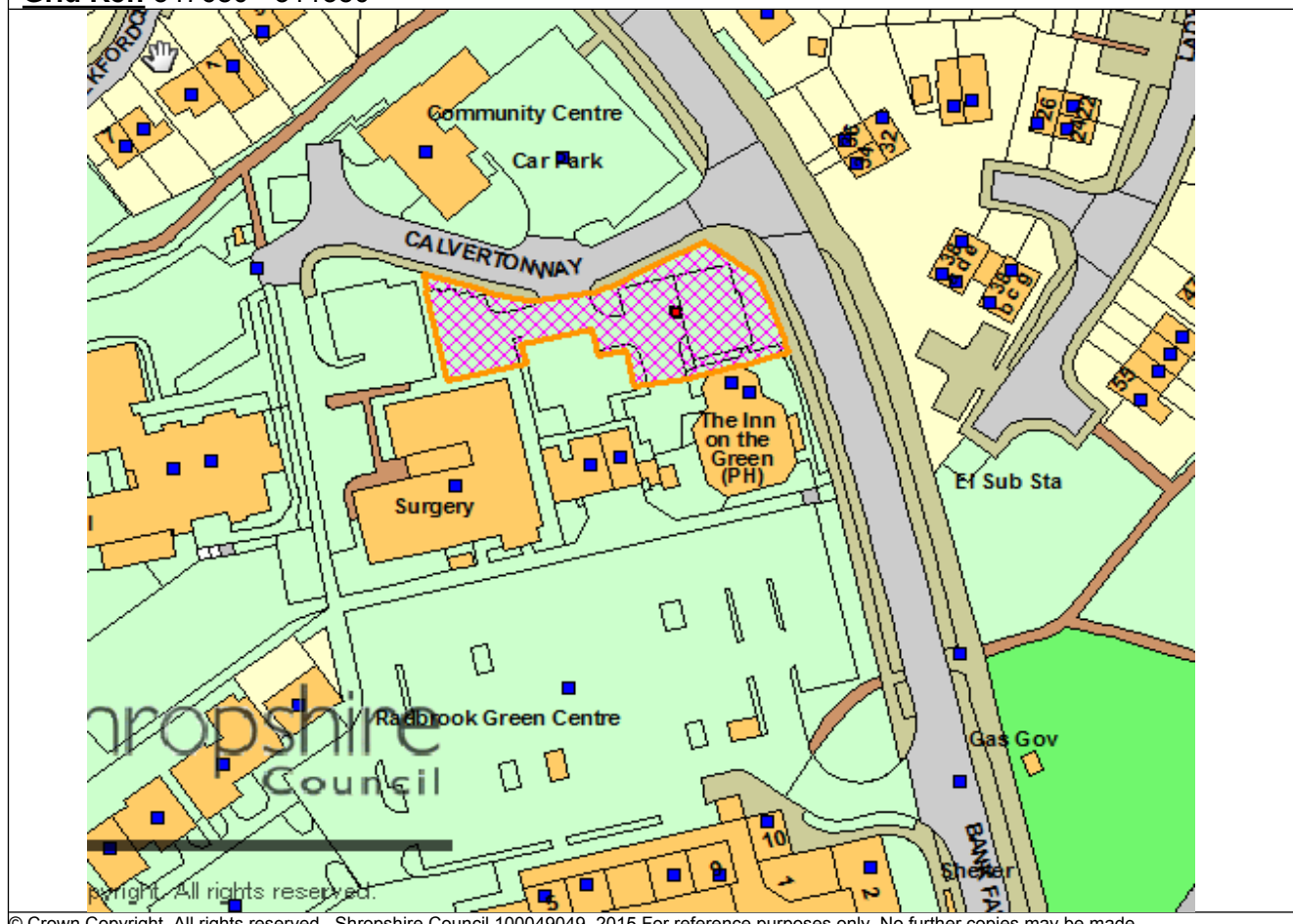
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04910/OUT	Parish:	Shrewsbury Town Council
Proposal: Outline Application for the erection of 4No residential units (to include access)		
Site Address: Land South Of Calverton Way Shrewsbury Shropshire		
Applicant: Newriver Property Unit Trust No. 4		
Case Officer: Mared Rees	email: planningdmc@shropshire.gov.uk	

Grid Ref: 347680 - 311350



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ADDENDUM REPORT – 26/05/2016

Recommendation:- Approve subject to the completion of a S.106 Legal Agreement and the conditions set out in Appendix 1.

1.0 INTRODUCTION

- 1.1 This application was determined by Central Planning Committee on 04th February 2016 with a resolution to grant approval.
- 1.2 The application was publicised in accordance with Part 3, Article 15. (5) (b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 1.3 In this respect, relevant neighbouring properties were notified of the proposed development by letter. A Site Notice was not erected.
- 1.4 In accordance with the Council's own practice, a Site Notice should have been erected on or near the site in order to further publicise the application.
- 1.5 To ensure compliance with the Council's own practice, the Site Notice was subsequently erected on 19th April with a standard 21 day consultation period in which to reply to any notifications made. The revised consultation expiry date was 10th May.
- 1.6 This Addendum Report lists the additional representations received during the revised consultation period and addresses relevant planning considerations raised.

2.0 REPRESENTATIONS RECEIVED

- 2.1 17 additional representations have been received during this re-consultation period, all of which object to the proposal.
- 2.2 Concerns raised include:- overdevelopment of the site, adverse impact on existing and proposed levels of visual and residential amenities, loss of a community facility, loss of the beer garden serving the public house, adverse impacts on highway safety, the proposal would be overbearing in relation to the existing public house on the site, loss of parking provision, the location of the application site is unsuitable for the proposed development, insufficient space to accommodate additional pupils in the local schools, adverse impact on the community, the proposal would increase overlooking elsewhere, adverse impact on the existing view from the Function Room of the public house, the existing community facilities in the area would be spoiled by the proposal.

3.0 RESPONSE TO REPRESENTATIONS RECEIVED

- 3.1 Similar concerns and issues have been raised during the re-consultation period, to those which were originally received, as set out in paragraph 4.2 of the original Committee Report.
- 3.2 Visual Amenity
 - 3.2.1 The application is made in outline only with matters relating to layout, appearance, scale and landscaping reserved for future consideration.

- 3.2.2 As set out in paragraphs 6.2.2 to 6.2.5 of the original Committee Report, the size of the site is considered to be capable of accommodating the amount of development proposed without appearing cramped or incongruous in this location.
- 3.3.3 The proposal is not considered would result in any overbearing impacts in relation to the public house in the context of its proposed two storey height.
- 3.2.4 Further consideration in regards to precise details of layout, appearance, scale and landscaping can only be made at reserved matters stage.
- 3.3 Residential Amenity
- 3.3.1 As set out in paragraphs 6.3.1 to 6.3.4 of the original Committee Report, it is recommended that relevant spacing standards and design features which can achieve natural surveillance, are adhered to during the reserved matters stage of development.
- 3.3.2 Concerns raised in regards to the loss of a view from the function room of the public house are not considered would result in a reason sufficient to warrant refusal of the application, particularly in the context that this application is made in outline only with final design, layout and landscaping considerations to be determined during the reserved matters application.
- 3.3.2 Public Protection raises no objection to the application in terms of any noise impacts to proposed occupants, which may arise as a result of the nearby public house and/or community facility. This is set out in paragraph 6.3.3 of the original Committee Report.
- 3.4 Highway Safety
- 3.4.1 As set out in paragraphs 6.4.1 and 6.4.2, it is not considered that the additional activity generated by the proposals or the loss of part of the public house car park would result in significant pedestrian or vehicular activity which would be contrary to highway safety.
- 3.4.2 The indicative Proposed Site Plan indicates that parking provision for the development and public house would be located west of the properties.
- 3.4.3 Highway Authority raises no objection to the amount and layout of the proposed parking provision as well as the overall development.
- 3.5 Education
- 3.5.1 The amount of development proposed has not triggered the need for contributions in regards to education. A CIL contribution will be payable and can be used to contribute towards education if there is a requirement from the proposed development.
- 3.6 Loss of a Community Facility
- 3.6.1 As demonstrated on the submitted Block Plan (Dwg No SK02 D), the existing public house is shown and would be retained.
- 3.6.2 The application site comprises part of the car park and part of the communal area serving the public house.

- 3.6.3 The submitted Block Plan (Dwg No SK02 D) demonstrates that proposed provision of communal areas would be made to the east and west of the public house.
- 3.6.4 Therefore, given that the public house would be retained and provision for communal areas would still be made, it is not considered that the proposal would result in adverse impacts on the community.
- 3.6.5 There is no evidence to demonstrate how the proposal would spoil existing community facilities and notwithstanding this, it is not considered that the proposal would have an adverse impact on existing community facilities in the area.
- 3.6.4 The reduction in size of the existing communal area is not considered to outweigh the benefits which would arise from the scheme in regards to the provision of market and affordable housing within Shrewsbury Settlement Boundary, the sites locational sustainability and growth to the local economy through the construction phase of development as well as through the associated supply chain.

4.0 CONCLUSION

- 4.1 The development proposal has not changed in any way since Members resolved to grant approval for the scheme in Central Planning Committee on 04th February 2016.
- 4.2 The additional representations received are not considered would raise any further considerations which would outweigh the benefits in granting approval for the scheme.
- 4.3 The scheme would comply with all relevant Core Strategy and SAMDev Policies as set out in Section 10 of the original Committee Report and officer recommendation is for approval.

Recommendation:- Approve subject to the completion of a S.106 Legal Agreement and the conditions set out in Appendix 1.

COMMITTEE REPORT - 04/02/2016

1.0	THE PROPOSAL
1.1	This planning application seeks outline permission for the construction of up to 4 no. residential apartments. Approval for access is also sought.
1.2	All other matters are reserved for future consideration.
1.3	The Indicative Block Plan shows proposed access into the site would be via the existing access off Calverton Way and would be shared with the Inn on the Green Public House.
1.4	Parking provision would be to the west of the public house.
	The illustrative scheme shows the apartment block would lie adjacent to the Inn on the Green and would front Bank Farm Road.
2.0	SITE LOCATION/DESCRIPTION
2.1	The application site is located within the settlement boundary of the Shrewsbury Area as defined on Policy Map S16 INSET 1.
2.2	The application site comprises part of the car park to the Inn on the Green Public House. The site is irregular in shape and lies to the north of the public house. The site fronts onto Bank Farm Road and extends westwards along Calverton Way and the side elevation of Radbrook Green Surgery.
2.3	Calverton Way and Radbrook Community Centre lie to the north. Radbrook Primary School is located to the west and a Co-operative food store lies to the south.
3.0	REASON FOR DELEGATED DETERMINATION OF APPLICATION
3.1	The Parish Council have raised an objection to the application. The Chair and Vice Chair, in consultation with the Head of the Development Management Service, have agreed that the application is called to Committee.
4.0	COMMUNITY REPRESENTATIONS
4.1	- Consultee Comments
	SC Public Protection – No objection. SC Public Protection raises no objection however note that a high specification of glazing with the ability to reduce noise from external areas is used in the

	apartments as future complaints regarding noise from the adjacent public house may restrict future operations of the pub. An informative to this effect would be attached to any grant of consent.
	SUDS – No objection. SUDS raises no objection subject to a condition to secure a surface water drainage scheme.
	SC Affordable Houses – No objection. No objection subject to an affordable housing contribution. The type and affordability of housing will be set at the prevailing percentage target rate at the date of the reserved matters application.
	SC Highways – No objection. Highway Authority raises no objection subject to the submission of a Construction Method Statement prior to commencement of development.
	Shrewsbury Town Council – Objection ‘The Town Council has concerns regarding the access to both the proposed new properties and the existing public house in relation to both customers and delivery wagons as well the local business premises, school and community centre. Members felt that as there are no existing residential properties in this area, there will be a conflict among users of what is a community area.’
	Radbrook Community Association – Objection.
4.2	- Public Comments
	5 objections received. Concerns raised include:- adverse impact on highway safety, potential loss of the public house and car park, the proposal would comprise over-development, loss of car parking would result in an adverse impact on the operations and overall usage of the Community Centre, any noise impacts from the Community Centre cannot be adjusted to suit the development proposal, inappropriate site location, loss of a community facility.
5.0	THE MAIN ISSUES
	Principle of development Character and Appearance Residential Amenity Highway Safety Drainage Affordable Housing
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	The application site is situated within the development limit for Shrewsbury as identified on Policy Map Shrewsbury Area S16 INSET 1, to which Policy S16

	applies. Core Strategy Policies CS1 and CS2 identify Shrewsbury as a primary focus for development, including housing.
6.1.2	Policy MD1 of the adopted SAMDev supports sustainable development in Shrewsbury whilst Policy S16.1 encourages appropriate development on suitable sites within Shrewsbury's development boundary, to which accords with the Strategy.
6.1.3	The proposal would provide 4 no. residential units within the development limit of Shrewsbury and would provide a contribution towards affordable housing provision.
6.1.4	The proposal would help to foster economic growth both during the construction phase of development and throughout the associated supply chain.
6.1.5	In locational terms, the proposal is within walking distance of a number of facilities and services including Radbrook Community Centre, Radbrook Primary School, Radbrook Green Surgery, a Co-operative food store, and bus stops on the adjacent side of the road.
6.1.6	The principle of development, having regard to the sites location within Shrewsbury Settlement Boundary and its overall sustainability credentials is considered to be acceptable, subject to compliance with visual and residential amenity policies and other associated matters including highway, drainage and affordable housing contributions.
6.2	Character and Appearance
6.2.1	The indicative Block Plan shows that the apartment block would be sited on part of the existing car park to the Inn on the Green and would front Bank Farm Road.
6.2.2	The Block Plan demonstrates that the application site is capable of accommodating a two storey apartment block with associated car parking, landscaping and communal area without appearing cramped or incongruous in this location.
6.2.3	The public house is part single and part two storey in height, therefore the overall scale of the proposed apartment block should take this into account, ensuring it does not overdominate the adjacent building.
6.2.4	A dual frontage would ensure that natural surveillance and active frontages are achieved along Bank Farm Road and Calverton Way.
6.2.5	A robust landscaping scheme should be submitted with the reserved matters application, with planting and soft landscaping along the southern and western boundaries of the application site. This would help to ensure the space within the public house is clearly defined from the private space of the apartment block.
6.3	Residential Amenity
6.3.1	It is recommended that the reserved matters application demonstrates that spacing standards between neighbouring properties are appropriate.

6.3.2	Proposed principal windows are advised to be inserted along the rear elevation of the apartment block which would help to provide natural surveillance and overlooking over the communal parking area.
6.3.3	Public Protection raises no objection, advising that a high specification of glazing is recommended for use on the proposal, given the sites proximity to the adjacent public house. This would be added as an informative to any grant of consent.
6.3.4	Detailed boundary treatments would be secured at reserved matters stage and it is advised that these are clearly defined to help to achieve adequate privacy levels in any communal areas for proposed occupants.
6.4	Highway Safety
6.4.1	It is considered that the additional vehicular and pedestrian activity generated by the proposed development would be unlikely to result in any significant highway impacts which would be contrary to the interests of highway safety.
6.4.2	Highway Authority raises no objection subject to a pre-commencement condition to secure the submission of a Construction Method Statement.
6.4.3	The proposal would comply with Policy CS2 of the Core Strategy and Policy MD2 of the SAMDev.
6.5	Drainage
6.5.1	SUDS raise no objection subject to a condition to secure a surface water disposal scheme.
6.6	Affordable Housing
6.6.1	In accordance with Core Strategy Policy CS11, the proposal would need to contribute towards the provision of affordable housing.
6.6.2	The required contribution would be set at the prevailing percentage rate at the date of a reserved matters application.
7.0	CONCLUSION
7.1	The application site is located within the settlement development limit of Shrewsbury to which the policies within the Core Strategy and SAMDev support provision of housing in suitable locations within the settlement boundary. The principle of development is considered to be acceptable.
7.2	The application site is considered could comfortably accommodate the level of housing proposed along with appropriate landscaping and boundary treatments, without raising any significant adverse impacts on visual or residential amenities.
7.3	The scheme would contribute towards provision of affordable housing and the

	proposal is not considered to raise significant adverse impacts in terms of highway safety.
7.4	Overall, the proposal is considered to be acceptable and would comply with the above mentioned policies within SAMDev as well as the Shropshire Core Strategy.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> ☐ 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. <p>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.</p>
8.2	Human Rights
	<p>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.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
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:
NPPF

Core Strategy and Saved Policies:
CS2, CS6, CS9, CS11,

SAMDev:
MD1, MD2, MD3, S16.1

RELEVANT PLANNING HISTORY:

11. Additional Information

[View details online:](#)

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

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

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

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

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

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

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

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

4. The approved plans to which this permission relates are:-

1:1250 Site Location Plan
Dwg No SK02 Rev D

Reason: For the avoidance of doubt and to specify the plans to which this permission relates.

5. Prior to commencement of development, including any works of demolition, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials used in constructing the development, the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate, wheel washing facilities, measures to control the emission of dust and dirt during construction and a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect existing residential amenities in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.

6. Prior to commencement of development, a surface water disposal scheme incorporating the use of soakaways, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed surface water drainage systems for the site are of a robust design in accordance with Policy CS8 and CS18 of the Core Strategy.



Committee and date
 Central Planning Committee
 26 May 2016

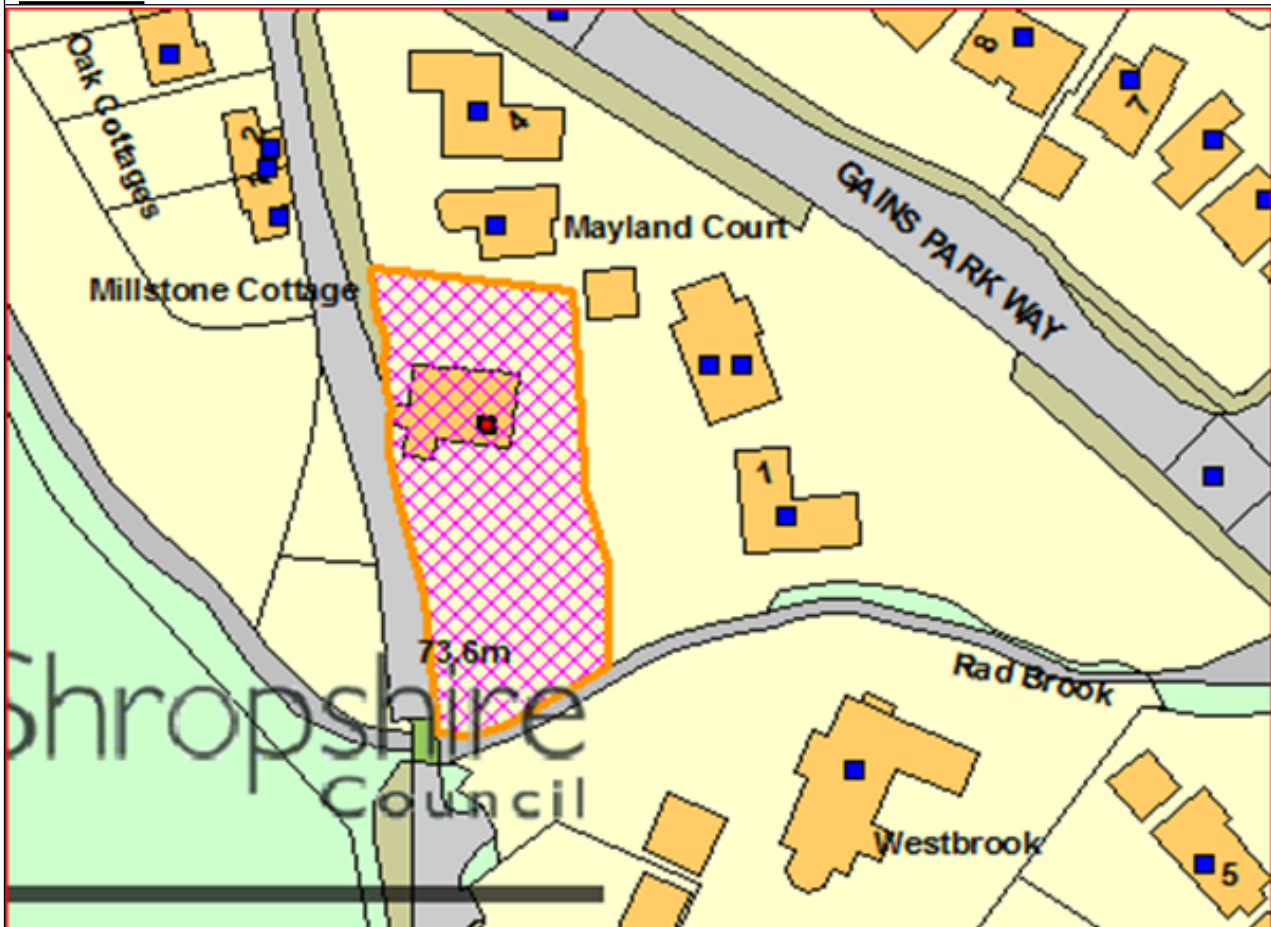
Development Management Report

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

Summary of Application

Application Number: 16/00882/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of a two storey extension and attached garage		
Site Address: 2 Oak Lane Bicton Heath Shrewsbury SY3 5BW		
Applicant: Mr Joe Harris		
Case Officer: Mared Rees	email: planningdmc@shropshire.gov.uk	

Grid Ref: 345822 - 312393



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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 planning permission for the construction of two storey front, rear and side extensions.

1.2 The majority of the materials are stated to match existing.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located within Shrewsbury Settlement Boundary as delineated on Policy Map S16-INSET 1.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The local member has requested that the application be considered by the Central Planning Committee. The Chair of the committee, in discussion with the Area Planning Manager, has agreed that given the scale of the extensions proposed and the potential impact on the neighbouring property that the application should be determined by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.1 **SC Rights of Way – No objection** based on original plans submitted 25th February 2016 and revised plans submitted 11th April 2016.
Informative regarding maintenance of the public right of way during construction works is recommended.

4.1.1 **Shrewsbury Town Council – No objection** based on original plans submitted 25th February 2016.

4.2 - Public Comments

4.2.1 Based on original plans submitted 25th February 2016, 2 representations received, objecting to the proposal. Concerns raised include:-

the scale of the extension is too large, adverse impacts on overbearing and overlooking, adverse impacts on neighbouring properties solar array and solar thermal water heating, loss of light, loss of privacy.

4.2.2 Based on the revised plans submitted on 11th April 2016, 2 representations received, objecting to the proposal. Concerns raised include:-

loss of privacy, the scale of the extension is too large, adverse impacts in terms of overbearing, outlook and overlooking.

5.0 THE MAIN ISSUES

- Principle of development
- Character and Appearance
- Residential Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application site is located within Shrewsbury Settlement Boundary as identified on Policy Map S16 – INSET 1, to which Policy S16 applies.

6.1.2 The principle of development is acceptable subject to compliance with visual and residential amenity policies.

6.2 Character and appearance

6.2.1 The originally submitted plans showed that the overall height of the proposed extensions exceeded the height of the existing dwelling on site, which was considered would result in overly dominant and disproportionate additions.

6.2.2 The plans have since been revised so that the overall height of the extensions now sit in line with the existing ridge line. This would result in extensions which officers consider to be more proportionate to the existing dwelling and would not appear as discordant additions.

6.2.3 The proposed kitchen/dining area and master bedroom have been reduced in depth, which is considered would help to reduce the overall scale of the extensions, particularly when viewed along Oak Lane.

6.2.4 The proposal is considered to result in an improvement to the existing dated dwelling, whilst respecting its traditional appearance, albeit changing the flat roof dormers to gables and incorporating a pitched roof to the porch.

6.2.5 A condition to secure submission of external material samples prior to commencement of works is considered reasonable to ensure the proposal integrates with the main dwelling as well as surrounding dwellings within the locality.

6.2.6 Overall, the proposal is considered to be acceptable and would not adversely impact on existing or proposed levels of visual amenity and would comply with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.

6.3 Residential Amenity

6.3.1 There are no principal windows on the facing side elevation of the neighbouring

property at No 3 Mayals Court.

- 6.3.2 The rear extension is not considered would adversely impact on existing levels of light into the rear single storey conservatory at No 3 Mayals Court, given the extension would be offset and would not directly face the conservatory.
- 6.3.3 It is not considered that the proposed window serving the north elevation of the rear extension would result in undue impacts in overlooking into the neighbouring property at No 3 Mayals Court. This is in the context of its limited width which would measure 1m and its siting which would directly face the blank gable end of the neighbouring dwelling, resulting in oblique views into the rear garden of the neighbouring property.
- 6.3.4 The nearest part of the side (east) elevation of the extension would measure in excess of 15m away to the nearest first floor principal window on the rear elevation of No 2 Mayals Court.
- 6.3.5 This is considered by officers to be acceptable in the context that the facing wall of the extension would have a blank facade and the overall ridge height would not exceed that of the existing dwelling.
- 6.3.6 Properties along Mayals Court are orientated east to west, which naturally results in more daylight to the rear of the properties in the afternoon. It is not therefore considered that the extension would result in such adverse overshadowing impacts, to warrant refusal of the application.
- 6.3.7 Based on the submitted Proposed Block Plan, the proposal would result in an approximate 4.4m increase in depth to the rear of the existing dwelling, with the nearest part of the rear of the extension measuring 3.5m away from the side boundary to the neighbouring property.
- 6.3.8 This is not considered would result in undue overbearing impacts to the property at No 2 Mayals Court, in the context of the ridge height not exceeding beyond the existing as well as the staggered layout of the extension and the properties orientation in that it would be off-set against the boundary, which is considered would help to reduce its overall massing when viewed from neighbouring properties to the east.
- 6.3.9 It is not considered that the proposal would result in adverse impacts of overlooking into the dwelling or rear garden of No's 1 and 2 Mayals Court. This is in the context that the proposed principal windows along the side (east) elevation of the extension would comprise a skylight serving the Master Bedroom and a dormer window.
- 6.3.10 The dormer window is considered to be limited in its width, measuring approximately 0.85m and would be off-set from the neighbouring properties, which would help to result in oblique views to the rear of these properties.
- 6.3.11 Given the above considerations, it is not considered that the proposed extensions would cause a significant detrimental impact to existing levels of outlook and light to neighbouring properties, sufficient to warrant refusal of the application.

6.3.12 It is not considered that the proposal would result in significant adverse impacts on existing levels of residential amenity and would comply with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.

6.4 Public Right of Way

6.4.1 Restricted Byway 43 Shrewsbury abuts the western boundary of the site and runs along what appears to be the access to the property.

6.4.2 SC Public Rights of Way consider that it would not be directly affected by the proposals. An informative regarding maintenance and general upkeep of the right of way is recommended.

7.0 CONCLUSION

7.1 The overall scale, design and siting of the proposal is considered to be acceptable and would not result in adverse impacts on visual or residential amenities, sufficient to warrant refusal of the application.

The proposal would comply with the above mentioned local policies contained within the Core Strategy and SAMDev as well as the National Planning Policy Framework.

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:
NPPF

Core Strategy and Saved Policies:
CS2, CS6

SAMDev:
MD2, S16

RELEVANT PLANNING HISTORY:

SA/79/0793 Erection of dwellings with associated roads and drainage works. PERCON 19th November 1980

SA/76/0010 To use for residential development and formation of vehicular and pedestrian accesses. (1.36 acres). REFUSE 1st May 1979

SA/74/0329 To develop land for residential purposes. 1.36 acres. REFUSE 15th October 1974

SA/78/0770 Erection of dwellings, formation of vehicular and pedestrian accesses and laying of associated roads and sewers PERCON 16th October 1980

SA/78/1031 Laying of foul and storm water sewers PERCON 1st May 1979

SA/80/1109 Erection of dwellings with associated roads and drainage works, including the provision of a temporary access road REFUSE 13th January 1981

11. Additional Information

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

- 1:1250 Site Location Plan
- 1:500 Existing Block Plan
- 1:500 Proposed Block Plan (received 11th April 2016)
- 1:100 Existing Ground and First Floor Plans
- 1:100 Existing North and East Elevations
- 1:100 Existing South and West Elevations
- 1:100 Proposed Ground Floor Plan (received 11th April 2016)
- 1:100 Proposed First Floor Plan (received 11th April 2016)
- 1:100 Proposed North and East Elevations (received 11th April 2016)
- 1:100 Proposed South and West Elevations (received 11th April 2016)

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 commencement of development, details of materials to be used in the construction of all external surfaces of the development hereby approved, 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.

Reason: To safeguard existing levels of visual amenity in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.

4. No further windows or other openings shall be installed in the first floor of the eastern elevation of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve the amenity and privacy of adjoining properties in accordance with Policy CS6 of the Core Strategy and Policy MD2 of SAMDev.



<u>Committee and date</u>
Central Planning Committee
26 May 2016

Schedule of Appeals and Appeal Decisions As at 26 May 2016

LPA reference	15/01202/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr Stephen Mulloy
Proposal	Outline application for the erection of an Eco dwelling; including private equestrian use on land (All matters reserved).
Location	Land South Of Barnfields Shrawardine Shrewsbury
Date of application	20.03.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	27.05.2015
Date of appeal	21.11.2015
Appeal method	Written Representations
Date site visit	08.03.2016
Date of appeal decision	21.04.2016
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS REFUSED
Details	

LPA reference	14/02126/VAR
Appeal against	Appeal Against Refusal
Appellant	Sovereign Park Homes
Proposal	Removal of Condition 3 attached to planning permission reference S88/0843/174/74 dated 27th July 1989 as the residential use of the caravans in now lawful as per application reference 13/04043/CPL
Location	Pool View Caravan Park Much Wenlock Road Buildwas Telford
Date of application	15.05.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	27.10.2015
Date of appeal	10.12.2015
Appeal method	Written Representations
Date site visit	13.04.2016
Date of appeal decision	25.04.2016
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS REFUSED
Details	

LPA reference	15/04047/PMBPA
Appeal against	Appeal Against Refusal
Appellant	Mr David Edwards
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Goosehill Bowbrook Shrewsbury
Date of application	21.09.2015
Officer recommendation	Planning Permission Required
Committee decision (delegated)	Delegated
Date of decision	16.11.2015
Date of appeal	26.01.2016
Appeal method	Written Representations
Date site visit	15.03.2016
Date of appeal decision	29.04.2016
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	15/00611/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs A Davison
Proposal	Erection of a two bedroom bungalow
Location	Park Stile Berriewood Lane Condover Shrewsbury
Date of application	10.02.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	03.06.2015
Date of appeal	27.11.2015
Appeal method	Written Representations
Date site visit	19.04.2016
Date of appeal decision	11.05.2016
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	15/03389/DIS106
Appeal against	Appeal Against Non Determination
Appellant	Mrs A Mumford
Proposal	Proposed discharge of S106 Agreement which restricts the occupancy of the dwelling to an affordable dwelling relating to planning permission 1/07/19556/F Erection of an affordable dwelling (delegated matter)
Location	Yew Tree Cottage Bentlawnt Shrewsbury
Date of application	30.06.2015
Officer recommendation	
Committee decision (delegated)	
Date of decision	
Date of appeal	26.01.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/03599/OUT
Appeal against	Appeal Against Refusal
Appellant	J Warner & Son
Proposal	Outline application for residential development including access
Location	Land To The West Of Rodefern Lane Great Ness Montford Bridge
Date of application	19.08.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	11.11.2015
Date of appeal	17.02.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/02804/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs P & L Wheeler
Proposal	Outline application for erection of a single dwelling (all matters reserved except for access)
Location	Land Adjacent Jessamine Cottage Kenley Shrewsbury
Date of application	30.06.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	01.10.2015
Date of appeal	03.03.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/03493/PMBPA
Appeal against	Refused Prior Approval of Permitted Development
Appellant	Mr Phil Evans
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Land Between Longnor And Little Ryton Ryton Shrewsbury
Date of application	11.08.2015
Officer recommendation	Prior Approval Required & Refused
Committee decision (delegated)	Delegated
Date of decision	26.10.2015
Date of appeal	29.03.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/04208/PMBPA
Appeal against	Refused Prior Approval of Permitted Development
Appellant	Mr Gaskell
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Terrace Farm Cruckton Shrewsbury
Date of application	28.09.2015
Officer recommendation	Planning Permission Required
Committee decision (delegated)	Delegated
Date of decision	23.11.2015
Date of appeal	06.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05655/OUT
Appeal against	Appeal Against Refusal
Appellant	GH Davies Farms Ltd
Proposal	Outline application (access for approval) for the erection of up to 35 dwellings
Location	Land To The North Of New Pulley Lane Bayston Hill Shrewsbury
Date of application	18.12.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	21.09.2015
Date of appeal	21.03.2016
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/04091/PMBPA
Appeal against	Refused Prior Approval of Permitted Development
Appellant	Mr M J Pugh
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Barn To The West Of Pontesbury Hill Shrewsbury
Date of application	23.09.2015
Officer recommendation	Planning Permission Required
Committee decision (delegated)	Delegated
Date of decision	18.11.2015
Date of appeal	06.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/03415/PMBPA
Appeal against	Appeal Against Refusal
Appellant	Mr Paul Jarrett
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Barn South West Of Kenley Hall Kenley Shrewsbury
Date of application	11.08.2015
Officer recommendation	Prior Approval Required & Refused
Committee decision (delegated)	Delegated
Date of decision	27.10.2015
Date of appeal	04.04.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

Appeal Decision

Site visit made on 8 March 2016

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 21 April 2016

Appeal Ref: APP/L3245/W/15/3139046

Land to rear of Barnfields, Shrawardine, SY4 1AH

- 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 Stephen Mulloy against the decision of Shropshire Council.
 - The application Ref 15/01202/OUT, dated 16 March 2015, was refused by notice dated 27 May 2015.
 - The development proposed was originally described as an "outline application for detached three/four bedroom residential eco dwelling for private equestrian use (with community allotments-not requiring planning consent) all matters reserved." [sic]
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline, with all detailed matters reserved for future approval. I have therefore dealt with the appeal on this basis.

Application for costs

3. An application for costs was made by Stephen Mulloy against Shropshire Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the proposal would represent a sustainable form of development.

Reasons

5. The appeal site comprises part of a grassed area of paddock land on which the appellant keeps horses and in association with which there is a small stable block and hard standing. An existing dwelling, known as 'Barnfields', lies to the north of the site, Shrawardine Farm to the west and open land adjoins the remaining boundaries.
6. Policy CS4 of the Shropshire Local Development Framework: Adopted Core Strategy, 2011 (CS) states that in the rural areas communities will become more sustainable by focussing development into Community Hubs and Community Clusters and not allowing development outside these settlements unless it meets policy CS5.

7. Shrawardine is not identified as a Community Hub or Community Cluster in the Sites Allocations and Management of Development Document (SAMDev DPD) and it is not disputed that the appeal site is in open countryside for planning purposes.
8. The appellant argues that Policy CS5 does not have a prerequisite for the proposed development area to already be sustainable. Nonetheless, the objective of Policy CS5 is to strictly control new development in the countryside, with new development only being permitted where this improves sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. This policy is in broad accordance with the National Planning Policy Framework (the Framework) which advises at paragraph 55 that new isolated homes in the countryside should be avoided unless there are special circumstances.
9. The appellant has stated that the proposal would be required in connection with the private equestrian use of the land. However he has not demonstrated an essential need for the dwelling in terms of the nature or viability of a business sufficient to overcome the objection arising from the isolated location. I am therefore unable to impose a planning condition that would restrict the occupancy of the proposed dwelling to a rural worker. As a result the proposal includes a new build open market house and, in this regard, would not be the type of scheme that would normally be permitted under these policies.
10. The proposal also comprises the provision of additional allotments for community use and I appreciate that this would be secured through the submitted planning obligation. However, I do not consider the Survey of Allotment Waiting Lists in the UK, which was published in 2009 and gives no information in regards to geographic areas, the Montford Parish Council meeting minutes which indicate that one person in Shrawardine showed an interest in having an allotment, or the submitted list containing 4 Shrawardine parishioners names, with no signatures on, to conclusively substantiate a commitment or local need. Regardless of whether or not the nearest allotments are 5 miles away, this limits the weight that can be attributed to it as a social and community benefit.
11. Furthermore, the economic benefits associated with the need for labour and services during the construction of the proposed single dwelling would be limited and short term and so I afford them little weight.
12. In accordance with the requirements of CS Policy CS11, the appellant would make a financial contribution towards off-site provision of Affordable Housing. The contribution, which would be small in this case, would be secured by a formally completed unilateral undertaking pursuant to section 106 of the *Town and Country Planning Act 1990*, which would meet the tests set out in Regulation 122 of the *Community Infrastructure Levy Regulations 2010*. However given the scale of the proposed housing, any benefits in this respect would again be somewhat limited and it would be unlikely to contribute significantly towards supporting the services of other nearby villages and the local economy.
13. Moreover, I am mindful that other than a village hall and church Shrawardine has very limited facilities and services and the range available within the wider

local area is also limited. I could not locate any other important local services or community facilities such as other shops, schools, and public transport on my site visit, and I have not been provided with any details of these. In environmental terms residents would therefore be reliant upon lengthy journeys by car to serve their day to day needs and, similarly, the location would entail lengthy journeys for deliveries and visitors to and from the site. This would encourage unsustainable forms of travel and fail to support the move to a low carbon economy; one of the core principles set out at paragraph 17 of the Framework.

14. Although it has also been put to me that the proposal, as an ecological house would be energy efficient and conserve resources, there is limited evidence of this before me. This must also be offset by the extent of harm in regards to the limited accessibility of the proposed development to local services and facilities, and the likely dependency of future residents on the use of a private car.
15. Therefore having come to the conclusions above, it follows that the appeal site does not amount to a sustainable form of development. Such a conclusion is not altered by the social, environmental or economic considerations advanced by the appellant. As such it would not accord with the collective intent of the CS or be broadly consistent with the aims of CS Policies CS4 and CS5 and the objectives in paragraphs 17 and 55 of the Framework. Amongst other matters, these seek to control development in the countryside and promote sustainable development.

Other matters

16. My attention has been drawn to a number of previous planning permissions and a recent appeal decision in the County for residential development in the countryside. However the appeal scheme sought to vary a condition attached to an existing building to allow for it to be used as an unrestricted open market dwelling. The re-use of a redundant or disused building is a special circumstance listed in paragraph 55 of the Framework. This was clearly a decisive factor in that case as it did not involve the construction of a new dwelling. Furthermore, this and the examples of permissions outside of the settlement boundary predate the adoption of the SAMDev. The permissions also relate to more than one dwelling and the respective reports indicate that there are differences in the size of the settlements, the proximity of the sites to essential services, and their planning history. Accordingly their circumstances are not directly comparable with those which apply in this appeal. I have, in any case, determined the appeal on its own merits and the basis of the evidence before me.
17. I note that the appellant is dissatisfied with the Council's handling of the application, and the "bottom up approach" and engagement with the local community in regards to the designation of Community Hubs and Clusters. However, this is a matter that would need to be pursued with the Council in the first instance. I confirm that in this respect, I have only had regard to the planning merits of the proposal that is before me.
18. I understand that the proposal would be a self-build dwelling, and I have had regard to the information submitted regarding the Council's approach and data held on self-build housing. I am also aware of the Government's aspiration to see 100,000 self-build homes provided over the next decade. While self-build

is an important part of national housing policy, I do not consider that this would overcome or outweigh the harm that I have identified, or justify development in the open countryside contrary to local and national planning policy.

19. For the reasons given above, the appeal is therefore dismissed.

Mark Caine

INSPECTOR

Costs Decision

Site visit made on 8 March 2016

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 21 April 2016

Costs application in relation to Appeal Ref: APP/L3245/W/15/3139046 Land to rear of Barnfields, Shrawardine, SY4 1AH

- 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 Stephen Mulloy for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for a proposal originally described as an "outline application for detached three/four bedroom residential eco dwelling for private equestrian use (with community allotments-not requiring planning consent) all matters reserved." [sic].
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and that the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that local planning authorities are at risk of an award of costs if there is a lack of co-operation with other party or parties, if they fail to produce evidence to substantiate each reason for refusal or if they rely on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Nonetheless, I found the evidence within the decision notice, and the Council's statement of case to adequately set out the consequences of the development and the reasons for refusal. Furthermore, the Council's original planning application report clearly explains why the proposal is not considered to be acceptable, taking account of the relevant policies within the Core Strategy and the Framework with regard to sustainability and other material issues, including the provision of allotments. There is little substantive evidence before me that would lead me to conclude that predetermination of the application had taken place and I am satisfied that the Council assessed the application on its own merits, and in an objective manner.
5. The appellant considers that the concerns would have been resolved through positive and proactive discussion in accordance with paragraph 187 of the National Planning Policy Framework (the Framework). However the first reason for refusal was clearly not a matter which could have been resolved through

discussions given the clear divergence in the cases of the two main parties and whilst the Council's communication might have been improved, the outcome is unlikely to have been altered and so the appellant has not been put to unnecessary expense.

6. As such I find that unreasonable behavior resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs is not justified.

Mark Caine

INSPECTOR

Appeal Decision

Site visit made on 13 April 2016

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 25 April 2016

Appeal Ref: APP/L3245/W/15/3140321

Pool View Caravan Park, Buildwas, Telford, TF8 7BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sovereign Park Homes against the decision of Shropshire Council.
 - The application Ref: 14/02126/VAR dated 12 May 2014, was refused by notice dated 27 October 2015.
 - The application sought planning permission for "alteration of ground levels and the provision of 10 No plots for static caravans' without complying with a condition attached to planning permission Ref: S/88/0843/174/74 dated 27 July 1989"
 - The condition in dispute is No 3 which states that: "The static caravans shall not be occupied between 30th November in any one year and 1st January in the succeeding year".
 - The reason given for the condition is: "To maintain town planning control".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application reference number given on the application form is S88/343/174/74. However, the Council sought clarification and the appellant has confirmed that it should read S/88/0843/174/74. I have dealt with the appeal on this basis.
3. The application form states that permission is sought to vary condition Nos 1 and 3 previously imposed on Ref: S88/0843/174/74. However, the appellant has since confirmed that the application seeks removal of condition No 3 only. I have dealt with the appeal on this basis.
4. The address given on the application form is No 1 Pool View Caravan Park. However, this address refers to a plot on a different part of the site, and the address has now been amended in agreement with the appellant to read "Pool View Caravan Park, Buildwas, Telford, TF8 7BS".
5. Since determination of the application the Council formally adopted the *Site Allocations and Management of Development Plan (SAMDev)* in December 2015. This forms part of the development plan together with the *Adopted Core Strategy March 2011 (CS)*. Therefore, Policy H3 of the Shrewsbury and Atcham Local Plan, referred to in the decision notice, no longer applies.

Application for Costs

6. An application for costs was made by Sovereign Park Homes against Shropshire Council. This application is the subject of a separate Decision.

Background

7. Planning permission was granted in November 1984 for alteration to ground levels and the provision of 10 plots for static caravans (Ref: 83/1079/174/74). Condition No 3 of that permission reads: "the static caravans shall not be occupied between 31st October in any one year and 1st March in the succeeding year. It was granted subject to a Section 52 Agreement¹ which, amongst other matters, required the applicant "not to use or suffer or permit the caravans stationed on the land as permanent residential occupation" and "not to use the site for the stationing of more than 10 static caravans".
8. A subsequent application to vary condition No 3 of that permission to permit occupation of the caravans for 11 months each year was granted in July 1989 (Ref: S88/0843/174/74). The (new) condition No 3 states: "The static caravans shall not be occupied between 30th November in any one year and 1st January in the succeeding year". This permission was also subject to a Section 52 Agreement (supplemental to that previously entered into) which states: "No caravan stationed on the site shall be used for accommodation purposes from 1st to 31st December in any one year".
9. A *Certificate of Proposed Lawful Use or Development* (CPLUD) for the use of land for the siting of 20 caravans for residential purposes from January to November in any year was granted in February 2014 (Ref: 13/04043/CPL). In considering that application it was the Council's opinion that residential use of the caravans for 11 months in the year in this area would not be in breach of a planning condition, and would not amount to a material change of use of the planning unit.

Main Issue

10. The appellant now seeks to remove the disputed condition to enable unrestricted (year round) residential occupancy of the caravans. Therefore, I consider the main issue in this case is whether the disputed condition is reasonable or necessary having regard to the nature of the use, the aim national and local policy which seeks to resist residential development in the countryside, the impact of permanent (year round) residential occupation of the caravans, and the potential loss of holiday accommodation.

Reasons

11. The appeal site comprises a section of a large caravan park situated in open countryside close to the (decommissioned) Buildwas Power Station. The park is long established and comprises an area used for residential caravans, two areas used for static holiday caravans, a touring caravan area and the area which is subject to this appeal which was formerly used for holiday caravans.
12. As a result of the CPLUD it is common ground between the parties that the 10 caravans on the appeal site can be used for residential purposes, including as a person's sole or main residence, for eleven months in any calendar year. The

¹ Section 52 of the Town and Country Planning Act 1971 (now replaced by Section 106 of the Town and Country Planning Act 1990)

appellant submits that the current requirement for residents to vacate their homes for one month provides no positive contribution to sustainable development; adding that as the caravans will be present on site all year it would be more sustainable for them to be occupied year-round. On the other hand the Council considers that permanent residential use is less likely to occur if the condition is retained, explaining that permanent residential use in this location is contrary to established national and local policies which seek to resist residential development in the countryside.

13. I note that there are no specific policies within the development plan (or the National Planning Policy Framework) relating to the use of caravans for permanent residential use. However, and although the exact nature of the occupation of the caravans is not made clear, an unfettered permission would allow them to be occupied as a sole/main residence or as a second home. In these circumstances I agree with the Council that the application should be assessed against relevant locational policies concerning residential development in the countryside.
14. There is no dispute that the site is located in open countryside, is outside the closest settlement of Buildwas and is not in an identified "community hub or community cluster". As such, CS Policies CS4 and CS5 are relevant. Policy CS4 seeks to prevent development outside settlements unless it meets Policy CS5. This seeks to restrict residential development in the countryside except for accommodation to house agricultural, forestry or other essential rural workers and other affordable housing accommodation to meet a local need. The occupation of the caravans would not fall within any of these qualifying criteria, and therefore I consider the proposal conflicts with these policies.
15. SAMDev Policy MD7a also refers to housing development and supports CS Policy CS5. It states that the use of existing holiday let properties as permanently occupied residential dwellings will only be permitted where, amongst other considerations, the building is of permanent construction and has acceptable amenity standards for full time occupation. The supporting text explains that holiday lets are essentially residential properties in the countryside which are limited by conditions attached to the planning permission, and says permanent occupation of structures such as caravans and chalets will not normally be appropriate. As such, I consider the proposal is in clear conflict with this policy.
16. The caravan park includes a substantial area which is designated for permanent residential occupancy. Many of the chalets/caravans in this area have fenced-off enclosures or personalised garden spaces, together with bin storage areas and (in some instances) garages or sheds. In contrast, the appeal site and other (non-residential) sections of the park have unenclosed plots, little or no outdoor storage, and little evidence of domestic paraphernalia and, notwithstanding the permitted eleven month occupancy, the character and appearance of the appeal site has remained consistent with holiday or limited residential occupancy where everyday living needs area reduced.
17. I agree with the Council that full time residential use could significantly change this character and appearance, leading to pressures for enclosed gardens and other structures which would give a more urbanising and cluttered appearance which would be harmful to the character and appearance of the adjoining countryside. As such the proposal would conflict with SAMDev Policy MD12

which seeks to resist proposals which would have a significantly adverse effect on the landscape.

18. The Council also considers that removal of the disputed condition is likely to encourage the loss of holiday accommodation, contrary to CS Policy CS16. This policy seeks to deliver high quality tourist accommodation in accessible locations. SAMDev Policy MD11 has similar aims and states that "to retain the benefit to the rural economy conditions will be imposed to ensure that the accommodation is not used for residential occupation".
19. However, no such holiday occupancy condition has been imposed in respect of the caravans on the appeal site, and I agree with the appellant that it is no more likely that a caravan that can be occupied for eleven months of the year as a residential unit would be used for short-term holiday lets than would a caravan where year-round residential occupancy is permitted. Therefore, I am not convinced that removal of the disputed condition would have any impact on the provision of tourist accommodation in the area, particularly as tourist accommodation is available elsewhere in the park in the designated touring and holiday caravan areas.

Summary

20. Although I accept that the disputed condition serves little practical purpose in protecting holiday accommodation, I consider it is both reasonable and necessary for the following reasons:
21. Unrestricted occupancy for permanent residential use is likely to make the caravans more attractive as a main or sole residence. The current restriction, even though it applies only for the month of December, is effective in preventing permanent occupation and is consistent with the terms of the 1984 Section 52 Agreement. The appeal site is located in open countryside where residential development is strictly controlled to meet the needs of essential rural workers or an identified affordable housing need, and no such need has been demonstrated in this case. The site is relatively isolated from key services, employment opportunities and good transport links, and this would be likely to result in people whose main or sole residence is at the appeal site having to use the private car meet the majority of their everyday needs. Furthermore, removal of the condition is likely to lead to pressure for private amenity space and domestic paraphernalia which in turn would harm the character and appearance of the countryside.
22. Consequently, the proposal would conflict with CS Policies CS4 and CS5 and SAMDev Policies MD7a and MD12. In my view no material considerations have been put forward sufficient to warrant a departure from development plan policy.
23. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR

Costs Decision

Site visit made on 13 April 2016

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 25 April 2016

Costs application in relation to Appeal Ref: APP/L3245/W/15/3140321 Pool View Caravan Park, Buildwas, Telford, TF8 7BS

- 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 Sovereign Park Homes for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of the Council to grant permission for 'alteration of ground levels and the provision of 10 No plots for static caravans' without complying with a condition attached to planning permission Ref: S/88/0843/174/74 dated 27 July 1989.
-

Decision

1. The application for an award of costs is refused.

The submissions for Sovereign Park Homes

2. The application was made in writing.

The response by Shropshire Council

3. The Council's response was made in writing.

Reasons

4. Paragraph 030 of the *Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process.
5. Paragraph 049 explains that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal, for example by preventing or delaying development which should clearly be permitted having regard to the development plan and other material considerations, by failure to produce evidence to substantiate the reasons for refusal, and by giving vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.
6. The appellant submits that the Council's case was not substantiated and relied on assumptions and conflict with policies which are not relevant to the application.
7. However, I am satisfied that the Council adequately substantiated its reasons for refusal, based on reference to the development plan and other material considerations. The decision notice specifically sets out the areas of concern,

and the Council's evidence in the appeal statement clearly expressed its point of view. It will be seen from my decision that I agreed with the Council that it was correct in this case to apply policies which seek to strictly control development in the countryside. Indeed, the supporting text to SAMDev Policy MD7a explains that holiday lets are essentially residential properties in the countryside which are limited by conditions attached to the planning permission, and says permanent occupation of structures such as caravans and chalets will not normally be appropriate. As such, I considered the proposal to be in clear conflict with this policy and CS Policies CS4 and CS5 concerning residential development in the countryside.

8. In any event, where planning issues are finely balanced, as here, an award of costs arising from substantive matters is unlikely to be made against the planning authority. The Council is fully entitled to reach a decision based on its interpretation of adopted policies and other material considerations, and apportion weight accordingly.
9. The appellant also says that the Council was unreasonable in withholding its decision for such a lengthy period of time. The application was submitted on 12 May 2014 and the decision was not issued until 27 October 2015.
10. Paragraph 47 of the PPG sets out examples of unreasonable behaviour which may result in an award of costs, and this includes delays in providing information or other failure to adhere to deadlines. However, although the time period appears somewhat excessive considering the complexity of the case, this does not necessarily impact on the costs associated with the appeal. The Council did seek an extension of time from the applicant to clarify certain elements of the application, although this was refused. Furthermore, the appellant was entitled to appeal against non-determination of the application after the expiry of the statutory period, but chose not to exercise this option.
11. Having regard to the above, I conclude that the Council has behaved reasonably in both its handling of the application and in the appeal process. Therefore, for the reasons given above I conclude that unreasonable behaviour resulting in unnecessary expense as described in PPG Paragraphs 30 and 47 has not been demonstrated in this case.

Nigel Harrison

INSPECTOR

Appeal Decision

Site visit made on 15 March 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 29 April 2016

Appeal Ref: APP/L3245/W/15/3140757
Goose Hill, Bowbrook, Shrewsbury SY5 8PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr David Edwards against the decision of Shropshire Council.
 - The application Ref 15/04047/PMBPA, dated 17 September 2015, was refused by notice dated 16 November 2015.
 - The development proposed is conversion of existing agricultural buildings into 2 No dwellings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application includes details of both the change of use and the building operations necessary to convert the buildings.

Main Issues

3. The main issues in this case are whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO 2015) in terms of:
 - 1) Whether the building operations required for the change of use under the GPDO 2015 Schedule 2 Part 3 Class Q(a) can be regarded as reasonably necessary as defined by Q(b) and Q.1(i); and,
 - 2) Whether sufficient information has been provided under the GPDO 2015 Schedule 2 Part W(3)(b) to judge whether the building operations reasonably necessary to convert these buildings comply with the restrictions in place.

Reasons

Building operations

4. The appeal relates to two brick built barn structures which are sited on land adjacent to a private road to the south of Mytton Oak Road. Unit 1 (referred to as Building A in the Structural Appraisal submitted by the appellant) is a part single and part two storey building with a tiled roof. Unit 1 is currently extended to the south east by a timber framed partially collapsed former

piggery, and sits adjacent to a Dutch barn constructed from corrugated metal. Both the former piggery and Dutch barn are excluded from this application. Unit 2 (referred to as Building D in the Structural Appraisal) is a separate single storey structure with a tiled roof.

5. Schedule 2, Part 3, Class Q of the GPDO 2015 states that development is classed as permitted development if it consists of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule. This is subject to a number of restrictions as listed under paragraph Q.1 and to the conditions in paragraph Q.2.
6. The parties agree that the buildings would require some structural work for a residential conversion to be undertaken. In relation to the front north western section of Unit 1 this includes partially rebuilding the wall on the north western elevation, tying roof trusses and rafters to the walls, repair of the split truss to the two storey structure and removal of trees growing against the building and possible underpinning of the wall where trees are removed. The roof to the rear single storey south eastern section of Unit 1 has partially collapsed and would need to be replaced, and also the wall to the south west which currently adjoins the Dutch barn would need to be replaced.
7. The building operations allowed for such a conversion under the GPDO 2015 includes the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse, and also partial demolition to the extent reasonably necessary to carry out building operations. However, the National Planning Practice Guidance (the NPPG) at paragraph 105 (Reference ID: 13-105-20150305) makes it clear that it is not the intention of the permitted development right to include the construction of new structural elements for the building.
8. In this case the extent of the building operations proposed for the southern portion of Unit 1 in terms of the need for a new south western wall and roof amounts to the provision of new structural elements and reconstruction which goes beyond those building operations allowed by the GPDO 2015 and the NPPG. Therefore the building operations proposed for the change of use of Unit 1 under the GPDO 2015 Schedule 2 Part 3 Class Q(a) cannot in this case be regarded as reasonably necessary as defined by Q(b) and Q.1(i) and would not constitute permitted development.

Information provided

9. The Council has expressed concern that insufficient information has been provided in relation to the extent of the structural works required for the conversion. Specifically it states that the Structural Appraisal submitted by the appellant has recommended the very minimum requirements and that in practice it is highly likely that a conversion would exceed what is stated. Further, concern is expressed that information regarding the ability of Unit 1 to support the additional loading required for the first floor has not been provided.
10. The procedure for applications for prior approval under the GPDO 2015 Schedule 2 Part W(3)(b) states that the local planning authority may refuse an application where the developer has provided insufficient information to enable

the authority to establish whether the proposed development complies with any conditions, limitations or restrictions applicable to the development in question. In this case the concern is to identify the works reasonably necessary to convert the building.

11. In this case my view is that the Structural Appraisal has provided sufficient information to enable an assessment of the extent of the building operations which would be necessary to undertake the residential conversion. The need for new structural elements is identified. Whilst this may have focused on the minimum necessary interventions I consider that this has enabled a conclusion to be drawn in relation to Q(b) and Q.1(i).
12. I therefore consider that in this case sufficient information has been provided under the GPDO 2015 Schedule 2 Part W(3)(b) to judge whether the building operations proposed to convert these buildings comply with the restrictions in place.

Other Matter

13. I note the frustration of the appellant that this is the third application to be submitted in this case, and that inconsistent advice may have been given by the Council on this matter. However, the appeal before me relates to the current proposal and the Council's actual decision. I must determine the appeal on that basis.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

AJ Mageean

INSPECTOR

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Appeal Decision

Site visit made on 19 April 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 11 May 2016

Appeal Ref: APP/L3245/W/15/3139445

Park Stile, Berriewood Lane, Condover, Shrewsbury SY5 7BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs A Davison against the decision of Shropshire Council.
 - The application Ref 15/00611/FUL, dated 9 February 2015, was refused by notice dated 3 June 2015.
 - The development proposed is the erection of a two bed bungalow in the grounds of Park Stile.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the refusal of the planning application, the Council adopted the Shropshire Site Allocations and Management of Development (SAMDev) Plan on 17 December 2015. Accordingly the policies contained in the SAMDev are afforded full weight in the consideration of this appeal.

Main Issue

3. The main issue is whether the proposal constitutes a sustainable development in the countryside.

Reasons

4. The appeal site forms part of the garden to the residential property known as Park Stile. The site is located within the open countryside outside the village of Condover.
5. The description of development describes the proposal as a two bed bungalow however the Design and Access Statement accompanying the planning application explains that the dwelling is intended to form an independent unit of accommodation for the appellants' mother, effectively an annexe. The Council have argued that as a result of the degree of separation between the proposal and the existing dwelling and the level of accommodation proposed, that the development is capable of providing an independent self-contained unit of accommodation with no reliance on the main dwelling.
6. The proposed dwelling would be located at the end of the garden some distance from the main house and would provide a kitchen/dining area, living

room, main bedroom and guest bedroom that could in the future be used by a carer if necessary, a study, bathroom and utility room. Separate car parking to the main dwelling would also be provided. I share the Council's view that the development would in effect amount to a separate self-contained dwelling, not a residential annexe having a degree of dependence on the main dwelling. I have therefore considered the appeal on this basis.

7. The Council maintains that it currently has a five year supply of deliverable housing land and evidence is provided to show a 5.53 year supply at 31 March 2015. Therefore in line with paragraph 49 of the National Planning Policy Framework (the Framework), the policies within the development plan can be considered to be up to date in so far as they relate to the supply of housing.
8. Paragraph 55 of the Framework promotes sustainable development in rural areas and discourages new isolated homes in the countryside unless special circumstances are met. The use would not meet the needs of a rural worker, it would not involve the reuse of a redundant or disused building and the proposal would not be of an exceptional quality of innovative design. I therefore consider that these special circumstances are not met in this case.
9. Policy CS1 of the adopted Shropshire Core Strategy (CS) 2011, sets down a strategic approach, concentrating development to market towns and other key service centres. In terms of housing provision in rural areas the policy aims to provide 'rural rebalance' ensuring rural areas become more sustainable accommodating around 35% of Shropshire's residential development predominantly in community hubs and clusters to be identified in the SAMDev. The village of Conover with the nearby villages of Dorington and Stapleton is identified as a community hub towards which development should be directed. However the appeal site lies outside the village boundary in open countryside.
10. Policy CS4 of the CS allows development outside a community hub or cluster providing that the proposal meets the requirements of CS Policy CS5. Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national policies protecting the countryside. The Policy allows for exceptions where they improve the sustainability of rural communities by bringing local economic and community benefits. The policy lists a number of development types that would be considered acceptable. Whilst the appeal proposal would not relate to any of the types of development listed, I consider that the wording of the policy does not exclude other development, provided that a proposal brings local economic and community benefits and in accordance with Policies CS6 and CS17, would be sustainable and not erode the character of the countryside.
11. The appellant has put forward the argument that the site lies approximately 300 metres from the edge of the village and whilst it is not part of the village it can be read as part of the community hub. My attention is brought to a recent planning permission for two dwellings in the village of Ruyton¹ located outside the village boundary but which would support the services and facilities in the hub/cluster. I have not been provided with the full details of this case in order to assess its comparability with the appeal proposal. However it appears to me from the site plan, that this site was well related to a cluster of other residential development, unlike the appeal site which is more isolated in the countryside. In addition this application was considered in a different policy

¹ Application Reference 14/03338/OUT

- context before the SAMDev was adopted. Each development should be considered on its own merits having regard to its context and I have determined this appeal accordingly.
12. Paragraph 7 of the Framework states that there are three dimensions to sustainable development, economic, social and environmental. In terms of the economic strand, the construction of the dwelling would support jobs in the local construction industry and the need for building materials would benefit local suppliers. Future residents of the development would spend locally and make use of local services and facilities. However this is a proposal for one dwelling thus any contribution it would make would be very limited.
 13. In terms of the social aspect to sustainability, the proposal would in a small way add to the supply of housing in the area and future occupants would support local services and facilities. I note that paragraph 3.1 of the CS, the Spatial Vision, looks to plan for the needs of a growing but aging population. Strategic Objective 5 reinforces this need to provide for a mix of good quality, sustainable housing of the right size, type and tenure and affordability to meet the housing needs and aspirations of all sections of the community including the provision for special needs and the elderly. The development proposed, providing accommodation for the appellant's mother would in principle meet the above objectives.
 14. The appeal site is located approximately 300 metres from the edge of the village of Condover. However I noted on my site visit that the shops, post office, school and other facilities are located at a greater distance further in to the village. Berriewood Lane forms a narrow rural lane with no footways and is unlit. I consider that this would discourage future occupants of the dwelling from walking to the village, especially in the evening, so that they would be more likely to use the private car to access the facilities it provides. I have not been provided with any evidence with regard the availability of public transport in the vicinity of the appeal site.
 15. The environmental dimension of sustainability relates amongst other things to protecting and enhancing the natural and built environment. The appeal site is well screened from the road by existing trees and vegetation so that the proposed dwelling would have very limited visual impact. A number of existing trees would be removed in order to accommodate the development. I note that the Council considers these trees to have little value and replacement planting could be provided through the imposition of an appropriate condition to maintain and enhance the biodiversity of the site.
 16. The Framework states in paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The appeal proposal would provide some economic and social benefits, however having regard to scale of the development, these would be very limited. However I consider the site would not have a high level of accessibility, with future residents likely to be dependent on the private car to access services and facilities. In terms of the environmental gains, I consider the development would result in a neutral impact.
 17. In conclusion, the appeal site is located in the open countryside outside the settlement of Condover. The proposed development is intended to provide accommodation for the appellant's elderly mother which is clearly an important consideration of the appellant to which I have had regard. The proposal would

make a contribution, in part, to the social and economic aspects of sustainability, however these positive aspects of the scheme are significantly and demonstrably outweighed by the harm arising from the dwellings location outside the village and the local services it provides. I consider that the development is not sustainable and would conflict with paragraph 55 of the Framework, CS Policies CS1, CS4 and CS5 and SAMDev Policies MD1 and MD3 which set out the development strategy for the area strictly controlling new development in the countryside.

Conclusion

18. I have found that the appeal proposal would not constitute a sustainable form of development.
19. For the reasons given above and having regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR