

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

Date: Wednesday, 16 November 2016

Committee:
Central Planning Committee

Date: Thursday, 24 November 2016
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

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

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

Members of the Committee

Vernon Bushell (Chairman)
Ted Clarke (Vice Chairman)
Andrew Bannerman
Tudor Bebb
Dean Carroll
Miles Kenny
Amy Liebich
Pamela Moseley
Peter Nutting
Kevin Pardy
David Roberts

Substitute Members of the Committee

Peter Adams
Tim Barker
Roger Evans
John Everall
Jane MacKenzie
Alan Mosley
Keith Roberts

Your Committee Officer is:

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

AGENDA

1 Apologies for absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the Central Planning Committee held on 27th October 2016.

Contact Shelley Davies 01743 257718.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Monday 21st November 2016.

4 Disclosable Pecuniary Interests

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

5 Land At Oteley Road Shrewsbury - 16/00181/FUL (Pages 7 - 50)

Erection of retail store, associated car parking and servicing facilities, site access and associated works

6 Land At Oteley Road, Shrewsbury - 16/03786/VAR106 (Pages 51 - 56)

Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F

7 Greenhous Meadow, Oteley Road, Shrewsbury - 16/04201/VAR (Pages 57 - 70)

Variation of condition 2 attached to Ref:14/00587/VAR dated 17/03/2016 relocate community football pitch.

8 Land Opposite The Rowans, Mytton, Shrewsbury - 16/01827/REM (Pages 71 - 82)

Application for approval of reserved matters (siting, landscaping, scale, appearance) pursuant to 13/03841/OUT for the erection of three detached dwellings.

9 Milward Rise, Kenley, Shrewsbury - 16/02140/FUL (Pages 83 - 112)

Application under Section 73a of the Town and Country Planning Act for retrospective planning permission for the siting of 15 touring caravans, formation of childrens play area, erection of shower and toilet blocks, lighting fixtures, flag poles and the creation of a wider vehicular access with new entrance gates and associated boundary treatment (amended description)

10 The Rowans, 46 Upper Road, Shrewsbury - 16/04061/FUL (Pages 113 - 120)

Internal and External alterations

11 Milns Bridge, Shepherds Lane, Shrewsbury - 16/04085/FUL (Pages 121 - 130)

Erection of part single, part two storey extension to include first floor balcony.

12 Land West Of Betley Lane, Bayston Hill, Shrewsbury - 16/04348/FUL (Pages 131 - 144)

Erection of a detached bungalow following removal of existing dutch barn.

13 Schedule of Appeals and Appeal Decisions (Pages 145 - 150)

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, 22nd December 2016 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

24th November 2016

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 27 October 2016

2.00 - 3.00 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Shelley Davies

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

Present

Councillor Vernon Bushell (Chairman)

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

56 Apologies for absence

An apology for absence was received from Councillor Dean Carroll (Substitute: Tim Barker).

57 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 29th September 2016 be approved as a correct record and signed by the Chairman.

58 Public Question Time

There were no public questions or petitions received.

59 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 applications to be considered at this meeting, Councillors Peter Nutting and Andrew Bannerman stated that they were members of the Planning Committee of Shrewsbury Town Council. They indicated that their views on any proposals when considered by the Town Council had been based on the

information presented at that time and they would now be considering all proposals afresh with an open mind and the information as it stood at this time.

Councillor David Roberts declared that he knew the Applicant and one of the objectors for planning application 16/02752/EIA - Proposed Poultry Units South of the Vinnals, Lower Common, Longden.

Councillor Miles Kenny declared he was present at a Shrewsbury Town Council meeting and a Sustainable Transport Shropshire meeting when planning applications 16/02872/FUL & 16/02873/LBC - Flax Mill, St Michaels Street, Shrewsbury were considered. He noted that he did not take part in any discussion and would now be considering the applications with an open mind.

60 **Flax Mill St Michaels Street Shrewsbury - 16/02872/FUL**

The Technical Specialist Planning Officer introduced the application for the repair and restoration of the main mill and kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

In response to a query the Technical Specialist Planning Officer explained that although there had been an objection in regards to why not all the windows were being re-opened to the original size, Historic England considered that leaving some of the windows closed up showed the history of the building and the different stages of its use.

Discussion ensued regarding the access to the proposed car park and the adverse impact on residents of Marshalls Court. The Technical Specialist Planning Officer stated that if Members had concerns in regard to the access to the car park this could be built into the annual review of the Travel Plan. She added that there was no condition at present in relation to a height barrier on car park and if Members felt this was required they would need to include an additional condition to any permission granted.

Councillor Andrew Bannerman as the Local Ward Member for Marshalls Court requested that he be included in the annual review of the Travel Plan.

Having considered the submitted plans for the proposal, the majority of Members expressed support for the Officer's recommendation subject to an additional condition to include a height barrier on the car park and for the annual review of the Travel Plan to also include the access to the car park.

RESOLVED:

That Planning Permission be granted in accordance with the Officer's recommendation subject to:

- The conditions set out in Appendix 1;
- An additional condition in relation to a height barrier on the car park; and
- The access to the car park to be reviewed annually as part of the Travel Plan.

61 Flax Mill St Michaels Street Shrewsbury - 16/02873/LBC

The Technical Specialist Planning Officer introduced the Listed Building Consent application for the works for the repair and restoration of the main mill and kiln; installation of structural strengthening solution; re-opening of windows to all floors; installation of services and utilities and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

In response to a query the Technical Specialist Planning Officer explained that although there had been an objection in regards to why not all the windows were being re-opened to the original size, Historic England considered that leaving some of the windows closed up showed the history of the building and the different stages of its use.

RESOLVED:

That Listed Building Consent be granted in accordance with the Officer's recommendation subject to the conditions set out in Appendix 1.

62 Former HMP Prison, The Dana, Shrewsbury - 15/05591/OUT

The Planning Consultant acting for the Council introduced the outline application for the redevelopment of the former Dana Prison into mixed use development to include student accommodation, residential dwellings, retail/restaurant, business non-residential institutions, a gymnasium and extensive landscaping works and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Planning Consultant referred to the Schedule of Additional Letters which outlined the applicant's request for the application to be deferred.

RESOLVED:

That determination of this application be deferred to enable the applicant an opportunity to address the various objections and overcome the reasons for refusal.

Councillor Andrew Bannerman as Local Ward Member abstained from voting on this item.

63 Proposed Poultry Units South Of The Vinnals, Lower Common, Longden - 16/02752/EIA

The Area Planning Manager introduced the application for the construction of two poultry sheds and feed bins, ancillary works, access improvements, the erection of biomass building and associated landscaping and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Area Planning Manager drew Members' attention to the Schedule of Additional Letters which included a request from the applicant for the application be deferred to allow a possible amendment to the scheme relating to timing of vehicle movements.

RESOLVED:

That determination of this application be deferred to enable the applicant an opportunity to address the various objections and overcome the reasons for refusal.

64 Proposed Affordable Exception Dwelling At Cruckton Shrewsbury - 16/03379/FUL

The Area Planning Manager introduced the application for the Erection of 1No affordable dwelling and detached double garage and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Area Planning Manager referred to the Schedule of Additional Letters and explained that the applicant had requested that the application be deferred to allow amendments to the application to try and overcome the concerns identified in the report.

RESOLVED:

That determination of this application be deferred to enable the applicant an opportunity to address the various objections and overcome the reasons for refusal.

65 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 27th October 2016 be noted.

66 Date of the Next Meeting

The Chairman announced that this was the last meeting that the Solicitor would attend before leaving Shropshire Council and he would like to take this opportunity to thank her for her contribution to the Committee and wish her all the best for the future.

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 24th November 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date
 Central Planning Committee
 24 November 2016

Item
5
 Public

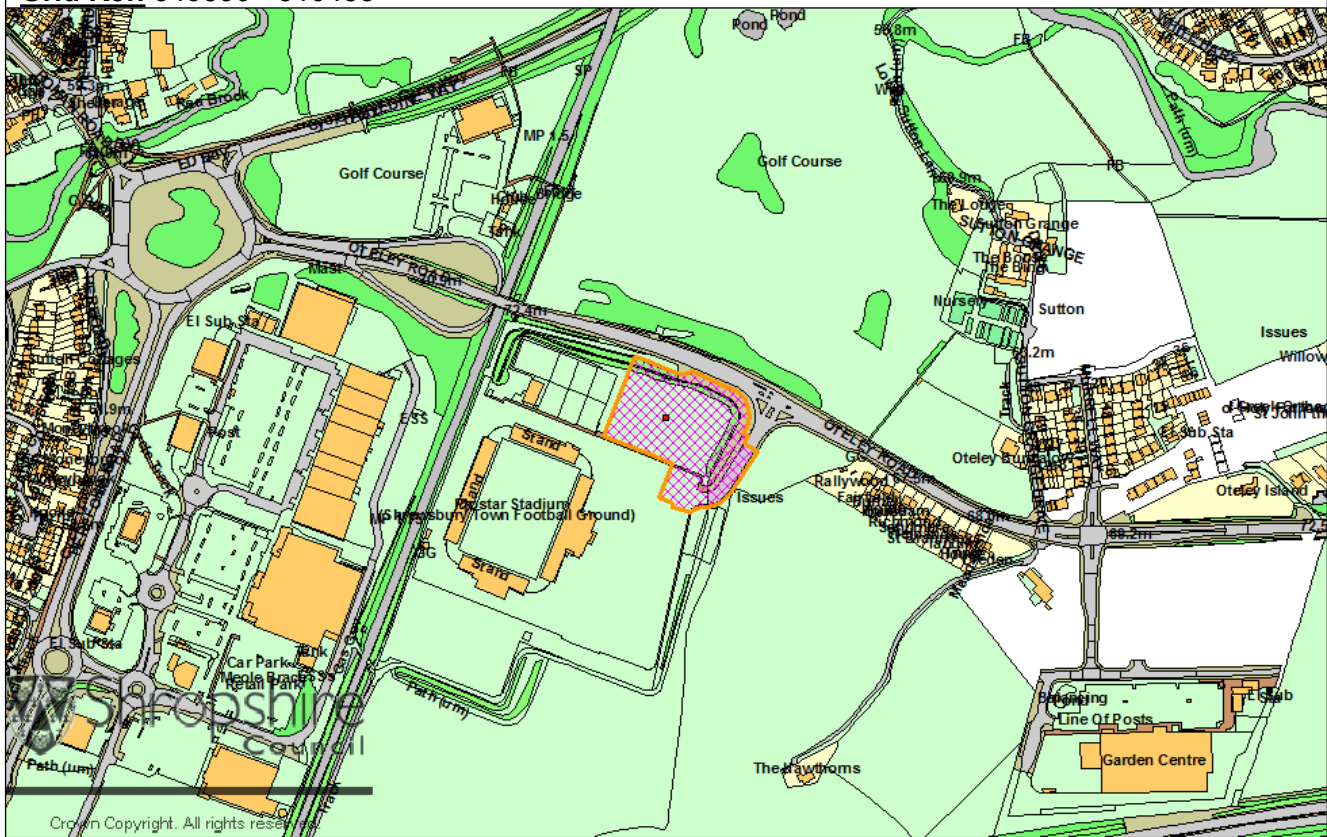
Development Management Report

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

Summary of Application

Application Number: 16/00181/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of retail store, associated car parking and servicing facilities, site access and associated works		
Site Address: Land At Oteley Road Shrewsbury Shropshire SY2 6ST		
Applicant: Lidl UK GmbH		
Case Officer: Karen Townend		email: planningdmne@shropshire.gov.uk

Grid Ref: 349590 - 310458



Recommendation: That delegated powers be given to the Area Planning Manager to grant planning permission subject to resolution of highway matters, subject to the conditions set out in Appendix 1 and subject to a legal agreement to secure a financial contribution towards improving public transport on Oteley Road and to secure match day management of the car park.

REPORT

1.0 THE PROPOSAL

- 1.1 This application is for the erection of a retail food store, associated car parking and servicing, site access and associated work. Full details, plans and supporting information have been submitted with the application. The store is proposed to have a footprint of 2,468sqm gross. The applicant, Lidl, is intended to be the end user of the food store. As part of the proposal, following concerns and negotiations carried out during the application, the scheme recognises that the application site is currently identified as a community sports pitch through the consent granted for the construction of the football club. The club and Lidl have proposed an alternative community pitch and this will be dealt with later in the report and is also being considered under a separate application for variation of the approved plans and conditions on the consent for the football club.
- 1.2 The supporting information includes full plans, landscaping plan, existing topography plan, proposed access alterations, Design & Access Statement, Planning & Retail Statement, Statement of Community Involvement, Transport Assessment and Geo-Environment Statement.
- 1.3 Prior to consent being granted the Council is required to notify the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 as the application consists of the provision of out of centre retail where, cumulatively, with other consented developments, will provide new floor space of more than 5,000 square metres. There are a number of other out of centre retail consents including Waitrose site and the Morbaine site (Hereford Road) and as such any recommendation for approval would be subject to this notification and, subject to the application not being called in, conditions as detailed within the report.
- 1.4 It is the opinion of Shropshire Council as Local Planning Authority that the proposal is not an EIA development under any part of either Schedule 1 or Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2015 and as such do not require an Environmental Statement to be submitted. The application does meet the criteria of Part 10(b) of Schedule 2 of the 2015 Regulations being an urban development project however taking into account the advice in the National Planning Practice Guidance (available online) the application is not considered to require an Environmental Statement as the proposed development is not significant in relation to the surrounding uses and would not have a significant impact or result in significant effects on the environment by virtue of its nature size or location.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is 1.07 hectares of relatively flat grassed land within the existing security fence for the Shrewsbury Town Football Club (STFC). A grassed embankment runs around the two external edges of the site, the east and north boundaries, with the fencing on the top. The

stadium and car park lie to the south of the site with five a side pitches to the west and the railway and Meole Brace retail park beyond. Access to the site is off Oteley Road using the existing traffic light junction which leads to a mini roundabout within the football club. The proposal is to amend this roundabout which is dealt with later in the report.

- 2.2 The land is south of Oteley Road with Meole Brace golf course on the opposite side of the road and residential areas beyond. Over the SAMDev plan period the football club land will become encompassed into the Shrewsbury South Sustainable Urban Extension (SUE) which is an allocated urban extension to the town to include around 900 houses, 22ha of employment land, retail and commercial uses and infrastructure. The SUE will mean that the character of the area will change significantly.
- 2.3 The site is clearly within the development boundary for Shrewsbury and within an area which although is currently edge of urban area will become part of the urban area after the construction of the SUE.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Councillor Tandy has requested that the application be determined by committee (as detailed at 4.2.3) and the Town Council have raised concerns which the Chair and Vice Chair, in discussion with the Area Planning Manager, agreed are material planning considerations which merit debate at committee. Therefore, in accordance with the adopted scheme of delegation the matter is to be considered at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shrewsbury Town Council** – The Town Council have no overall objections to these proposals, they do query whether there were any conditions imposed on the original sale of the land to the current owners and the initial planning permission for the football stadium in respect of future uses. In addition, members have expressed concerns over potential traffic problems for visitors to both the football stadium and the supermarket on match days.
- 4.1.2 **Sport England** – It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 74) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England' (see link below):

www.sportengland.org/playingfieldspolicy

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

The Proposal and Impact on Playing Field

The proposal is for the erection of a retail store on an area of playing field land. The

playing field which could accommodate an U15/U16 football pitch (97m x 61m including runoff), would be lost through this proposal. No mitigation has been proposed for the loss of playing field. The application site forms part of the site which was granted planning permission (ref. SA/02/0278/F) for a new football stadium, training pitch, children pitch, five-a-side pitches and associated infrastructure. The application site has been prepared and turfed as playing field as part of the implementation of the planning permission (ref. SA/02/0278/F). The approved plans show the application site marked out with a football pitch, although it appears that the site has not been marked out as a football pitch.

Nevertheless the application site is playing field as it forms part of 'the whole of the site which encompasses at least one playing pitch' as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015. Sport England's Playing Fields Policy covers the entire playing field site and not just the areas currently marked out with pitches. This is because playing field is seen as a resource for pitches to be marked out on, repositioned to allow areas of the playing field to rest from over play, and to change from one pitch sport type to another to meet demand.

Assessment against Sport England Policy/NPPF

I have assessed the proposal against the five Sport England policy exceptions:

E1 – In order to satisfy policy exception E1, up to date evidence would have to be made available to suggest that the playing field is surplus to sporting requirements. There is no up-to-date Playing Pitch Strategy for Shropshire. No evidence is available to demonstrate that there is an excess of playing fields in the catchment and therefore policy exception E1 does not apply.

E2 – Sport England considers that the proposed development is not ancillary to the principle use of the playing field and is considered to affect the quantity of pitches that could be accommodated. Policy exception E2 would therefore not be satisfied.

E3 – In order to meet policy exception 3 it will need to be demonstrated that the area proposed to locate the proposed retail unit is unsuitable for pitches to be marked (e.g. steeper than the recommended falls for pitches etc) whether it is marked out at the current time or not) and that the proposed development would not lead to a loss of ability to use the playing pitches. The site has been created as playing field and is clearly suitable for football. The proposal would therefore not meet policy exception 3.

E4 – No replacement playing field has been proposed so policy exception E4 does not apply.

E5 – The proposal is not for a sports facility and therefore policy exception E5 does not apply.

Paragraph 74 of the National Planning Policy Framework (NPPF) states that existing recreational facilities should not be built on unless: an assessment has been undertaken which has clearly shown that the building is surplus to requirements; the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location; or the development is for alternative sports and recreational provision, the needs or which clearly outweigh the loss.

Based on the information submitted in support of the application Sport England considers that the playing field is not surplus to requirements. Sport England are therefore seeking to protect the site, replace the playing field or negotiate financial compensation for this loss. Based on current costs, Sport England estimates the cost of replacing the natural turf

football pitches (97m x 61m including runoffs) would be approximately £65,000 excluding the cost of the land.

Conclusion

In light of the above, Sport England **objects** to this application on the basis that it will result in the loss of playing field, until a suitable Section 106 agreement, or other legal mechanism is delivered, or arrangements are confirmed on replacement provision. Sport England can confirm that once a suitable section 106 agreement or other legal mechanism has been signed, we will withdraw our objection. Sport England would be pleased to discuss the contents of the section 106 agreement or other legal mechanism, with a view to withdrawing the current objection.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

4.1.3 **Policy Officer** – No objection.

These policy comments respond to the proposal by Lidl to develop a new 2,468sqm gross floorspace store at land at Shrewsbury Town Football Club on Oteley Road.

In providing these policy comments, regard has been had to other comments made on the application. In particular, it is noted there have been objections made by How Planning on behalf of Waitrose, and Morbaine Developments.

In summary, How Planning's objections to the proposal are:

- The applicant has misinterpreted the Development Plan regarding the status of the committed Waitrose development at Oteley Road, and the impact upon the proposed Waitrose as a defined 'Local Centre' within of the Shrewsbury South SUE.
- The applicant's sequential site assessment is flawed and should have recognised the Riverside Mall as a sequentially preferable site.
- The applicant's methodology has not accounted for the full level of impact; specifically that the proposed store's trade diversion is not realistic.

In summary, Morbaine's objections to the proposal are:

- The proposal would prejudice the delivery of the approved scheme at Hereford Road, Shrewsbury, which in the view of the objector represents a sequentially preferable site.
- The Hereford Road site is viable and deliverable, and recent landowner discussions have improved the potential 'offer' to an end user.

The following Local Plan policies and national guidance are of particular relevance to this application:

National Planning Policy Framework (NPPF) Paragraphs 23-27

- Core Strategy Policy CS15 - Town and Rural Centres
- Core Strategy Policy CS2: Shrewsbury – Development Strategy
- Core Strategy Policy CS6: Sustainable Design and Development Principles
- Core Strategy Policy CS8: Facilities, Services and Infrastructure Provision
- SAMDev Policy MD10b – Town and Rural Centre Impact Assessments

In addition, it is relevant to give consideration to the conclusions of the Shrewsbury Retail Study from 2014 prepared by Perter Brett Associates on behalf of the Council.

Sequential Site Assessment

It is useful to outline the purpose and implementation of the sequential site assessment as set out in the NPPF and the NPPG. The NPPF identifies the need for Local Authorities to apply a sequential assessment for applications for main town centre uses (including retail) not in an identified centre and not in accordance with the Development Plan. This therefore applies to the current Lidl proposal.

The NPPG says the following about the practical implementation of the sequential test: *“The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.”*

Further to the advice in the NPPF/NPPG it is accepted that for a site to be sequentially preferable it should be suitable, available and viable, and that Local Planning Authorities should take a flexible approach, including appropriate recognition of the requirements of the operator.

Plan A (the applicant) provide a sequential site assessment as part of their application, considering a number of additional sites. This includes ‘in centre’ sites consisting of: five currently vacant premises; the town centre Riverside Mall, and the ‘Gap’ site at Raven Meadows. The following ‘out of centre’ sites are then considered: Land adjacent to BP Station, Hereford Road; Meole Brace Retail Park; Land south of Meole Brace Retail Park; and the Local Centre site at the Oteley Road SUE.

For reasons of scale and availability the applicant dismisses the ‘in centre’ options. The applicant goes on to consider that none of the out-of-centre proposals considered represent sequentially preferable options.

When objecting to the proposal How Planning consider that the Riverside Mall represents a sequentially preferable site, and that the applicant has not provided sufficient information in dismissing it. Despite How Planning’s concerns, it is considered the applicant has sufficiently addressed the issue. Whilst the Riverside Mall approval technically allows for convenience retail, it is evident the primary objective of the Riverside scheme is to consolidate and improve Shrewsbury’s comparison retail offer. Therefore, whilst an element of convenience retail within the current Riverside scheme is acceptable in principle, it is considered reasonable to discount the scheme as part of the sequential assessment.

In objecting to the proposal, Morbaine Developments consider their existing committed site at Hereford Road is “sequentially superior” when compared against the Oteley Road site. Morbaine focus their argument on the comparative bus links of the two sites to the town centre.

In addressing this objection, it is acknowledged that in granting the Hereford Road proposals, the Appeal Inspector correctly stated that the site is on a bus route linking to the town centre. However, it is important to recognise the Appeal Inspector was purely seeking to satisfy himself that the Hereford Road proposal passed the sequential test in its own right. There was no direct comparison of sites, aside from an acknowledgement that sites at Meole Brace and the Sustainable Urban Extension were not sequentially preferable.

In instances where there are alternative out-of-centre options, the implementation of the sequential test (as advised by the NPPG) specifically gives preference to accessible sites that are well connected to the town centre. It therefore can be reasonable to conclude that two out-of-centre sites are sequentially equal. Solely being on a bus link does not in itself make one site sequentially preferable than one which is not, and it is important to consider the practical use of the bus route as a means for the public to link their shopping trip with a visit to the town centre. If link trips are unlikely to be encouraged in practice there is no practical basis for distinguishing between competing out-of-centre sites purely on this basis.

Whilst physically closer to the town centre, the Hereford Road site is still a considerable distance from the town centre, and certainly beyond a reasonable walking distance. In considering the ability for customers to link their trips with other shopping, it is considered more likely customers would choose to visit Meole Brace Retail Park rather than the town centre. In addition, the applicant points out that the major proposed development in the Shrewsbury South SUE over the coming years will in itself facilitate improved bus links.

In responding to the objection from Morbaine I therefore do not consider the Hereford Road site is sequentially preferable to the proposed site at Oteley Road, and it is considered the applicant has met the requirements of the sequential test.

Impact Test

SAMDev Policy MD10b establishes the threshold of 500sqm, over which proposals for retail should prepare an impact assessment. The application site has therefore correctly undertaken such an assessment.

The NPPF states that applications for retail in out-of-centre locations not in accordance with an up-to-date Local Plan, should be refused where they are likely to have a significant adverse impact on existing, committed and planned public and private investment in a centre of centres in the catchment area of the proposal, and on town centre vitality and viability, including consumer choice and trade diversion.

In undertaking their Impact Assessment, the applicant concludes the proposed store would not have a significant adverse impact on the town centre. In objecting to the proposal How Planning consider that the applicant's Impact Assessment is unsatisfactory, specifically criticising the lack of consideration on the impact on the proposed Waitrose at Oteley Road, and more generally regarding the overall methodology used.

Impact on Proposed Waitrose

How Planning raise concern that the combined impact of the recently opened Marks and Spencer Food store at Meole Brace Retail Park and the proposed Lidl would impact on the potential turnover of the proposed Waitrose scheme to an extent to make it unviable, and

on that basis the impact on the Waitrose scheme as a defined Local Centre would be significantly adverse.

In responding to this objection it needs to be considered whether the proposed Waitrose scheme at Oteley Road warrants consideration in the Lidl's Impact Assessment.

The NPPF requires Impact Assessments to be focussed on the impact on centre or centres in the catchment area of the proposal. Lidl's Impact Assessment considers the impact on Shrewsbury's town centre but not the proposed Waitrose at Oteley Road. Core Strategy Policy CS2 identifies land at Oteley Road to accommodate the Shrewsbury South SUE (SSSUE). Policy S16 of the SAMDev Plan goes on to identify the uses to be accommodated in the SSSUE, informed by a masterplan process. This includes the provision of a local centre, which was combined with the relocation of the garden centre.

In 2012, ahead of the adoption of the SAMDev, Waitrose gained planning approval for a new store comprising a floorspace of 2,741sqm. In 2015 some elements of the store's layout and elevations were altered through agreed non-material amendments (15/03602/AMP), resulting in a very minor reduction to the store's proposed floorspace.

In determining the original application in 2012, the Council considered that whilst the store would provide a local centre role, the scale of the proposed store would mean it would have a much wider catchment area than the surrounding SUE. This point was acknowledged in 2012 through the applicant's Retail Impact Assessment, which in effect treated the store as an out-of-centre application. It is clear that the design of the Waitrose will allow it to act as a local centre for the residents of the SUE. However, given the scale of the proposed store and its wide catchment area, it is considered the store will act as more than a local centre. It is therefore considered inappropriate for the council to require other out-of-centre proposals to assess their impact on the proposed Waitrose store directly. In addition, given the proposed Waitrose is in an out-of-centre location and presumably not available to Lidl, it is considered How Planning's concerns about the application of the sequential test are unwarranted.

How Planning raise more general concern over the methodology used by the applicant in their RIA. This includes the use of store sales density (linked to overall turnover) data at a rate lower than the current Mintel Retail Rankings for Lidl. This concern is shared by the Council, and it will be important for the applicant to provide an update to their RIA including these more up-to-date store density figures.

Whilst it is considered the scope of the appellant's Impact Assessment is reasonable, given the importance of the Shrewsbury South SUE, it is still relevant to consider what general impact, if any, the proposed Lidl will have on the delivery of the overall scheme. To this end, it is noted the applicant's Impact Assessment assumes 10% of the proposed Lidl's turnover will be diverted from the proposed Waitrose. It is also noted How Planning have raised concerns about this assumption, and have suggested this level of trade diversion will be higher, although they do not propose an alternative figure.

Any assessment of individual store impact is inevitably based upon broad assumptions, and in the case of Waitrose is further hindered by the fact the store is yet to be built. The applicant has drawn evenly from two main factors - 'like for like' and 'proximity' impacts - in assuming trade diversion levels. 40% trade diversion is expected from the existing Aldi

and Lidl stores to the north of Shrewsbury. Given the 'deep discount' nature of Lidl, it is considered reasonable to assume a high trade draw from these stores despite the distance of these stores from the application site. This view is supported by the current lack of 'deep discount' operator in the south of the town.

The applicant also uses a 40% diversion rate from non-discount stores within a greater proximity, including 10% from the proposed Waitrose. Whilst the concerns of How Planning are acknowledged, it is considered that these broad assumptions on more local impact are reasonably based. To this end, there is expected to be only a marginal impact on the proposed Waitrose, and it is considered this is unlikely to impact the delivery of the Shrewsbury South SUE. It is noted there has been no objection made by the other developers of the Shrewsbury South SUE raising concerns of this nature. It is noted that whilst the broad percentage diversion on individual stores is accepted, the actual level of that impact will need to be revisited once the applicant has updated their turnover figures, as referred to above.

Other Planning Policy Issues

It is noted the proposed store is on the site of the current community pitch which formed part of the Section 106 Agreement when the stadium was developed. Recent alterations to the Section 106 agreement have not changed the need for the Football Club to provide this facility. Any loss of facility would be conflict with the current Section 106 agreement, and with Core Strategy Policy CS8. It is considered this issue is of significance and needs to be overcome for the scheme to be acceptable against adopted Local Plan policy. It is acknowledged there have been objections to the loss of this facility from Sport England, and there are ongoing discussions with the applicant about how this issue can be resolved. A further policy view will be prepared on this matter once an alternative proposal is provided by the applicant.

- 4.1.4 **Economic Development** –The Economic Growth Service supports the application which will provide a greater choice of offer as well as providing between 25-40 job opportunities however there are concerns on the location of the development.

As a discount operator Lidl stocks a limited range of goods, up to 1800 lines compared to the larger supermarkets offering up to 90,000 product lines and it is not expected it offer one stop shopping. There is also a higher percentage of convenience to comparison shopping (85:15 compared to 75:25). Lidl does not sell cigarettes, single confectionery items and does not include pharmacies Post Offices and meat and fish preparation on their premises .Consequently there is likely to be less direct comparison goods shopping and competition against the larger supermarkets and small independent retailers. The impact study also indicates that the impact of the store on the proposed Waitrose store at Otley Rd will be around 10% which is not considered to be significant.

The Shrewsbury South Sustainable Urban Extension Masterplan has been adopted as planning policy and has been through an extensive public consultation exercise. Whilst the supporting statement states that the site is within the SUE as defined in the adopted Core Strategy it is not located in the area defined in the master plan for the Local centre which includes community facilities and associated retail investment and is at odds with comprehensive planning of the area.

The site is located adjacent to the Shrewsbury FC football ground which acts as major

venue for conferences and exhibitions supporting the Shropshire tourism economy. The development of the site would severely restrict opportunities for future expansion of operation which could include additional conference entertainment or sporting facilities.

Should the application be approved it is proposed that a condition is included on employing local people and to engage Job Centre Plus to ensure local people are matched to available positions where appropriate.

- 4.1.5 **SC Highways** – Recommends refusal as the proposed development has failed to demonstrate an acceptable means of sustainable pedestrian and vehicular access, as well as suitable operational activities/HGV movements from a highways and transport perspective.

Observations/Comments:

Access

The proposed development seeks to utilise the existing vehicular access and traffic signal junction arrangements that were constructed to facilitate the football club and a primary future employment development area, supporting the Shrewsbury Sustainable Urban Extension South (SUE South).

Currently the signal controlled junction on Oteley Road works well within its designed capacity, as the SUE has only been partially developed, so far. Planning consent has been granted for further development which includes the extension of the football club approach road and its linkage to the local centre (Thrower Road) and the future adjacent employment land.

No account of these future developments have been considered by the proposed supermarket application and assumes that as the signal controlled junction and proposed roundabout is adequate to support the additional traffic generated by the store.

In the master planning of the SUE and the local environment, no further grocery retail use was expected or considered necessary, except that which had already been approved (i.e. Waitrose). Therefore, this junction has not been demonstrated within this application as being adequate to support this additional retail development at the football ground.

This development is also proposing to relocate and formalise the existing informal pedestrian crossing (at the club gates) to half way along the access road. There does not appear any justification for this as it would not relate to any other facility or linkage proposed. Pedestrian facilities already exist at the signal junction on Oteley Road, approximately 80m away from the proposed location of the zebra crossing. Therefore it would appear to serve no useful purpose. Although when the extension of the access road is undertaken and linked to the local centre and employment areas, then there may be a need to facilitate an additional pedestrian route.

However, the most logical and direct route for pedestrians would in all probability be in closer proximity to where the informal crossing exists currently.

Internal Layout

Although the application demonstrates that development can be serviced by

articulated within the proposed car park no demonstration has been shown of the manoeuvres of these vehicles and the mini roundabout access road. However, it is not good practice to allow service vehicles to manoeuvre within spaces that could be occupied by car parking or pedestrians. If this is to be allowed servicing the store will need to form part of the approved Travel Plan to ensure that appropriate controls are put in place to only have HGV's present on site at times when the store is not open to the public. In order to reduce the likelihood of incident or injury whilst these articulated vehicles manoeuvre around and reverse within the car park.

It should be noted that an alternative solution could be to service the site from the football club side thereby, not compromising the shoppers' car park. Although service vehicles would have to be restricted from access on match/event days. Whilst the proposed pedestrian access from the B4380 Oteley Road, will improve connectivity to the site, consideration should be given if access on match days should be provided to reduce the possible conflict between shoppers vehicles and football supporters. Consideration should also be given to the gradient of any proposed pedestrian link is DDA (Disability Discrimination Act 2005) compliant.

Transport Assessment

Section 3 - Existing Conditions

- Bus – Public transport is not usually a viable option for customers, and with the stop being 650m away. This will be seen as being very unattractive for customers with shopping to carry. The report needs to be much more honest about the limitations of bus travel to the site, particularly for customers.
- Walking – There is no acknowledgement of the difference between walking take up by staff vs customers. The latter being very limited given the current level of population within the 1km isochrome. It is acknowledged that this is changing with the SUE but the report does not explain this satisfactorily.
- Cycling – similar to walking so the potential set out in the report is only relevant to staff trips.
- 3.25 The football club operate a parking permit system in relation to the stadium parking for the 670 car parking spaces are provided at the stadium. Permission has recently been granted to increase the parking provision up to 1000, this has not been acknowledged or taken into consideration.

Section 4 – Development Proposals

4.13 - The Shropshire standard cycle stand is a Sheffield type stand and these can be in individual or toast rack format. The report doesn't indicate where the cycle stands will be located (ideally near entrance) whether or not they will be covered (particularly for staff) consideration also needs to be given to expansion – see later comment under Travel Plan.

Section 5 – Trip Generation

5.3 – The report has not used comparable existing sites, with 2 survey days at sites with 500,000 population in 5 miles and 25-50,000 population in 1 mile. It is also suspected that many of the sites have much better public transport provision. It is difficult to find similar sites in TRICS then this needs to be explained and justified.

Section 6 – Traffic Impact Assessment

6.13 – States, "It is considered that the majority of Lidl customers will not seek to access the proposed development by car during the peak periods on a matchday (1400-1500 for

arrivals and 1630-1730 for departures)

Whilst this logic is generally accepted, there has been no evidence submitted that this occurs in similar situations where retail facilities are located adjacent to sports grounds, nor does it address the issue that fixtures are subject to rearrangements throughout the season and additional fixtures added.

It does not adequately explain the potential trip changes and displaced peaks should shopper avoid football match or event times or possible measures to be out in place to control vehicles on match days.

6.15 – The conclusions in this paragraph or relevance to this assessment is not accepted. The TA needs to focus on what is actually happening at this junction now, as well as when the whole SUE (including the consented adjacent employment land) is fully developed. Then determine how this might change with the new food store in operation. A paragraph on the acceptability of the current queue length measured during the Saturday survey would be useful, as well as how the on-site traffic/pedestrian management might affect the stores operation and the proposed formal pedestrian crossing. Particularly, as it also assumes that the level of occupancy of the stadium and car park are directly linked.

Outline Travel Plan

- The report is very generic and needs to be revisited to reflect the specific constraints and opportunities associated with this development. (i.e. para. 7.13 - there are no trams in Shrewsbury!). While sustainable travel by customers is limited they should still be considered and included in any objectives.
- The report needs to be more positive, looking to build on good practice and adapt to encourage more change (i.e. cycle stands start with standards but look to increase if it becomes popular, determined through on going surveys and encouragement)
- As previously stated the site is not well served by public transport but the planned SUE developments will bring enhanced public transport provision along Oteley Road. Therefore, it would be useful for the TP to highlight this and provide a commitment to push bus travel with the introduction of new facilities (bus stop?) and encouragement to use these services (discount vouchers?).
- Targets – reference needs to be made to working with and agreeing targets with the LA. Final targets will need to be based on the results of the initial surveys and agreed with Shropshire Council but some indication of what the developer feels might be appropriate would provide a starting point of discussion and help to demonstrate commitment.
- 7.18 – cycle parking needs to be flexible to meet demand.
- 7.19 – Travel Plan needs to include reference to working directly with staff to identify car sharing opportunities.
- 7.22 - The Travel Plan Coordinator does need to be appointed before the store opens and this needs to include a specifically role in the recruitment process where opportunities can be taken to work with potential staff. In any final document it will be necessary to specify who the TP Coordinator will be and how much time and authority they will be given. (Note: the football club has a travel plan coordinator, are there will be one for the adjacent employment site, so there will need to be commitment to working alongside neighbouring business, etc.
- 7.24 – Monitoring needs to start from the recruitment stage when an understanding of

how staff plan/intend to travel can be established. The document should be made much less generic at this stage and then a much more comprehensive and specific plan produced and agreed prior to the store opening.

- 4.1.6 **Rights of Way** – Public Footpath UN1 Shrewsbury abuts the northern boundary of the site identified but will not be affected by the proposals. Footpath 74 Shrewsbury partly runs along the eastern edge of the access to the site but it will not be affected by the proposals. The routes are shown on the attached plan.
- 4.1.7 **Ecology** – If an application, submission of reserved matters or the development is likely to start after February 2017 then an update survey of ponds/ditches within 500m of the development site for Great Crested Newts would be required.

Ecological enhancements, including native tree planting, should be sought to maintain and improve the green frontage to the roads, the green strip between the store and the sports pitches and around any SUDS features.

Great Crested newts

There is a small population of Great Crested Newts (GCN) in ponds, surrounded by good quality newt habitat, to the north of Otley Road on the Golf Course. Otley Road is a busy and relatively wide main road, which will act as a barrier to GCN and it is unlikely that GCN from this population would be encountered on the proposed development site. There is a second pond just over 230m to the south of the proposed site which was surveyed in 2014 for another planning application and no GCN were found. This second pond is separated by c. 30 metres of grassland and c. 200m of tarmac car park. A grassland route around the edge of the car park stretches to 350m from the pond. In view of this, a Great Crested Newt survey will not be required unless additional ponds are found.

The pond to the south was created relatively recently when the football stadium was built, as were the ditches, which hold water for part of the year, adjacent to the site. If submission of an application or reserved matters or the development is likely to start after February 2017, an update survey for Great Crested Newts of ponds/ditches within 500m of the development site would be required. The survey would need to determine if the situation has changed and may need the following:

Any ponds within 500m should be re-assessed in terms of broad suitability for Great Crested Newts by carrying out a Habitat Suitability Index (HSI).

If any pond is suitable then it may be necessary to carry out a presence/absence survey for Great Crested Newts which is made up of 4 survey visits between mid-March and mid-June with at least 2 visits between mid-April and mid-May. Three survey methods (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If Great Crested Newts are discovered then it may be necessary to carry out a population size class estimate which involves an additional 2 visits in the specified time period.

A recent alternative means of determining presence/absence is to take a water sample for eDNA testing between mid April and late June. Please note if Great Crested Newt presence is indicated a population estimate by conventional survey (6 visits in the correct time period) will still be required and timing issues may ensue (seek ecological consultants

advice).

The Great Crested Newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001). The ecologist should make recommendations as to whether a European Protected Species Licence with respect to Great Crested Newts would be necessary and the need for a mitigation scheme and/or precautionary method statement. Any deviation from the guidelines should be described together with the scientific justification for the alternative methods used.

Nesting Birds

The site has the potential to support nesting birds recommends an informative.

Bats

Recommends a condition should be on the decision notice to try and reduce the impact that lighting may have on foraging and commuting bats.

Landscaping

On the preapplication PREAPP/15/00504 the County Ecologist advised that the proposed car parking should be pulled back so as to retain the landscape bund and green screening. Habitat creation should be proposed, such as native tree and scrub/hedge planting along the road to mirror the existing mature avenue planting to the west and east and to screen the car park. The Golf Course opposite the site lies in the Environmental Network (see Core Strategy CS17 Environmental Networks and guidance note 11 on the website below) and tree and hedge planting would help to maintain the green character of the area.

The proposed landscape scheme does not reflect this advice at all. All the species proposed are non-native and of limited value to wildlife. I would advise that the planting scheme is revised as suggested above.

I would encourage SUDS features to be incorporated into the design and opportunities to be taken to provide enhancements for wildlife such as bird boxes.

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

- 4.1.8 **Trees** – No mention has been made with regard to the existing trees on this site which are a line of established semi mature Lime trees planted approximately 10 years ago and establishing well. I assume these trees were planted as replacements for mature Lime trees on the road side lost during the development of the football stadium, possibly subject to a planning condition (not verified).

These trees should be shown on the existing layout plan and considered as a valuable established feature worthy of retention and inclusion in the proposed landscaping scheme.

- 4.1.9 **Drainage** – The site is greater than 1.0 Ha. the surface water drainage strategy in the FRA is technically acceptable.

Drainage details, plan and calculations could be conditioned if planning permission were to be granted.

4.1.10 **Public Protection** – Having reviewed the information provided public protection have the following points which require further thought and attention.

There is concern that on match days supporters making their way to and from the stadium to the south will cut through the car park to the proposed store. The stretch of boundary treatment of 0.5m high fencing between the proposed site and Oteley Road and the road to the stores proposed eastern boundary will not prevent this. This has the potential to place a large amount of pedestrian footfall in the car park presenting a risk of accidents between vehicles and pedestrians. A proposed solution which would remove any objection to this aspect of the development by public protection would be to have boundary treatment which presents a deterrent to this behaviour. Fencing to a height of 1.3-1.5m is recommended (the higher the better) with planting immediately inside the boundary, e.g. a continuous thorny hedge, is proposed for the applicant's consideration and comment.

In addition gating capable of being locked during peak pedestrian movement times to the stadium on the pedestrian access from the proposed site onto Oteley Road would be required with a statement to confirm that they will be locked during the period prior to any event at the stadium (recommended 2 hours) until a period after the event is scheduled to finish (recommended one hour after an event at the stadium).

Please can the applicant consider the above and provide comment and any additional site plans as required to take into consideration this aspect.

In addition to the site boundary concerns raised above it is noted that in the 2 hour period leading up to an event at the stadium and during the 1 hour following an event there is a significant amount of footfall in the immediate locality. It is therefore not considered suitable for HGV to be delivering to the site during these times and I recommend the following condition to remove associated risks:

No deliveries to the site shall take place within the following hours: 2 hours prior to any event at the nearby stadium until one hour following the expected finish time of the event. Reason: to remove risks of accidents associated with HGV movements in an area of high pedestrian footfall.

Also reviewed the Matchday Management Plan (MMP) which proposes arrangements for ensuring safe access/egress of Lidl customers and matchday attendees at Shrewsbury Town Football Club. The proposals to provide 5 additional stewards on matchdays to manage pedestrian and vehicular movement are satisfactory. However a far better solution has been suggested to the developers which would be to provide a separate pedestrian access to the football ground from Oteley Road along the Western edge of the proposal site.

If a separate pedestrian access cannot be provided then I request that a condition is applied to any approval requiring that the arrangements detailed in the MMP are implemented in full for every match at Shrewsbury Town Football Club which is covered by the Safety Certificate issued under the Safety at Sports Grounds Act 1975

Also I would request a condition be applied requiring there no deliveries to the Lidl store in the 2 hours before a match kicks off and for 1 hour after the expected finish time .

Finally the transport assessment states that the main gates to the stadium will be relocated however no details of the proposed layout have been presented to show how the stadium can be isolated from the surrounding locality when necessary. Please can plans and details of the proposed works be submitted for comment.

Brownfield Solutions Ltd; Geo-Environmental Assessment Report SF/C3064/5700, December 2015 has been submitted in support of this planning application.

On the basis of the monitoring undertaken, the assessment and guidance, ground gas precautions will be required within any proposed construction at the site.

Brownfield Solutions have recommended that the installed membrane in any proposed development should be rated by the manufacturer as resistant to carbon dioxide. The gas membrane should be installed by a competent contractor in accordance with CIRIA C735 and the manufacturers' recommendations, this will include minimum laps, sealing any cavity and top-hat seals on the service entries. The installation of a membrane is considered a planning requirement and validation of the placement of protective measures will be required.

Therefore if this application is approved recommends a condition. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

4.2 **Public Comments – up to 2nd Nov**

4.2.1 160 letters of representation have been received, 36 in objection and 123 in support.

The 36 letters of objection raise the following concerns:

- Conditions imposed on the previous consent prevent the proposed development
- Loss of community sport pitch and no alternative proposed
- Club have prevented communities using the site as a pitch
- No need for another food store – Shrewsbury is already well served by supermarkets on every side of town
- May impact on delivery of existing Waitrose consent and site on Hereford Road
- Need a DIY store
- Site should be used for leisure uses such as a new swimming pool
- Should be used for more parking for the football club
- Significant house building in the area will increase the need for open space
- More appropriate sites available
- Will not be in keeping with local area
- Negative impact on visual amenity and landscape
- Too much built development is being carried out resulting in the loss of the character of Shrewsbury
- Poor access

- Increase in traffic and congestion
- Will create traffic and pedestrian access problems on match days
- Pedestrian access would be better to the west of the store rather than trying to steward the pedestrians crossing the Lidl car park
- The TA has not sufficiently assessed the traffic at peak times and has not fully considered the potential impact on the roundabout and traffic lights
- No evidence that shoppers will avoid match times – personal experiences of this not being the case in other towns
- Wait times to leave the football club by car can be up to 45 mins
- Will result in supporter parking on the store car park, shoppers parking in the football club and increase supporter parking on local roads
- TA does not take account of increase in parking approved at football club
- Relocation of club access gates and pedestrian crossing facility will increase traffic congestion on Oteley Road

4.2.2 The 123 support letters received are summarised below:

- Need a discount store on the west/ south of the town
- Would prefer a Lidl to Waitrose
- Will be convenient
- Increase choice
- Within an area designated for development
- New housing will support new store
- Will support football club financially
- More jobs
- Not obtrusive
- Good use of land
- No issue with location or parking
- Access is already controlled by traffic lights
- Will reduce carbon footprint by reducing travel, traffic and within walking distance
- Lidl can assist with traffic management on match days to overcome objectors concerns
- No impact on residential properties

4.2.3 The Local Member **Councillor Tandy** has written in objecting to the application.

As the local Councillor for the area concerned not just on Shropshire Council but also on the Town Council. I find I must oppose this planning application on the following grounds:

1. The area which is to be used for the shop and car park has a covenant on it. This was put on when the club moved from the Gay Meadow this was because the site of the gay meadow was given to the town for the use of sport and the chairman of Shrewsbury Town Football Club wanted to put housing on the site so a piece of land was found within the site of the new football ground to be used for sport and for the community this area has never been allowed to be used for the community in fact I have seen evidence that the chairman has actively stopped the community using this site.

2. The stadium and footprint of the site has a safety committee I formally ask that the safety committee from Shropshire Council submit a report to the planning committee on safety of having a supermarket on the site of the ground and the implications that arise.

3. On the grounds of safety of the public what plans are in place in case of fire when fans of the football club are leaving the stadium.

4. What plans are in place to protect the shoppers from problems caused by football fans.
5. What are the opening times of the shop?
6. This application should be heard by Cllrs and I formally ask that this application to go to committee.

4.2.4 An objection has been received from **Morbaine Ltd** as promoters of the site on Hereford Road which has planning consent for a food store. The objection comments that the Hereford Road site was intended to meet the needs for further food store development, including discount store. The objection considers that the Hereford Road site is sequentially superior to the Oteley Road site, can also provide for a discount food store, is a brownfield site, is connected to the town by existing bus services and is actively being pursued by the land owner and agent. Morbaine comment that the proposed site is reliant on a bus which may or may not happen and also that the offer from Lidl for their site is still being considered. Morbaine is confident that the Hereford Road site can be developed, but that granting consent on Oteley Road would put this at risk.

4.2.5 An objection has been received from **How Planning Ltd on behalf of Waitrose**. The objection considers that the submitted retail statement is incorrect in that the Waitrose store is a local centre, as required in the SUE, not an out of centre store and as such the sequential assessment is not satisfactory. Furthermore the submitted statement does not consider the potential impact on the planned investment of Waitrose and the objection also raises concerns about the submitted trade and turnover data and considers that the Council can not therefore fully consider the potential impact.

A further objection from How Planning Ltd also comments that the Riverside Shopping Centre should be considered as sequentially preferable and that there is no evidence that a Lidl store in the Riverside would affect the viability of the whole of the development. This objection also reiterates How Planning's opinion that the Waitrose consent is a local centre fully supported by Core Strategy and SAMDev policies and that there is no evidence that the proposed Lidl store will better meet the needs of the local area than the approved Waitrose store. As part of a local centre the Waitrose store is linked to other retail units in the local centre and also is protected by the centre first approach in National and local policy.

The objection also provides more detail regarding the potential impact on the approved Waitrose noting that the proposed Lidl, with the recently built M&S, will adversely affect the viability of Waitrose. How also consider that the date used by Lidl is out of date and question that trade diversion figures from the existing Aldi and Lidl are too high whereas the trade diversion figure from Waitrose is too low. In conclusion How Planning consider that the application fails the sequential and impact tests and should therefore be refused.

4.2.6 A letter has been received from the **Sutton Area Residents Association** Chairman objecting to the proposal on the following grounds:

- Land is subject to a covenant for community recreational use which has been discouraged by STFC
- Access will be through gates of football club which is prohibited on match days and does not allow for two way traffic

- Will result in severe traffic congestion

4.2.7 **CPRE** – object. The site is open grassland designated as a community pitch and we feel strongly that the area should be protected from development of any kind. Furthermore, we understand that this field, along with the six five-a-side pitches, were covered by a covenant to ensure that they remained for recreational use. We are aware that in 2007, the Football Club offered to pay £350,000 for the right to set aside this obligation. Shrewsbury & Atcham Borough Council refused the offer.

National Planning Policy Framework policies 73 and 74 protect sports pitches from development unless an alternative site of equal or greater merit is available. No alternative has been suggested.

In their Decision Statement dated March 17th 2016 regarding alternative uses for the stadium, Shropshire Council stated at paragraph 13 "The community pitch, five-a-side pitches and changing block shall be permanently retained".

In our view that decision statement rules out the use of the community pitch for a supermarket and we hope that you will accordingly recommend refusal of the application.

4.2.8 **Shropshire Playing Fields Association** – **Object** to this application to build on a recently (2008) constructed sports pitch as required as part of the agreement to build a new football stadium, along with training pitch, community pitch 6 five-a-side pitches and changing facilities.

The application does not adhere to the requirements of the national planning policy framework paragraph 73/74 which clearly states that a robust and up-to-date assessment of need for open space, sport and recreation is required to determine applications of this kind.

There is no reference in the application to an open space needs assessment being used to support this application SPFA believe that until this evidence is available no decision should be made to support this application which would result in the loss of a valuable sport pitch.

Given the massive growth in residential accommodation in and around this grass pitch area since 2008, it would seem unlikely that any evidence could be produced that would suggest there is a surplus of sport pitches in this area for community use given that a similar application was refused in January 2007.

Indeed given the massive growth in recent times the evidence would clearly suggest there is now more need for this grass pitch than there was in 2007.

The government sport and physical activity strategy and Shropshire playing pitch strategy 2010 with its reference to a shortage in sport pitches for meole brace would also seem to support the rejection of this application.

4.2.9 Following receipt of the proposal to relocate the community pitch to the training pitch the Shropshire Playing Fields Association maintain its objection. Shropshire Playing Fields Association believe that the application does not replace the loss of one full sized

community football pitch with better provision in terms of quantity. At present the picture clearly shows two green open spaces, both currently being used as grass playing fields for the purpose of football. Clearly if you build a Lidl Superstore on one of these grass pitches you have a loss of one playing field.

Considers that there is evidence of a need to retain both pitches as open space as an opportunity to grow the community use aspect of the site even more than it is doing at the moment and that to build a Lidl Superstore on this site could present a considerable risk to all elements of this opportunity as we move forward.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Sequential site assessment
- Impact assessment
- Layout of site, scale and design of food store
- Access, car parking and accessibility to town centre
- Impact on historic environment
- Landscaping and ecology
- Impact on neighbours amenities
- Flooding, drainage and contamination
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The Shropshire Core Strategy was adopted in February 2011. Policies CS1 (Strategic Approach) and CS2 (Shrewsbury – Development Strategy) aim to encourage the continued sustainable growth of Shrewsbury as the County town. Shrewsbury is noted in CS1 as being the focus for significant retail, office, employment and residential development. CS2 goes on to provide more detail to CS1 in providing higher level policy guidelines to enable the town to achieve economic growth whilst protecting and enhancing the town's role, character and unique qualities of built and natural environment. CS2 provides for development of the retail centre role of the town and also provides for the two urban extensions. With regard to retail uses policy CS15 (Town and Rural Centres) encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within the identified town centres as a 'town centres first' approach, however it does acknowledge the NPPF sequential and impact tests where no town centre sites are available.

6.1.3 The SAMDev for Shrewsbury, policy S16, follows from the principles set in the Core

Strategy policy CS2 encouraging sustainable economic growth. S16A deals specifically with the town centre and edge of centre areas and follows the town centre first approach of the NPPF and CS15. This part of the policy, amongst other things, seeks to ensure that the town centre retail offer is enhanced whilst ensuring that the independent sector is retained and developed, seeks to unlock the potential of vacant and underused buildings but also with an underlying aim of reducing the impact of traffic and congestion in the town centre. Within S16 there is one specific retail allocation, S16.1c, Riverside Shopping Centre which proposes the redevelopment of the existing shopping centre, night club and medical centre with a new shopping centre providing a department store, improved connections to Pride Hill and Darwin Centre and an active frontage onto Smithfield Road. This allocated site has planning permission but work has not yet started. S16 also includes smaller retail uses within allocated housing sites at the Flaxmill and both SUE's.

- 6.1.4 Also of relevance are policies MD10a – Managing Town Centre Development and MD10b – Town and Rural Centre Impact Assessments of the SAMDev. Policy MD10a defines Shrewsbury as a category 'C' town where there are primary and secondary frontages. In the two category 'C' towns (Shrewsbury and Oswestry) there are different levels of protection to the primary and secondary frontages and also a presumption in favour of town centre uses within the wider town centre. Policy MD10b sets local thresholds for impact assessments depending on the town. Developments located outside of the defined town centre and which have a gross floor space of over 500sqm in Shrewsbury will require an impact assessment to be undertaken and submitted with the application. Policy MD10b also advises that developments which have a significant impact on town centres, or where the impact assessment is insufficient, will not be permitted. The policies within the Core Strategy and the SAMDev are considered to be consistent with the requirements of the NPPF as detailed in the following paragraphs.
- 6.1.5 At a national level the NPPF, section 2, sets out the national policy for determining planning applications for retail and other town centre uses. It seeks to be positive and promote competitive town centres but does acknowledge that policies will be required to consider main town centre uses which cannot be accommodated in or adjacent to town centres. Paragraph 24 requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. This test is the "town centre first" approach where out of town sites should only be considered where there are no sites within or on the edge of centres and preference should be given to accessible out of town sites that are well connected to the town centre.
- 6.1.6 Paragraph 26 of the NPPF also requires out of town retail applications to be submitted with an impact assessment to show the impact of the proposal on existing, committed and planned public and private investment in the town centre; and the impact on the vitality and viability of the town centre. Where an application fails the sequential test or is likely to have a significant impact it should be refused. Where no significant adverse impacts have been identified, and where the application also satisfies the requirements of the sequential test, a decision should be taken by balancing the positive and negative impacts of the proposal and other material considerations, and also the likely cumulative effect of recent permissions. These two issues of sequential and impact assessments are highly important in determining this application.
- 6.1.7 The key issues are firstly, determining whether there are any sequentially preferable sites

available and suitable, or likely to become so within a reasonable period of time; and secondly whether the proposed retail development would result in a significant adverse impact on the existing town centre. These are the two tests within the NPPF, policy CS15 and policy MD10b. The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. PPS4, the national retail policy prior to the NPPF, removed the requirement for applicants to satisfy a test of “need” in justifying proposals for town centre uses and as such whether there is a need for the retail units proposed (including the food store) is given less weight but can still inform the conclusions reached in terms of the impact test.

- 6.1.8 In order to consider these issues the application has been submitted with Planning Statement which includes a Retail Statement. This statement includes information on the business model of Lidl. As a deep discount retailer the model has limitations to the scope for flexibility and no scope for disaggregation of the store which is something which has been agreed in a number of appeal decisions across the Country.
- 6.1.9 The Practice Guidance, which previously accompanied PPS4 and is still in force, advises that retailers should show flexibility in the design approach but also acknowledges that flexibility can prejudice the business model. The agent has advised that Lidl business model does not provide for a one-stop shop for the customer and that there would still be a need for the majority of customers to use other stores to undertake a full shopping trip. This therefore provides a restricted shopping provision when compared to the big four retailers such as Sainsbury and Waitrose. The store is more likely to compete with other deep discount stores such as the existing Lidl store on the north of the town or the existing Aldi store rather than the large food stores. However the agent does acknowledge that the proposed development does have the potential to impact on the existing retailers around Meole Brace. This is considered in detail later in the report.
- 6.2 **Sequential site assessment**
- 6.2.1 Policy CS15 of the Shropshire Core Strategy seeks to maintain and enhance the vitality and viability of existing town and rural centres identifying town centres as the preferred location for new retail development but acknowledging the sequential and impact assessments. Paragraph 24 of the NPPF requires developments in ‘out of centre’ locations to demonstrate that there are no sequentially preferable sites suitable or available to accommodate the proposed development within the town centre or on the edge of the town centre. The sequential assessment should also take into account other out of centre sites which are accessible and well connected.
- 6.2.2 Paragraph 6.2 of the Practice Guidance on Need, Impact and the Sequential Approach states that:
“the sequential approach is intended to achieve two important policy objectives:
- Firstly the assumptions underpinning the policy is that town centre sites (or failing that well connected edge of centre sites) are likely to be the most readily accessible locations by alternative means of transport and will be centrally placed to the catchments established centres serve, thereby reducing the need to travel,
- The second related objective is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to provide for improved consumer choice and competition. In this way, the benefits of the new development will serve to reinforce the vitality and viability of the existing centre.”

- 6.2.3 The submitted sequential assessment has focused on sites in the town centre and south of the town as the existing Lidl store is in the north of the town and as such the applicant has suggested that a second store should be out of the catchment area of the first store. 15 sites have been considered. 12 of these are in the identified town centre of Shrewsbury, however 10 are too small for a proposed food store even when combining the three sites which are adjacent to each other as one space. The Riverside shopping centre, noted above, does not provide any units of a similar size required by Lidl. Although it provides multi level units these would not be suitable for a food store use and as such the Riverside has been discounted by the applicant as not suitable. Furthermore, members should note that the Council has previously accepted that the Riverside is not sequentially preferable for food store uses when considering other recent out of centre food store proposals.
- 6.2.4 The site in the centre known as The Gap site is also considered to be too small for the proposed Lidl store without constructing it as a four storey building which would then be difficult to stock and manage viably for a deep discounter. The agent also considers that the Gap site has a poor frontage and is poorly related to other retail uses and as such does not consider the site is viable or suitable.
- 6.2.5 A recent consent on Hereford Road (Morbaine site) was granted by appeal with the Inspector noting that the site was accessible with reasonable connections to the town centre. However, the agent for the current Lidl application is of the view that the Hereford Road site is not sequentially preferable to the Oteley Road site as both are out of centre and the Oteley Road site will become better connected to the town centre following the development of the SUE. Furthermore, the Hereford Road site requires significant highway works, relocation of the existing business and lacks commercial prominence which the agent considers undermines the viability of that site. Lidl had made an offer for the Hereford Road site, taking into account the constraints noted, but this has been rejected by the land owner.
- 6.2.6 The retail statement also notes that there are empty units on Meole Brace retail park but these are too small for the proposed user and have therefore been discounted as not suitable. The land either side of the access road to Meole Brace park and ride is outside the Shrewsbury development boundary and as such considered as out of town therefore the Oteley Road site is sequentially preferable as an out of centre site. (Sequentially sites should be considered in the following order: “in centre”, “edge of centre”, “out of centre”, “out of town”).
- 6.2.7 The existing consent adjacent to the recently completed Percy Throver garden centre is also acknowledged but it not an available site to the applicant as it controlled by Waitrose as the future operator of the site. This site, although consented, is also considered to be out of centre and not any better connected to the town centre than the application site. As such the agent suggests that it is not sequentially superior.
- 6.2.8 Overall the agent concludes that there are no in-centre or edge of centre sites available, suitable and viable and that there are no alternative out of centre sites which would be more appropriate for the proposed development. An objection has been received from the agents for both the Morbaine site and Waitrose who both consider their sites are sequentially preferable, both already have consent and both would be at risk if the proposed Lidl store was approved. The Waitrose objection suggests that their consent is

for a “local centre” (as required by the SUE policy to serve the housing development). Local residents have also commented that there is no need for another food store. However, there has also been support for the proposal on the basis that this would provide a discount store on the west/ south of the town and increase choice and convenience.

- 6.2.9 The Council Policy Officer’s comments are provided in full under section 4 above, in conclusion the Policy Officer agrees with the applicant’s agent in that, taking into account all available information, it is considered that the applicants have met the requirements of the sequential test. The Policy Officer advises that the Riverside site is sequentially preferable but is intended to provide comparison goods floor space rather than for a new food store and as such it is reasonable to discount the Riverside as not suitable. The Policy Officer also comments on the Morbaine site which he considers is sequentially equal to the current application site due to the distance of both sites from the town centre.
- 6.2.10 Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test and the impact test (considered below), it should be refused, however this paragraph does not extinguish the requirement to take into account all other material considerations in assessing the planning balance. It is officers opinion that the applicant has undertaken an appropriate sequential assessment and that there are no sequentially preferable sites and as such the application is considered to comply with the sequential test.
- 6.3 **Impact assessment**
- 6.3.1 Paragraph 26 of the NPPF requires out of centre developments to also assess the impact on existing, committed and planned investment and the impact on the vitality and viability of the town centre and wider area, up to five years from the time the application is made. Only where the impact is significant should this be used as a reason to refuse. Shrewsbury is currently served by four large food stores and three deep discount stores all in out of centre locations. The town centre has small convenience stores but is predominately comparison shops with a good level of independent and specialist retailers. As noted before Shrewsbury also has significant future housing growth planned, some of which is already under construction, and this will also increase the expenditure capacity of the catchment area.
- 6.3.2 The Practice Guidance on Need, Impact and the Sequential Approach also comments on impact recognising that new retail developments will have an impact but this is not always a bad thing as new development often enhances choice, competition and innovation. The NPPF seeks to prevent significant adverse impact which would undermine the vitality and viability of the town centre and not to prevent competition or increases in choice.
- 6.3.3 As detailed in section 6.1 above policy MD10b of the SAMDev sets a local threshold for impact assessments of 500sqm for out of centre uses in Shrewsbury. The Planning and Retail Assessment includes this impact assessment. In summary the agent considers that the proposed Lidl food store will have no impact on committed and planned investment in the town centre as the development proposals in the centre are mainly intended to be for non-food uses. The agent also considers that the development is highly unlikely to have a significant impact on the vitality and viability of the existing town centre retailers as the town centre is in a relatively good state of health. Furthermore, it is the agent’s view that the deep discount business model is not an important part of the existing town centre retail offer and therefore an out of centre store is not likely to draw significant levels of shoppers

away from the town centre, cause any existing stores to cease trading or reduce pedestrian flow in the centre. The agent also comments that the town centre is operating successfully with other existing out of centre food store retailers, including deep discount retailers, and that they do not consider that a further out of centre store will tip the balance. The impact assessment concludes that the proposal is highly unlikely to bring about significant adverse impact on the town centre for the reasons given above.

- 6.3.4 Objections have also been received on this matter. Principally the objection on behalf of Waitrose which questions whether the application correctly considers the impact on the approved Waitrose. The objection notes that Waitrose is a committed investment and therefore the impact should be considered. The objection raises concern that the combined impact of the recently opened Marks and Spencer Food store at Meole Brace Retail Park and the proposed Lidl would impact on the potential turnover of the proposed Waitrose scheme to an extent to make it unviable, and on that basis the impact on the Waitrose scheme as a defined Local Centre would be significantly adverse.
- 6.3.5 The Council Policy advice comments on this objection and advises that the approved Waitrose, with a floor space of 2,741sqm, will provide a local centre role but will also have a much wider catchment than a local centre. The Waitrose planning application was considered as an out of centre retail food store rather than as a local centre and was accepted as being more than a local centre due to its size and catchment. As such it is officers opinion that the objection on behalf of Waitrose regarding the impact on the local centre is not one which can be given significant weight, it is an objection from one out of centre food store against a competitor out of centre food store.
- 6.3.6 An addendum to the retail statement was also submitted following the objections received. The addendum amended the sales impact figures, included the 'no development' scenario and cumulative impact assessment. The conclusion of the addendum is that there is no greater impact on the town centre than was concluded on the original assessment.
- 6.3.7 As part of the addendum the agent has also commented on the objection from Waitrose. It is the agent's opinion that the impact on Waitrose will be from cumulative issues (impact from other existing, recently built and consented stores) not from Lidl alone. The agent considers that the greatest impact on the approved Waitrose would be from the recently built M&S food store and that the Lidl impact will be marginal. Furthermore, the agent comments that the building of the new Waitrose store was put on hold before the proposals for Lidl became public.
- 6.3.8 A further objection was thereafter received from Waitrose. This retained their objection to the impact on the approved store as a local centre. The objection acknowledges that the Waitrose store will operate as more than a local centre but considers that it will also serve as the local centre and that the impact will be significant. The objection also raises concern about the impact on the existing Aldi and Lidl stores and considers that the existing Lidl on Harlescott Lane would be likely to close.
- 6.3.9 These latest objections are not considered to raise any new issues. Officers remain of the opinion that the Waitrose store would be more than a local centre store and as such should be considered as a out of town retail unit. Waitrose have threatened to pull out of developing the site. This is a business decision for Waitrose to make and not one which should influence the current planning application. If Waitrose were to pull out of the site

there is no evidence to show that the local centre would not be built, the site could be taken on by another retailer or a smaller unit provided. As such officers remain supportive of the principle of the proposed Lidl food store on the application site subject to a condition restricting the operation of the food store to a discount operator on the basis that the impact is unlikely to be significantly adverse and as such can be supported in accordance with the NPPF, Core Strategy and SAMDev.

6.4 **Loss of community sports pitch**

- 6.4.1 Significant local objection has been received, including from Councillor Tandy, on the grounds that the application site is restricted by a legal agreement linked to the planning permission for the new stadium for the football club and also by a covenant. The restriction states that the land which is the subject of this planning application should be used as a community sports pitch. The Case Officer can confirm that there is a section 106 legal agreement attached to the consent for the football stadium securing such use.
- 6.4.2 Objectors have also noted that there was a previous request from the club to remove the requirement to provide the community pitch and that this was declined by the Council. This is also correct, in 2007 the club requested to be relieved from their obligation and offered to pay £350,000 in lieu of the community facility which was denied on the grounds that there was still evidence of a need for the community pitch to be provided.
- 6.4.3 Initially Lidl submitted a statement suggesting that the site has never been marked out as a sports pitch and never used for any sport or recreation purposes. It has been used for over-flow parking and the siting of a marquee during the Shrewsbury Town versus Chelsea match. Lidl, on the advice of the club, state that the club have allowed the community the use of the main pitch in the stadium. However, objectors have commented that the site has not been used as the club have not allowed its use and have denied interested clubs access to the site.
- 6.4.4 Notwithstanding whether it has or has not been used and whether the club have allowed its use or not it is officers opinion that the current situation is that the application site is restricted by S106 to be used as a community pitch and as such the proposal for erection of a food store on this site would result in the loss of sports pitch. Both Sport England and Shropshire Playing Fields Association have objected and their comments are detailed in full under section 4 above. Both have quoted the relevant policy and the continued, and growing, requirement for open space.
- 6.4.5 The matter was therefore raised with Lidl and officers advised that without equivalent or better replacement facilities the application would not comply with the relevant policies and would be recommended for refusal. It is this matter that has resulted in the delay in the determination of the application as Lidl sought to overcome this objection and held further discussions with the club.
- 6.4.6 An alternative has now been proposed. The alternative is to relocate the community pitch onto the existing club training pitch which lies to the south of the stadium, adjacent to the Shrewsbury Town in the Community (hereafter STC) building. The pitch would be rented at a peppercorn rent to the STC to operate as a community pitch and therefore divorce it from the club. The applicant also notes that the STC are applying for funding to upgrade the pitch to a 4G pitch which would enable all year round use. The existing training pitch is accessible off the existing club car park, as noted above is adjacent to the STC building

which has facilities and services and is well drained and maintained. STC already provide various sporting activities and it is the applicant's opinion that this proposal will provide improved facilities managed by a charitable organisation.

- 6.4.7 The football club have confirmed that the training pitch is no longer required by the club as training occurs off-site on land which is privately owned and was not operated as a sports pitch before being used by the football club. No comments have been received from either Sport England or the Shropshire Playing Fields Association to the alternative now proposed and as such it is officers recommendation that members balance the loss of one pitch with the provision of another and the benefits gained from the proposed food store/ It is officers opinion that the loss of the training pitch to provide the community pitch is not a net loss of sports facilities as the community pitch is retained and relocated and the training pitch is provided for off-site without loss of an existing pitch.
- 6.4.8 A deed of variation will be required by the football club to amend the previous S106 agreement to identify the new site of the community pitch and the training pitch. The work on this has commenced, along with a planning application to relocate the community pitch. However, until such time as the S106 is varied the owner of the application site is responsible for ensuring compliance with the current S106. As such if the football club sell the application site to Lidl before completing the deed of variation Lidl become liable for the provision of the community pitch and could not build a food store on the site until the deed of variation is completed. Once the deed is completed the club will be legally bound to provide the existing training pitch as the community pitch.
- 6.4.9 Objections have been received to the request for the deed of variation and to the application to amend the plans approving the position of the community pitch. These objections are dealt with in the report relating to those applications and officers consider that none of the objections raise significant or demonstrable impacts. The proposal will continue to provide a community pitch as required by the conditions and S106 on the original consent and as such there is no net loss of community sports facilities.
- 6.4.10 Local objectors have also commented that the proposed site, if no longer required for community sports pitch, should be used for other leisure uses such as for a swimming pool or for additional car parking for the stadium. Although these comments are noted the application is as submitted and proposes a food store. The community pitch is still required and will be relocated. As such, providing the alternative sports pitch is provided, there is no policy requirement to resist the proposal or to provide either a swimming pool or additional car parking.
- 6.4.11 The other issue in relation to this matter is raised by Shrewsbury Playing Fields Association and local residents. The concern is that there is a growing need for sports provision both through the evidence submitted by STC the power league pitches adjacent and also as a result of the increase in housing development to be provided in the town. The growing need for sports provision is accepted and acknowledged by officers, however the need for open space and sports for new housing is dealt with through the plan-led policy process as required by paragraph 73 of the NPPF and furthermore each development is required to provide sufficient open space to accommodate the growth of the town as required by SAMDev policy MD2. The Football Club are only required to provide a community pitch and training pitch in the completed S106 agreement and the deed of variation proposed will provide for this. It would be unreasonable to require the

Football Club to have to provide more than was originally required when they moved to this site.

6.5 **Layout, scale and design**

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.5.2 Objections have been received commenting that the development will not be in keeping with the local area and will have a negative impact on visual amenity and landscape. However, support has also been received commenting that the site is in an area designated for development and that the proposal will not be obtrusive.
- 6.5.3 The proposed building is rectangular in shape and two storey in height with staff facilities at first floor above the sales floor, warehouse and customer facilities. The gross internal floor area is 2,267sqm. A mono-pitched roof is proposed over the store and a single storey flat roofed section is proposed over the delivery area. The layout of the site shows the building at the rear of the site, adjacent to the car park for the football club, with the store parking between the store and Oteley Road.
- 6.5.4 The existing access to the site is to be altered to enable delivery vehicles to turn around the mini roundabout and for clearer identification of the football club from the food store. The store service yard is on the western side of the building which will mean that delivery vehicles have to drive across the store car park. 142 parking spaces are proposed of which 9 are to be disabled and 8 are to be parent and child spaces. Cycle parking is also proposed.
- 6.5.5 The submitted Design and Access Statement details the proposed materials as grey and white cladding with large sections of the east elevation and the corner of the north elevation glazed. The agent considers that the materials will be simple but coherent. The agent also suggests that the proposed elevations provide activity and interest with the store positioned at the rear of the site and the shop frontage facing towards Oteley Road with the car parking in between. An amended design submitted during the consideration of the application included the addition of a section of high level windows along the north elevation (facing over the car park and towards Oteley Road) which will add some interest to this elevation.
- 6.5.6 Sustainable and energy efficient measures are also proposed as part of the building with opportunities to use recycled materials, efficient lighting, WC's and taps, low energy refrigeration units and through sustainable surface water management and recycling of grey water. The application form also notes that waste is to be stored inside the store and will be taken away by delivery vehicles.
- 6.5.7 There is an existing bund with landscaping along Oteley Road and the access road to the football club. The proposal is to remove the bund and landscaping and to provide new landscaping between the car park and roads and between the store and the adjacent power league pitches. Cross section plans have been submitted which show that the

ground level of the existing site will be raised less than 1 metre and also shows the removal of the bund. The cross section plan shows that the site will still be higher than Oteley Road, levelled across the site and then gently sloping down to Oteley Road. The new landscaping is to be planted on the slope.

- 6.5.8 The design of the proposed building is simple but fit for purpose. The internal use of the store restricts the opportunities for adding windows or detail to the external elevations without them being “stuck on”. The design as amended provides functional features to the external elevations of the building and setting the building at the rear of the site will reduce the visual dominance of the building. The loss of the existing bund is unfortunate but is necessary to provide sufficient parking and the layout shows areas of landscaping between the car park and the road. The new planting will break up the views of the car parking and over time the wider area is to be developed which will also alter the character of the site and area.
- 6.5.9 Officers therefore consider that the amended scheme is appropriate and acceptable for the site and the wider area and will result in a scheme which is not visually intrusive or harmful to the character or amenity of the area and as such complies with the policies of the Core Strategy and SAMDev.
- 6.6 **Access, car parking and accessibility to town centre**
- 6.6.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced. It is acknowledged that as a food store catering for major food shopping trips many customers will travel by car; however the site should also provide the opportunity for other means of travel such as by public transport, bicycle or walking and, as an out of centre food store, provide opportunities for creating linked trips to the town centre.
- 6.6.2 The NPPF states that when considering out-of-centre locations for retail development “preference should be given to accessible sites that are well connected to the town centre”. Therefore, in assessing the relative merits of the site it is also necessary to look at accessibility and connection to the town centre. This can include the potential for linked trips through a range of potential sustainable transport modes, not just by foot. The policy is not a simple presumption in favour of the site which is closest to the town centre or even to the most accessible site but enables local authorities to give weight to sites which are accessible and well connected.
- 6.6.3 There are three issues to be considered: the technical acceptability of the access and parking arrangements within the site; the capacity of the local highway network, junctions and traffic movements; and the accessibility of the site by means other than the private car. Concerns have also been raised by many objectors, including Shrewsbury Town Council and the Sutton Area Residents Association, about the impact on the traffic movements and car parking during football matches and this is accepted as a site specific issue which needs to be considered. The majority of the other related objections will be dealt with in this section; the objections include concern about the capacity of the existing access junction, additional traffic, congestion and pedestrian safety. Within the objection

from Morbaine the accessibility of the site has also been questioned. However some local residents have also suggested that the proposed store will reduce the need to travel to the existing store on the north of the town and that this site will allow for shorter journeys and access on foot, that the access is good and that the food store operator can assist with management of the car parking on match days.

- 6.6.4 Access to site and parking. The application site is within the Shrewsbury development boundary, within the A5 bypass and also within the wider Sustainable Urban Extension (SUE). Access is existing and from a traffic light junction on Oteley Road, the B4380, which is currently subject to a 40mph at this point but controlled by the traffic lights. The access currently serves the football club and as such is an existing access with significant capacity which for the majority of the time is not well used. However, it is accepted that at times, especially during matches and events, this junction is well used and the impact of the proposed food store needs to take into account the existing situation both during a match/ event and at other times.
- 6.6.5 The proposal is to provide a fourth arm off the mini roundabout which is within the STFC site. This will result in the loss of 2 coach parking spaces, relocation of the existing pedestrian access, relocation of the STFC gates and provision of additional signage. Amended details were submitted during the consideration of the application which showed the servicing arrangements for the store including swept path analysis to show that HGV movements can be accommodated without having to overrun the car parking spaces. However, as discussed below, the applicant is also requesting out of hours deliveries to reduce the potential for conflict and this would be in line with the recommendation from the Council Highway Officer.
- 6.6.6 The Highway Officer also questioned the layout of the roundabout works and whether this would impact on the future access to the SUE. The agent has responded to this query and commented that the access proposals for the Lidl store would not affect the SUE proposed access arrangements as shown in the '*Lands Improvement Oteley Road South Transport Assessment, September 2014*'. The comments of the Council Highway Officer on this issue are awaited and the recommendation to committee reflects this as an outstanding issue. However, it should also be noted that the road to the football club off Oteley Road is not currently an adopted highway, it will need to be adopted to enable the development of the SUE but the Highway Officer is not advising that the SUE could not be developed and that a solution to her concern could not be found at that time.
- 6.6.7 As noted above the proposal includes 142 parking spaces within the site. 9 of these will be disabled spaces and there will also be cycle parking for customers and staff. Lidl will allow 90 minutes free parking which the agent considers is sufficient for the food store but also will minimise the risk of football supporter parking on site. Lidl have confirmed that they will employ parking attendants to restrict the use of the car park for customers only and to direct traffic and pedestrians using the car park/ crossing the car park.
- 6.6.8 The current planning policies do not include any parking standards. Parking has to be provided at a level which is appropriate for the development, however there are no set minimums or maximums. The previous Shrewsbury and Atcham Borough Council policies did include parking standards. For this form of development the parking requirement would be 1 space per 20sqm which would therefore require 123 spaces and as such the scheme proposes more spaces than would previously be required and as such a refusal

on lack of parking would be difficult to sustain.

- 6.6.9 Highway network, junctions and traffic. A Traffic Assessment (TA) has been submitted with the application. The TA advises that database information has been used to predict potential traffic movements but also that the applicant's highway consultant's own experience is that many of the traffic movements associated with food stores is already on the network. Traffic counts of existing movements on Oteley Road and the access road to the stadium were carried out. The submitted assessment suggests that the existing access junction operates well within capacity with the highest demand on match days and the Council Highway Officer has agreed with this conclusion.
- 6.6.10 It is accepted that traffic increases on match days, especially in the peak times before and after a match, but it was noted that the match day traffic does not affect flow on Oteley Road. The applicant's consultant considers that the potential traffic from Lidl will not generate more movements than the traffic on match days and it is likely that food store traffic will reduce during the match day peak times as shoppers are likely to avoid these peak times. The agent has provided evidence from another store located near a football club which shows that the customer numbers reduce before the match. This is considered in detail later in the report.
- 6.6.11 Oteley Road is currently 40mph with a signal controlled junction serving the football club and application site. Crossing points are available to the junction and there are footways on both sides of the road. The TA notes the allocation of the urban extension, the outline consent and that it proposes a number of accesses both vehicular and pedestrian but the TA does not detail the proposed access through the STFC site. The TA also comments on accident data records noting that most accidents were recorded at the Meole Brace roundabout and that only 1 out of 17 accidents is logged as serious with all others being slight.
- 6.6.12 The Highway Officer has requested additional information and this has been received from the agent. Further comments from the Highway Officer have not yet been received but the case officer has spoken to the Highway Officer who has advised that she no longer has an objection to the proposal but will be recommending conditions. It is hoped that the updated response will be received by the committee date and that members can therefore be assured that the proposal will not adversely affect the highway network.
- 6.6.13 The application form advises that the store open hours are proposed to be Monday to Friday 7am to 10pm, Saturday 7am to 10pm and Sunday 10am to 5pm. Customer traffic will be limited to around these hours. The agent has requested 24 hour delivery times and this would mean that staff movements could be 24 hours a day. The agent has stated that there would be no more than 3 deliveries per day. The impact on amenities of this proposal is considered later in the report. However, it is considered to be beneficial to the customer traffic flow and football matches to have deliveries out of store opening hours and that the number of deliveries would not be noticeable on the highway network.
- 6.6.14 Accessibility. Within the submitted TA the agent details the nearest bus stop as 650m north west of the site on Hereford Road. The TA also notes that there are good footpaths in the local area and cycle lanes on Oteley Road and that cycle parking can be provided on site. A draft Travel Plan has also been provided and advises that a full working travel plan will be required once the store is open. The draft TP sets the aims to minimise single

occupancy car trips and encourage the use of public transport, walking and cycling.

- 6.6.15 The existing fence, and the bund on which it sits, is intended to be removed to flatten the edge of the site so that the site is not enclosed by a bund or fence. This is mainly intended to open up the views of the site from Oteley Road however it will also create opportunities for pedestrian routes across the site from the footpath on Oteley Road to the food store and also across to the entrance to the football club. Cycle parking is proposed within the car park for customer use, staff cycle parking is within the building. It is likely that most customer movements would be by car but the improvements to pedestrian linkages are beneficial and Lidl are also offering a financial contribution towards the provision of a new bus stop closer to the application site to be paid to the Council on the opening of the store and to be spent by the Council once the bus service for the SUE has been defined and the route established. This would also improve accessibility of the store.
- 6.6.16 The plan also shows the repositioning of the pedestrian zebra crossing from across the entrance of the football club to being across the road into the site. The Highway Officer has raised concerns about this noting that the crossing would be across 4 lanes of traffic with no refuge and that it could cause traffic queuing, especially once the SUE has been developed. The agent has commented that the stewards employed to manage the car park could manage the crossing but this does not appear to respond to the issue. It is officers opinion that this crossing should be deleted from the scheme as there is formal crossing available at the traffic lights on Oteley Road which would be safer than a zebra crossing. This can be dealt with by an appropriately worded condition.
- 6.6.17 A draft Travel Plan (TP) has been written for the application. This acknowledges that the site is on the edge of the SUE which will provide a large scale, mixed use, development and also alter the character and use of Oteley Road including providing more crossing points and better cycle links. The TP notes that currently the nearest bus stop to the site is 650m northwest on Hereford Road, though this may changed with the development of the SUE, and that the journey time to the town centre is approximately 15 minutes. The TP recommends the nomination of a Travel Plan Co-ordinator within the staff, encouraging staff car sharing and use of public transport through keeping notice boards up to date and newsletters.
- 6.6.18 The Highway Officer has provided detailed comment on the TP but has also accepted that this document is a draft and that a fully worked up TP will need to be provided by the applicant prior to the store opening for trade. This can be conditioned and the issues raised by the Highway Officer dealt with as part of the revisions to the TP for the final version.
- 6.6.19 Impact on football club parking and traffic. Concern has been raised locally, and was also raised by Council Officers, that the food store traffic will conflict with match day traffic. The submitted TA comments that the STFC has capacity for 9,875 people on match days and that the parking is currently limited to 670 cars which is enforced by stewards. Planning consent has been granted to increase this to 1,000 cars. There is also space for 26 coaches and local highway parking restrictions enforced on match days.
- 6.6.20 On match days the traffic in the immediate area can be substantial and the football club also manage the vehicle movements on and off site. The concern of officers was that food store traffic would not want to be restricted by match day controls. The agent's response

to this concern was that, in their opinion, the food store customers would learn to avoid the times in the run up to a match and at the end of a match. However, they have also agreed with the football club to employ attendants on match days to discourage supporter parking.

- 6.6.21 A plan and detailed proposal has been submitted which shows that the management of the Lidl store car park will work in conjunction with the management of the football club car park on match day. It is intended that additional stewards will be employed to deter pedestrians crossing the Lidl car park, prevent match day parking on Lidl car park and prevent customers/ delivery vehicles leaving the store until the pedestrians have left the match. The car park is proposed to be restricted to 90 minutes and this should also deter football fan parking .
- 6.6.22 The football club have also provided additional comments in support of the application and commented on the existing facilities available for supporters. The club comment that the town centre service and park and ride are not being used as frequently as previously and that the Shirehall park and ride is becoming the more frequently used site. The club are retaining the facilities but only for high profile matches. They are putting more resources into encouraging supporters to walk, cycle and use public transport by advertising bus timetables.
- 6.6.23 The assumption that Lidl customers will avoid match times does rely on customers firstly knowing when a match is due and secondly choosing to stay away at peak match times. However, officers note that the football club clearly advertise on Oteley Road the date and time of the next match and that customers are likely to stay away at peak times as a conscientious decision not to risk getting stuck in traffic with bags of shopping in the car. It is therefore considered by officers reasonable to assume that customer traffic will reduce at match traffic peak times and therefore that there is sufficient capacity on the road network for the food store and that the risk of impact on the football club parking is reduced.
- 6.6.24 Conclusion. Overall it is considered that, subject to the deletion of the zebra crossing, a satisfactory access can be provided to the development proposed and that sufficient parking, turning and manoeuvrability space is available within the site for both cars and delivery vehicles. The principle of car park management and a travel plan are recommended and the details of both of these matters would need to be submitted for written approval prior to the first opening of the store to ensure that the site is appropriately managed and does not adversely affect the highway network. Furthermore the site is considered to be in an appropriate location to promote sustainable means of transport, especially for staff but also for some of the customer movements. As such officers consider that it is concluded that there are no highway grounds on which to refuse the application and it is considered to comply with the relevant parts of the NPPF and the local policies.
- 6.7 **Landscaping and ecology**
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The application form submitted has answered 'no' to the question of any trees or hedges on the site or adjacent to the site that could influence the development or might be important as part of the local landscape character. This does not

show an understanding or detail of the existing landscaped bund which borders two of the sides of the application site. The bund is planted with trees, a hedge and low level planting and the Council Tree Officer has raised concerns about the loss of the row of lime trees planted approximately 10 years ago and establishing well. These trees were replacements of trees which were TPO'd and therefore should be replaced or should be shown on the existing layout plan and considered as a valuable established feature worthy of retention and inclusion in the proposed landscaping scheme.

- 6.7.2 A proposed landscaping plan has been submitted showing new planting around the application site providing a mix of grassed area, low level shrubs and 36 new trees. The agent has advised that the existing Lime trees are to be removed as they would not survive the removal of the bund and the bund need to be removed to provide sufficient parking spaces and pedestrian access to Oteley Road. The Tree Officer has recommended that, rather than attempt to submit revised landscaping plans before a decision is made that a condition can be imposed to require the landscaping details to be submitted for approval prior to commencement of the development on site. The condition can include the requirement to replace the Lime trees to ensure that the feature is retained in the long term.
- 6.7.3 The Council Ecologist has recommended conditions and informatives. Additional survey work may be required to consider the impact on great crested newts which can also be dealt with by condition as the work could commence before February 2017. Furthermore the Council Ecologist has recommended that the landscaping be provided with native species. This could also be dealt with under the condition proposed by the Tree Officer. Overall it is considered that the development of the site can be undertaken without significant impact on ecology and that the impact on landscaping can be mitigated by condition to require a more appropriate, native, landscaping scheme and the replacement of the existing Lime trees. As such the proposal can comply with the requirements of CS17 of the Core Strategy.
- 6.8 **Impact on residential amenity**
- 6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. NPPF paragraph 109 also seeks to ensure existing development is not put at risk of unacceptable noise or pollution whilst paragraph 123 recognises that development will often create some noise but seeks to avoid significant adverse impacts on health and quality of life.
- 6.8.2 A Statement of Community Involvement was submitted with the application which details the community consultation that the applicant undertook prior to submitting the application. The SCI notes that the feedback was mainly in favour of the proposal on the basis that it was for a discount food store on the south side of the town and would provide competition to other stores. However, concerns were raised about match day traffic, store traffic, access, the loss of the community sports pitch and impact on other food stores.
- 6.8.3 Objections to the current application have raised the same issues and the main concern of local residents relates to traffic and pedestrian safety. These matters have been considered in section 6.6 above. No objections have been received on matters of noise, privacy or light. Councillor Tandy has questioned what the proposed store opening hours are but has not raised any objection to the proposed hours.

- 6.8.4 The application form advises that the store open hours are proposed to be Monday to Friday 7am to 10pm, Saturday 7am to 10pm and Sunday 10am to 5pm. The latest information regarding car park management requests that deliveries to the store are permitted to be carried out outside of store opening hours. This will mean that deliveries are between 10pm and 7am. Officers have noted that the consent for Percy Throwers/ Waitrose includes a condition preventing deliveries during these hours and as such the Lidl proposal would be different to the Waitrose consent. However, the outline consent for the SUE advises that deliveries to the employment land, to the south of the proposed Lidl store, should use the access serving the football club between 10pm and 7am.
- 6.8.5 Therefore the SUE consent permits delivery vehicles to use the access which would be used by Lidl over night. The nearest neighbouring resident to the proposed Lidl store is Rallywood on Oteley Road which is over 100m from the proposed site and on the same side of Oteley Road. There are no residential properties directly opposite the Lidl store entrance. Waitrose site is closer to the nearest residential dwelling, the new dwellings being constructed opposite, and Waitrose is also accessed off a junction which is directly opposite housing development. As such officers consider that the sites and potential impacts are not the same and that the distance from the Lidl store to the nearest neighbour is considered to be sufficient to ensure that there is no impact from the proposed use on this dwelling or any other dwelling in the wider area. This presumably was the same conclusion reached in proposing the condition on the SUE consent.
- 6.8.6 In conclusion it is officers opinion that the development of the site as proposed will not result in a significant adverse impact on the amenities of the neighbouring residents or the residents of the wider area and therefore complies with the relevant parts of Core Strategy policy CS6.
- 6.9 **Flooding, drainage and contamination**
- 6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Policy CS6 'Sustainable Design and Development Principles' also requires all developments to consider ground conditions including potential contamination.
- 6.9.2 A Flood Risk Assessment (FRA) has been carried out and submitted with the application. The FRA notes that the site is in flood zone 1, the lowest probability of flooding and sequentially preferable zone to build in. However, the FRA also accepts that the proposed development of the site will significantly increase the impermeable area as the site will go from grassed recreation land to hard standing and building. The FRA notes that the site is currently 10% impermeable and post development it will be 70% impermeable. The proposal is for surface water to be dealt with by sustainable urban drainage (SUDs) with attenuation to ensure that the run off does not exceed the existing rate of run off and therefore does not increase flood risk.
- 6.9.3 Foul drainage from the proposed development is indicated to be sent to the existing mains drainage system in the area. Severn Trent Water have confirmed to the applicant that there is capacity to accommodate the flow from this development.
- 6.9.4 The Council Drainage Engineer has confirmed that the surface water drainage strategy in

the flood risk assessment is technically acceptable and has recommended that the drainage details be conditioned so that the full details are submitted for approval by the Engineer before work commences on site.

6.9.5 A contamination report has been submitted with the application which concludes that there is no contaminate or asbestos but that the site would need further gas monitoring during the construction of the proposed store. Gas monitoring was also undertaken and a report submitted which advises that ground gas precautions will be required within any proposed construction at the site. The Council Public Protection Officer has advised that the report is acceptable and that if this application is approved they recommend a condition.

6.10 **Other matters**

6.10.1 The Planning and Retail Statement also comments on the level of job creation that would result in the construction of a new food store. The statement suggests in the region of 25-40 full time and part time jobs will be created. The suggestion from the Economic Development Officer that a condition is included to ensure the employment of local people and to engage Job Centre Plus is not considered to be reasonable. An informative is considered to be appropriate but such a condition would not meet the tests in legislation and would not be enforceable. Given the conclusion on the impact assessment under section 6.3 above it is considered unlikely that the proposed development will result in significant job losses elsewhere and as such the indicative job creation of this store should be given substantial weight in the planning balance.

7.0 **CONCLUSION**

7.1 The proposed development has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of a food store on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable sites.

7.2 Furthermore it is considered that the layout, scale and design of the site, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; that the development will not have an unacceptable detrimental impact on the amenities of the neighbouring properties, ecology, flood risk or drainage.

7.3 Accordingly the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Shrewsbury Town Centre. The scheme is also in accordance with policies MD1, MD2, MD10a, MD10b and S16 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies:

NPPF

CS1 - Strategic Approach
 CS2 - Shrewsbury Development Strategy
 CS6 - Sustainable Design and Development Principles
 CS7 - Communications and Transport
 CS15 - Town and Rural Centres
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 MD1 - Scale and Distribution of Development
 MD2 - Sustainable Design
 MD10A - Managing Town Centre Development
 MD10B - Impact Assessments for Town and Rural Centres
 Settlement: S16 - Shrewsbury

Relevant planning history:

16/03786/VAR106 Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F **PCO**

16/04201/VAR Variation of condition 2 attached to Ref:14/00587/VAR dated 17/03/2016
 relocate community football pitch. **PCO**

14/00587/VAR Variation of Condition Nos. 19 and 23 (restrictions of use) attached to Planning Permission 02/0278/F to permit no more than 6 no. non-football events at the stadium during any one year; to permit the use of the stadium for international matches without having to seek prior approval of the Council; variation of the S106 Planning Obligation to increase in the number of car parking spaces and reduction in coach parking **GRANT** 17th March 2016

11/00199/FUL Application for temporary use (5th June - 18th June 2011) of football stadium for operations to facilitate the preparation/staging and de-rigging of a music concert **GRANT** 23rd March 2011

SA/05/0257/VAR Variation of condition No. 6 attached to Planning Permission Reference 02/0278/F, to allow for the deferment of the children's pitch and five-a-side-pitches to read as follows: 'The community pitch and temporary changing building shall be completed and fully operational before the first beneficial occupation of the stadium. The children's pitch, five-a-side pitches and the permanent changing buildings to be completed and fully operational within 5 years of the first beneficial occupation of the stadium.' **REFUSE** 29th April 2005

SA/02/0278/F Erection of a new football stadium, construction of training pitch, community pitch, childrens pitch, 6 no. five-a-side pitches, changing facilities, formation of car parking, taxi rank/bus stop layby, and new access and associated engineering and other works. **GRANT** 4th September 2003

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 Jon Tandy
Cllr Ted Clarke
Cllr Jane Mackenzie

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. Notwithstanding the details reserved by other conditions in this decision notice the development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plans as detailed below.

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

5. Prior to commencement of development a scheme for surface water drainage shall be submitted to and approved by the Local Planning Authority. The submitted scheme shall take account of the advice provided in the Council Drainage Engineer consultation response. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

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

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

7. Notwithstanding the details shown on the submitted landscaping plans, no above ground works shall be commenced until full details of both hard and soft landscape works (in

accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscaping works shall show native planting to include, amongst other trees, replacement Lime trees to mitigate the loss of the existing Lime trees. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

8. Notwithstanding the details shown on the submitted access plans, prior to the commencement of development on site details of the means of access and highway improvements to the existing access shall be submitted to and approved in writing by the Local Planning Authority. The details shall not include the relocation of the zebra crossing over the access road unless it can be shown provided with a refuge point in the centre of the road. The approved details shall be fully implemented before the food store is open to trade.

Reason: This detail is required prior to commencement to ensure a satisfactory means of access to the highway.

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

9. Prior to the development hereby permitted being brought into use/open to trading the Draft Travel Plan should be developed as a full operational living document which sets out the Travel Plan objectives of the site in promoting sustainable travel and reducing car bourn trips. The Travel Plan should be the subject of annual review and should remain in force for the lifetime of the development.

Reason: To promote sustainable travel modes in the interests of carbon emission reduction and travel health benefits.

10. Prior to the development hereby permitted being first brought into use/open to trading the access, parking and servicing areas shall be laid out in accordance with the approved drawings and in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

11. Following completion of measures identified in the approved remediation scheme and prior to the first use of the building a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

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.

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

13. Deliveries to the food store hereby approved shall be limited to only during the hours 22:00hrs to 07:00hrs the following day (08:00hrs Sundays).

Reason: To reduce the conflict between store deliveries, customer traffic and traffic and pedestrians associated with the adjacent football stadium.

14. Notwithstanding the provisions of the 1987 Town and Country Planning (Use Classes) Order or succeeding orders, the food store hereby approved shall be operated by a discount food store operator only and shall not be used for any other retail, including food retail.

Reason: To maintain planning control over the type of goods and services available in the store and to safeguard the vitality and viability of Shrewsbury town centre.

15. Notwithstanding the provisions of the 1987 Town and Country Planning (Use Classes) Order or succeeding orders, the food store hereby approved shall not include the following dedicated ancillary retail facilities:

- A post office
- A dry cleaners
- A travel agents
- An optician
- A pharmacy

Reason: To maintain planning control over the type of goods and services available in the store and to safeguard the vitality and viability of Oswestry town centre.

16. The net sales floor area of the food store hereby approved shall not exceed 1,400 square metres. No more than 210 square metres of the net sales floor area of the store shall be used for the sales of comparison goods. Comparison goods are defined within the COICOP categories for the following goods:

- Clothing materials & garments
- Shoes & other footwear
- Materials for maintenance & repair of dwellings
- Furniture & furnishings
- Carpets & other floor coverings

- Household textiles
- Major household appliances, whether electric or not
- Small electric household appliances
- Tools & miscellaneous accessories
- Glassware, tableware & household utensils
- Medical goods & other pharmaceutical products
- Therapeutic appliances & equipment
- Bicycles
- Recording media
- Games, toys & hobbies
- Sport & camping equipment
- Musical instruments
- Gardens, plants & flowers,
- Pets & related products
- Books & stationery
- Audio-visual, photographic and information processing equipment,
- Appliances for personal care, jewellery, watches & clocks
- Other personal effects.

Reason: To maintain planning control over the type of goods sold from the store and hence the viability of Shrewsbury town centre.

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Committee and date

Central Planning Committee

24 November 2016

Item

6

Public

Development Management Report

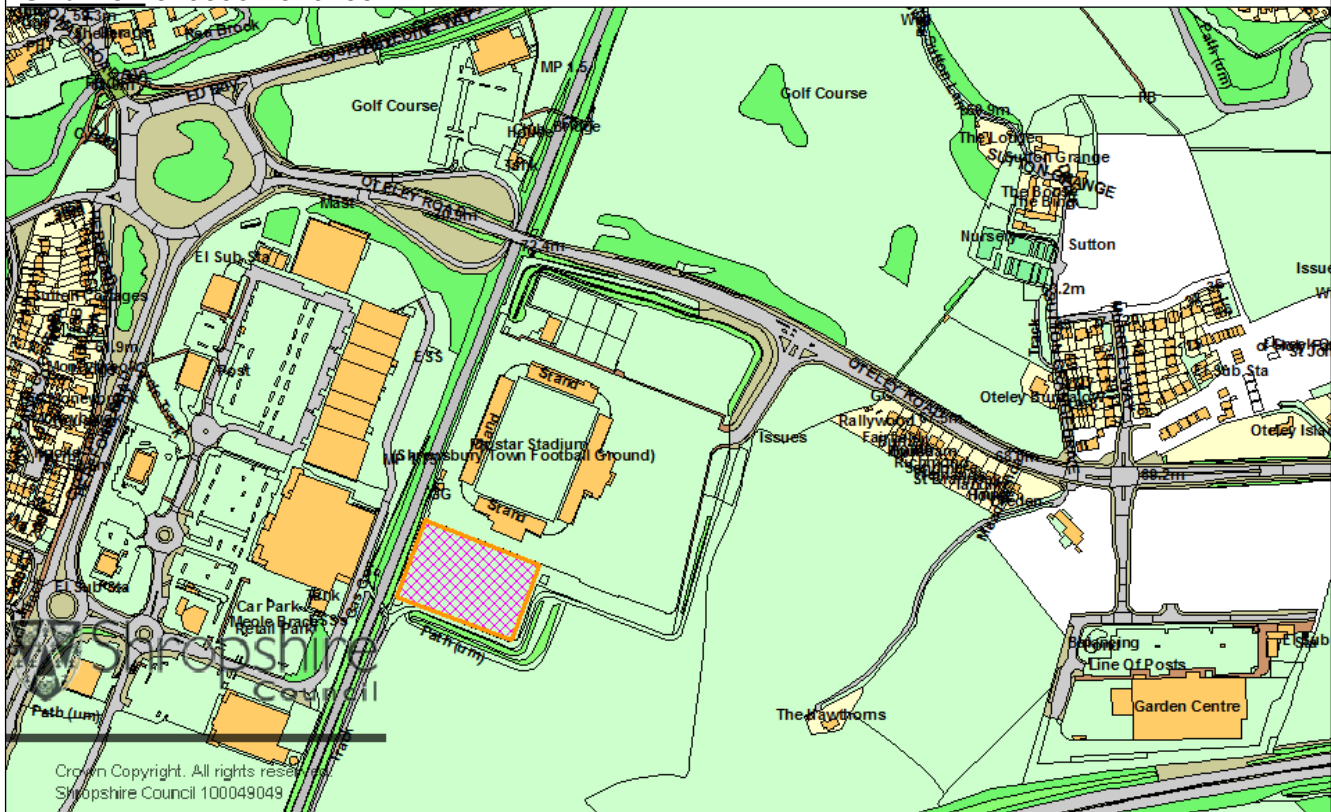
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/03786/VAR106	Parish:	Shrewsbury Town Council
Proposal: Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F		
Site Address: Land At Oteley Road Shrewsbury Shropshire		
Applicant: Shrewsbury Town Football Club Ltd		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 349590 - 310458



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Recommendation:- Approve the variation of the S106 agreement.

REPORT

1.0 THE PROPOSAL

1.1 This report relates to a request by Shrewsbury Town Football Club under section 106A of the Town and Country Planning Act 1990 to enter into a deed of variation to a Section 106 agreement attached to planning permission reference SA/02/0278/F approved on the 4th September 2003 for the erection of a new football stadium, construction of training pitch, community pitch, childrens pitch, 6 no. five-a-side pitches, changing facilities, formation of car parking, taxi rank/bus stop layby, and new access and associated engineering and other works. The variation requested seeks to amend the position of the community pitch and amend who is responsible for managing the community pitch.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Shrewsbury Town Football Club and the associated sports facilities lie within the Shrewsbury development boundary and within an area which although is currently edge of urban area will become part of the urban area after the construction of the Shrewsbury South Sustainable Urban Extension (SUE).
- 2.2 The land is south of Oteley Road with Meole Brace golf course on the opposite side of the road and residential areas beyond. Over the SAMDev plan period the football club land will become encompassed into the SUE which is an allocated urban extension to the town to include around 900 houses, 22ha of employment land, retail and commercial uses and infrastructure. The SUE will mean that the character of the area will change significantly.
- 2.3 Access to the site is off Oteley Road using the existing traffic light junction which leads to a mini roundabout within the football club. The community pitch is currently to the west of the access road, north of the stadium car park and is 1.07 hectares of relatively flat grassed land with a grassed embankment running around the two external edges of the site, the east and north boundaries, with the fencing on the top.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Councillor Tandy has requested that the application be determined by committee (as detailed at 4.2.3) and the Town Council have raised concerns which the Chair and Vice Chair, in discussion with the Area Planning Manager, agreed are material planning considerations which merit debate at committee. Therefore, in accordance with the adopted scheme of delegation the matter is to be considered at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Shrewsbury Town Council** – Members recalled the reasoning for covenants attached to this area to allow for recreational public use; these related to the agreement to remove similar covenants at the old Gay Meadow site which were

placed on the site as part of the Gay family bequest of the land. Members noted that since the football ground has been at this location, there has never been any active promotion of the greenspace at the front of the site, which has never been laid out as a football pitch with goals.

Members queried how the removal of the recreational space as outlined in red which included the prostar pitches in blue) could be mitigated by an already established pitch to the rear of the site. Members would wish to see times that this pitch would be truly made accessible for public use, particularly given its current use as the club training pitch.

If this application is recommended for approval, members respectfully ask that it is considered by the Central Planning Committee.

4.2 **Public Comments**

4.2.1 2 letters of representation have been received raising the following concerns:

- Should not allow relocation for commercial gain
- S106 and covenants restricting use will need to be amended
- Proposed site is smaller than existing site
- Results in loss of sports facilities when more are needed
- Could result in the loss of the Power League facilities

5.0 **THE MAIN ISSUES**

- Background & Principle of Development
- Affordable Housing Contribution

6.0 **OFFICER APPRAISAL**

6.1 **Policy & Principle of Development**

6.1.1 Planning permission for the development was granted on the 4th September 2003 and the development was completed and the club is operational. The consent was subject to a Section 106 Legal Agreement (previously varied in 2007) which defined the community sports facilities and set out a statement of the objectives for the use, management and pricing of the community sports facilities. (The S106 also dealt with other matters such as highway works, traffic management, car parking, however none of these matters are relevant to the current enquiry.)

6.1.2 Schedule 2 of the S106 required the owners of the land (STFC) to provide the community sports facilities and make them available to Shropshire Football Association and adults and children in the community at large at a charge comparable to the charges levied by the Council. The S106 included a plan showing the location of the facilities. Schedule 3 of the S106 detailed the statement on the community facilities. This was a statement from STFC of what was to be provided for the community facilities. The requirement was for an all weather area to be divided into six five-a-side multi sport pitches; a grassed children's football pitch; a grassed full size community pitch; a changing block; car parking (except when a first team match is playing) and space for indoor sports. Schedule 3 also included details of when the facilities would be available and the charges, both of which were to be comparable to the Council sports facilities.

- 6.1.3 A statement has been provided with the request to vary the S106 which advises that the required facilities have all been provided. The five-a-side pitches are known as the Power League facility and the changing block and indoor sports provision is adjacent to these pitches. The children's pitch and full sized pitch are the subject of this application. Car parking is provided within the club site on the main car park as required.
- 6.1.4 The proposal is to relocate the community pitch and to transfer the management of the pitch to Shrewsbury Town in the Community (STC). The current five-a-side pitches and other facilities are managed by STC and the proposal to include the community pitch in their control will improve their facilities and also enable more control over use and management.
- 6.1.5 To ensure the continued availability of the community pitch (five-a-side pitches and other facilities) the applicant will need to enter into a deed of variation to vary the S106. A draft agreement has been drawn up by the Council Solicitor and agreed by the applicant's solicitor. The agreement requires the new community pitch to be provided within 3 months of the date of the decision or prior to commencement of the construction of the Lidl food store, whichever is the sooner.
- 6.3.6 The deed of variation does not vary the requirement to provide the six five-a-side pitches, the indoor facilities, changing block or car parking. It continues to require the provision of a community pitch and to make it available for the community but also allows the club to make the main stadium available for the community. As such the deed of variation seeks to amend the position of the community pitch but continues to require it to be provided. It is therefore considered by officers that, subject to the applicants entering into the deed of variation, that this will secure the community facility for the long term and does not diminish the community facilities required in the original planning consent and as such officers are recommending that the deed of variation is allowed.

7.0 CONCLUSION

- 7.1 The approved development was for a new football club, community facilities and associated works which have all been provided as required. The requested deed of variation to the S106 relates to the position and management of the community pitch. The deed of variation will ensure the community pitch will continue to be available for community uses and as such does not significantly alter from the previous planning permission.
- 7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant planning history:

16/04201/VAR Variation of condition 2 attached to Ref:14/00587/VAR dated 17/03/2016 relocate community football pitch **PCO**

16/00181/FUL Proposed erection of retail store, associated car parking and servicing facilities, site access and associated works **PCO**

14/00587/VAR Variation of Condition Nos. 19 and 23 (restrictions of use) attached to Planning Permission 02/0278/F to permit no more than 6 no. non-football events at the stadium during any one year; to permit the use of the stadium for international matches without having to seek prior approval of the Council; variation of the S106 Planning Obligation to increase in the number of car parking spaces and reduction in coach parking **GRANT** 17th March 2016

11/00199/FUL Application for temporary use (5th June - 18th June 2011) of football stadium for operations to facilitate the preparation/staging and de-rigging of a music concert **GRANT** 23rd March 2011

SA/05/0257/VAR Variation of condition No. 6 attached to Planning Permission Reference 02/0278/F, to allow for the deferment of the children's pitch and five-a-side-pitches to read as follows: 'The community pitch and temporary changing building shall be completed and fully operational before the first beneficial occupation of the stadium. The children's pitch, five-a-side pitches and the permanent changing buildings to be completed and fully operational within 5 years of the first beneficial occupation of the stadium.' **REFUSE** 29th April 2005

SA/02/0278/F Erection of a new football stadium, construction of training pitch, community pitch, childrens pitch, 6 no. five-a-side pitches, changing facilities, formation of car parking, taxi rank/bus stop layby, and new access and associated engineering and other works. **GRANT** 4th September 2003

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 Jon Tandy Cllr Ted Clarke Cllr Jane Mackenzie
--



Committee and date

Central Planning Committee

24 November 2016

Item

7

Public

Development Management Report

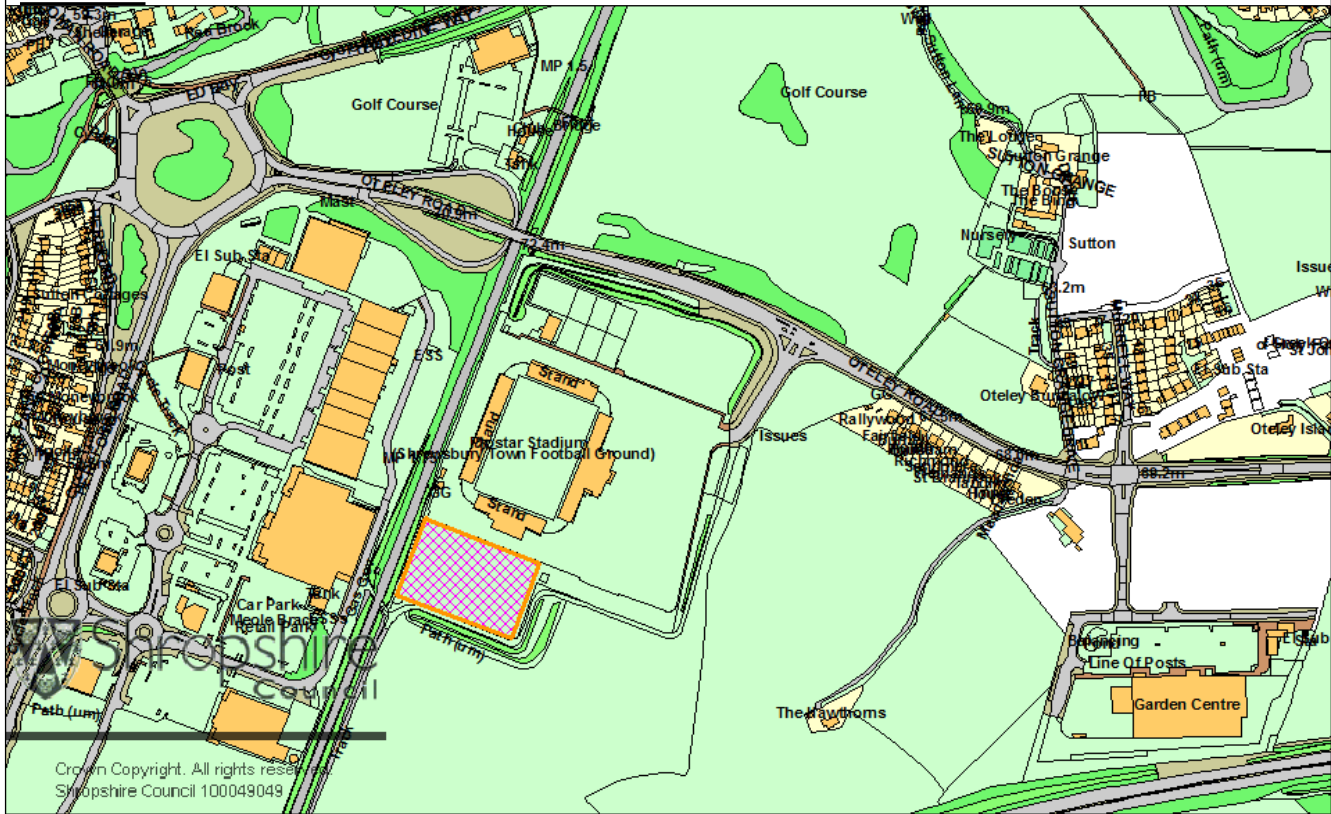
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/04201/VAR	Parish:	Shrewsbury Town Council
Proposal: Variation of condition 2 attached to Ref:14/00587/VAR dated 17/03/2016 relocate community football pitch.		
Site Address: Greenhous Meadow Oteley Road Shrewsbury SY2 6ST		
Applicant: Shrewsbury Town Football Club		
Case Officer: Karen Townend		email: planningdmne@shropshire.gov.uk

Grid Ref: 349504 - 310345



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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 consent to vary condition 2 on the original planning permission for the new football stadium on Oteley Road. Condition 2 approves a set of drawings and the current application seeks to alter the location of the community pitch. No other changes are proposed, only the position of the community pitch.
- 1.2 Planning permission was granted on the 4th September 2003 for the erection of a new football stadium, training pitch, community pitch, five-a-side pitches, changing facilities, car parking and associated works. The consent was subject to a number of conditions and a S106 legal agreement. Condition 2 was approved as follows:
“The development hereby approved shall only be carried out in complete accordance with the submitted and approved plans reference 1.03 (proposed site layout), 1.01 rev B, 2.01 rev C, 2.02 rev E, 2.03 rev E, 3.01 rev B, 3.02 rev C, 3.03 rev C, 3.04 rev B, 4.01 rev B and 4.02 rev C received on 11th February 2002, 1.02 rev K received on 5th July 2002 and 02381-L65 piper and 1.03 (site sections) received on the 19th June 2002, unless otherwise agreed in writing with the Local Planning Authority.
Reason: For the avoidance of doubt and to enable the Local Planning Authority to control the development in detail.”
- 1.3 Other conditions required the submission of materials, landscaping, security fencing, lighting, archaeology, drainage, access and contamination information and also controlled the use of the site and the facilities. The current application seeks consent to vary condition 2 to vary the approved layout plan. Condition 19 has previously been varied to allow for non-sporting events to take place at the site. All of the other conditions on the original consent will remain valid and enforceable. The current proposal will not alter the need for the community pitch to be used for sports facilities or alter the five-a-side pitches at all.
- 1.4 A plan has been submitted with the application which shows the proposed position of the replacement community pitch. The proposed site is currently used as the club training pitch and as such is already constructed as a usable pitch. The proposed variation and the loss of the training pitch will be considered in detail in the report.
- 1.5 In addition to varying the approved plans the applicant will also need to enter into a deed of variation to vary the S106 agreement secured on the original planning permission. The agreement secured the provision of all of the community facilities at the site, including the community pitch to which this application relates. A request to vary the S106 has been received by the Council and a separate report is provided to this committee to deal with that matter. This application is required because of a separate planning application for the erection of a Lidl food store on the existing community pitch site. This is also being dealt with as a separate application with a separate report.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Shrewsbury Town Football Club and the associated sports facilities lie within the Shrewsbury development boundary and within an area which although is currently edge of urban area will become part of the urban area after the construction of the Shrewsbury South Sustainable Urban Extension (SUE).
- 2.2 The land is south of Oteley Road with Meole Brace golf course on the opposite side of the road and residential areas beyond. Over the SAMDev plan period the football club land will become encompassed into the SUE which is an allocated urban extension to the town to include around 900 houses, 22ha of employment land, retail and commercial uses and infrastructure. The SUE will mean that the character of the area will change significantly.
- 2.3 Access to the site is off Oteley Road using the existing traffic light junction which leads to a mini roundabout within the football club. The community pitch is currently to the west of the access road, north of the stadium car park and is 1.07 hectares of relatively flat grassed land with a grassed embankment running around the two external edges of the site, the east and north boundaries, with the fencing on the top.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Councillor Tandy has requested that the application be determined by committee and the Town Council have raised concerns which the Chair and Vice Chair, in discussion with the Area Planning Manager, agreed are material planning considerations which merit debate at committee. Therefore, in accordance with the adopted scheme of delegation the matter is to be considered at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Town Council – Object.** The Town Council has many concerns about this application and the other recent applications linked to it. Whilst there are a number of applications attempting to remove the obligation on the part of the football club to provide community football facilities, not one application provides any definitive detail on how the relocation of facilities elsewhere within the site will provide community value in terms of hours of use, ease and affordability of booking, promotion and marketing of the site etc. Members feel that the relocation of facilities to the rear of the site will only go to making community football provision even less accessible. The applicant or his agent should be invited to explain how this will work to the Planning Committee.
- 4.1.2 **Open Space** – No comments received
- 4.1.3 **Network Rail** – No objection.

Netting

The applicant must provide suitable ball proof mesh netting for the football pitches. The application must provide details of the netting to the Asset Protection Engineers to ensure that the netting is installed without placing any load bearing weight upon Network Rail land, and to ensure that the pole foundations do not

undermine or encroach upon Network Rail land. The netting should be 5m in height to prevent all potential sports equipment i.e. footballs from over-sailing the railway boundary and falling into the path of trains. The applicant must consider the foundations of the netting which could undermine or destabilise Network Rail's land. Equally, netting erected on land next to the operational railway could topple over in high winds and fall onto Network Rail's land, onto the path of trains or onto safety critical equipment (e.g. signals, telecoms cabinets) if above the level of the railway.

Excavations/earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail's property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

Drainage

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of
- Network Rail's structures or earthworks.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is: assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

4.2 **Public Comments**

4.2.1 7 letters of representation have been received raising the following concerns:

- Should not allow relocation for commercial gain
- S106 and covenants restricting use will need to be amended
- Proposed site is smaller than existing site

- Results in loss of sports facilities when more are needed
- Could result in the loss of the Power League facilities

5.0 THE MAIN ISSUES

- Policy & principle of development
- Amendment to layout
- Control of use
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Planning permission was granted in 2003 and the development has been completed and the football club and some of the community facilities have been in operation for a number of years. The principle of the use of this site for sporting facilities has been accepted and is encouraged by all parties.
- 6.1.2 The current application seeks to vary the position of the community pitch from the northeast corner of the overall site to the south west corner. For clarity the application is only seeking to relocate the community pitch. The five-a-side pitches, also known as the Power League facilities, do not form part of the current application. They have been included in the information submitted to show that they have been provided. However, these facilities will continue to be provided, in their current position, as required by the conditions of the planning consent and the S106 agreement.
- 6.1.3 The principle of providing a community pitch within the overall club site is considered by officers to be acceptable. It is not for the Council to prevent commercial gain if the community use can continue to be provided. The key issues are whether the proposed site is an appropriate site, the knock on effect of the removal of the training facility from the club site and the means of managing and ensuring the new community pitch is made available to the community.
- ### 6.2 Amendment to layout
- 6.2.1 As noted above the existing community pitch is in the northeast corner of the club site. The land is laid to grass and although there has been questions raised (on the Lidl application) about whether it has been used or allowed to be used as a community pitch, it is technically available for such uses and could be used as such. The site is now also subject to a separate planning application for the erection of a Lidl food store and as such the club are seeking to relocate the community pitch to allow for the food store to be erected.
- 6.2.2 The proposed position for the new community pitch is in the southwest corner of the club site. Officers have measured the two pitches and can confirm that the proposed pitch is marginally larger than the existing pitch. The proposed pitch is currently used as the club training pitch and as such is already laid out as a grassed football pitch and enclosed in fencing. The proposed relocation of the community pitch would therefore not require any construction works to be carried out. The agent has confirmed that the fencing, drainage and surfacing has been carried out and would meet the requirements detailed in the response from Network

Rail. As such the proposed pitch is considered to be appropriate in terms of surfacing etc.

- 6.2.3 It is located on the rear edge of the club car park, adjacent to the Shrewsbury Town in the Community (STC) building. It is therefore separate from the five-a-side pitches which will remain at the front of the site; however officers are generally in support of the location given that it remains within the club site and is adjacent to the STC building. As the club are proposing to hand over management of the community pitch to STC officers consider that this location is acceptable. It is equally as accessible by car, foot or bicycle, is not significantly further from nearby residential areas and is no more or less visible from public vantage points than the current site which is enclosed with a bund.
- 6.2.4 The Football Club have confirmed that the club now train off-site on privately owned land. The existing training pitch is therefore not required by the club and can be made available for the relocation of the community pitch. The existing training pitch is not a public facility and furthermore it is not being "lost". The training pitch has been relocated off-site and therefore the community pitch can be relocated within the site.
- 6.2.5 As such officers consider that the proposed relocation and therefore changes to the approved layout of the club site are considered to be acceptable. The scheme as now proposed will provide a more usable community pitch in terms of the surface finish and proximity to the STC facilities whilst remaining equally accessible.
- 6.3 **Control of use**
- 6.3.1 The primary objections from the community and the Town Council relate to management of the community pitch and ensuring that it, and the five-a-side pitches, continue to be available for community use. The original planning permission required the community facilities (community pitch, five-a-side pitches and changing block) to be provided and used for sports related activities. The S106 agreement (which was varied in 2007) defined the community sports facilities and set out a statement of the objectives for the use, management and pricing of the community sports facilities. (The S106 also dealt with other matters such as highway works, traffic management, car parking, however none of these matters are relevant to the current application.)
- 6.3.2 Schedule 2 of the S106 required the owners of the land (STFC) to provide the community sports facilities and make them available to Shropshire Football Association and adults and children in the community at large at a charge comparable to the charges levied by the Council. The S106 included a plan showing the location of the facilities. Schedule 3 of the S106 detailed the statement on the community facilities. This was a statement from STFC of what was to be provided for the community facilities. The requirement was for an all weather area to be divided into six five-a-side multi sport pitches; a grassed children's football pitch; a grassed full size community pitch; a changing block; car parking (except when a first team match is playing) and space for indoor sports. Schedule 3 also included details of when the facilities would be available and the charges, both of which were to be comparable to the Council sports facilities.

- 6.3.3 A statement has been provided with the current application which advises that the required facilities have all been provided. The five-a-side pitches are known as the Power League facility and the changing block and indoor sports provision is adjacent to these pitches. The children's pitch and full sized pitch are the subject of this application. Car parking is provided within the club site on the main car park as required.
- 6.3.4 The proposal is to relocate the community pitch and to transfer the management of the pitch to Shrewsbury Town in the Community (STC). The current five-a-side pitches and other facilities are managed by STC and the proposal to include the community pitch in their control will improve their facilities and also enable more control over use and management.
- 6.3.5 To ensure the continued availability of the community pitch (five-a-side pitches and other facilities) the applicant will need to enter into a deed of variation to vary the S106. A draft agreement has been drawn up by the Council Solicitor and agreed by the applicant's solicitor. The agreement requires the new community pitch to be provided within 3 months of the date of the decision or prior to commencement of the construction of the Lidl food store, whichever is the sooner.
- 6.3.6 The deed of variation does not vary the requirement to provide the six five-a-side pitches, the indoor facilities, changing block or car parking. It continues to require the provision of a community pitch and to make it available for the community but also allows the club to make the main stadium available for the community. As such the deed of variation seeks to amend the position of the community pitch but continues to require it to be provided. It is therefore considered by officers that, subject to the applicants entering into the deed of variation, that this will secure the community facility for the long term and does not diminish the community facilities required in the original planning consent.
- 6.4 **Other matters**
- 6.4.1 The objection relating to the proposed site being smaller than the proposed site has been dealt with above. The proposed site is marginally larger than the existing community pitch. The five-a-side pitches (Power League) are not to be altered as part of the current application and will continue to be required by the conditions on the decision notice and the requirements of the legal agreement.
- 6.4.2 Other objections comment that the proposal will result in loss of sports facilities when more are needed. It is acknowledged by officers that new housing developments and the growth of Shrewsbury will result in the growing requirement for sports facilities and open space. However, every new housing development is required by policy MD3 of the SAMDev to provide open space and the use of the open space is then determined by the relevant parish and town council or the developer (depending on who takes on long term management of the open space). As such, although it would be good to provide more open space and recreation uses as part of the current application, it can not be required. The original consent required the provision of community facilities, including the community pitch. The training pitch was not a community facility and as such, as noted previously in this report, providing the community pitch is provided the applicant will have met their duty under the conditions and the S106 agreement. It will be for other

developments to provide for the growing needs of the town.

7.0 CONCLUSION

7.1 It is considered that the proposed amendments to the layout are acceptable and enable the continued provision of a community pitch within the club site. It is therefore considered that, subject to the variation of the S106 agreement, the proposal accords with National and Local policies, the Shropshire Core Strategy and SAMDev in providing sports facilities to the community.

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

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

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of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

NPPF

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

Settlement: S16 - Shrewsbury

Relevant planning history:

16/03786/VAR106 Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F **PCO**

16/00181/FUL Proposed erection of retail store, associated car parking and servicing facilities, site access and associated works **PCO**

14/00587/VAR Variation of Condition Nos. 19 and 23 (restrictions of use) attached to Planning Permission 02/0278/F to permit no more than 6 no. non-football events at the stadium during any one year; to permit the use of the stadium for international matches without having to seek prior approval of the Council; variation of the S106 Planning Obligation to increase in the number of car parking spaces and reduction in coach parking **GRANT** 17th March 2016

11/00199/FUL Application for temporary use (5th June - 18th June 2011) of football stadium for operations to facilitate the preparation/staging and de-rigging of a music concert **GRANT** 23rd March 2011

SA/05/0257/VAR Variation of condition No. 6 attached to Planning Permission Reference 02/0278/F, to allow for the deferment of the children's pitch and five-a-side-pitches to read as follows: 'The community pitch and temporary changing building shall be completed and fully operational before the first beneficial occupation of the stadium. The children's pitch, five-a-side pitches and the permanent changing buildings to be completed and fully operational within 5 years of the first beneficial occupation of the stadium.' **REFUSE** 29th April 2005

SA/02/0278/F Erection of a new football stadium, construction of training pitch, community pitch, childrens pitch, 6 no. five-a-side pitches, changing facilities, formation of car parking, taxi rank/bus stop layby, and new access and associated engineering and other works. **GRANT** 4th September 2003

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 Jon Tandy
Cllr Ted Clarke
Cllr Jane Mackenzie

Appendices
APPENDIX 1 - Conditions

APPENDIX 1**Conditions****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

1. The stadium and other facilities, which are the training pitch, community pitch, the six 5-a-side pitches and changing block, shall only be used for sport related activities unless in accordance with the agreed 6 non-sport related events per calendar year (which are subject to the additional conditions attached). Other exceptions shall be the use of the function and hospitality rooms and the use of the stadium for the Shrewsbury Town Football Club Christmas Concert (as set out in the letter from Alaska dated 20th September 2002).

Reason: To protect amenities of occupiers of nearby residential properties.

2. The use of the Stadium for sport-related activities shall be for Shrewsbury Town Football Club and England International Football matches only and for no other Club or body without the prior written approval of the Local Planning Authority.

Reason: To avoid an unacceptable level of use of the Stadium and to minimise disturbance to nearby residents.

3. External music events and/or use of amplified equipment shall finish no later than 23:00.

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

4. At non music events no external amplified equipment shall be used after 22:00.

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

5. Noise levels shall not exceed 65dB(A) when measured 1 metre from the façade of any noise sensitive premise over a 15 minute period.

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

6. Activities carried out in preparation for any music event including sound checks shall be carried out between the hours of 08:00-20:00.

Reason: To protect the health, wellbeing and amenity of nearby residents

7. A noise management plan shall be submitted to the Local Planning Authority no less than 4 weeks prior to a music event for approval in writing. The noise management plan shall include details of the layout and orientation of any equipment being assembled on external areas (including staging, speakers and amplifiers), sound equipment to be used, persons or organisations responsible for the sound systems including full contact details for any office and for staff on site, methods employed to minimise noise, arrangements for sound checks, noise monitoring and reporting, contact details for complaints to be directed to at the time of the event. Monitoring shall occur at all events where necessary and the frequency and location of monitoring will be specified in the noise management plan and shall include a map of monitoring locations.

Reason: To protect the health, wellbeing and amenity for local residents.

8. External non-sport related events shall not occur on more than 2 calendar days in any 7 day period and no more than 2 consecutive days shall be used for such external events unless prior approval has been granted by the Local Planning Authority.

Reason: To protect the health, wellbeing and amenity of nearby residents and residential areas.

9. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways

Reason: To prevent pollution of the water environment.

10. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

11. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstanding shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

12. There shall be no raised ground levels or structures within the recognised floodplain of the Money Brook, unless as part of an agreed flood storage compensation scheme in conjunction with the approved surface water control measures.

Reason: To ensure that there will be no increased risk of flooding to other land/properties due to impedance of flood flows and/or reduction of flood storage capacity and to ensure acceptable operation of any surface water storage facility.

13. The community pitch shall be provided to the south of the stadium as shown outlined in yellow in the submitted plan. The five-a-side pitches and changing block shall be permanently retained in the position as provided under the original planning consent, to the north of the stadium.

Reason: To ensure these community facilities are provided and available for public use.

14. The community pitches and 6 no. 5-a-side pitches shall not be used between the hours of 22:30 and 0800 hours Monday to Sundays.

Reason: To protect the amenities of the occupiers of nearby residential properties.

15. The floodlighting of the community pitches and 6 no. 5-a-side pitches shall be switched off between the hours of 22:30 - 0800 hours.

Reason: In the interests of amenities of neighbouring properties.

16. The sight lines provided at the road access shall be retained in accordance with the agreed details and the area in front of the sight lines shall not be included in any plot or other subdivision of the site. No other access, either vehicular or pedestrian, shall be formed.

Reason: In the interests of road safety.

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Committee and date
 Central Planning Committee
 24 November 2016

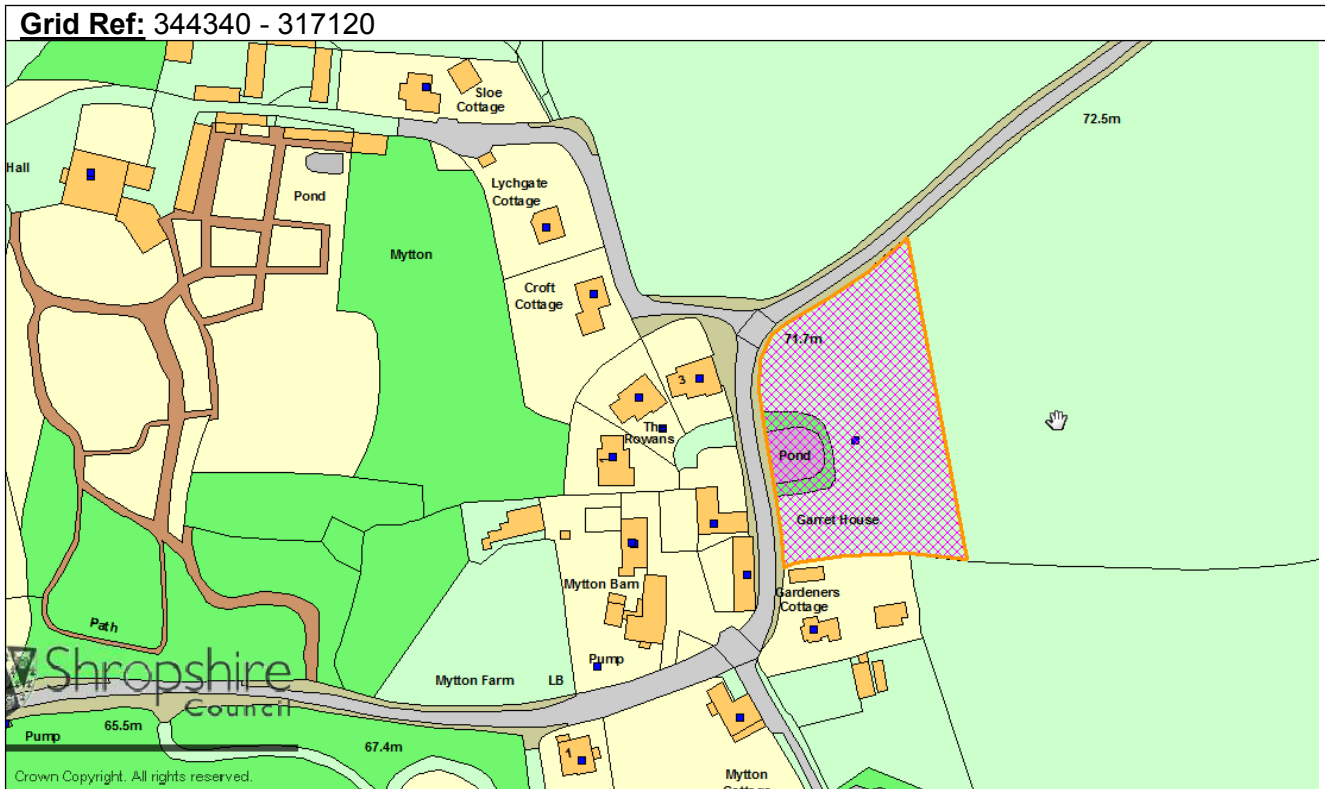
Item
8
 Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/01827/REM	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Application for approval of reserved matters (siting, landscaping, scale, appearance) pursuant to 13/03841/OUT for the erection of three detached dwellings		
<u>Site Address:</u> Land Opposite The Rowans Mytton Shrewsbury Shropshire		
<u>Applicant:</u> Mr T Pook		
<u>Case Officer:</u> Jane Raymond		<u>email:</u> planningdmc@shropshire.gov.uk



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.
REPORT****1.0 THE PROPOSAL**

- 1.1 This application relates to approval of reserved matters (siting, landscaping, scale, appearance) pursuant to 13/03841/OUT for the erection of three detached dwellings.
- 1.2 The application has been amended since first submitted as the red outline originally extended outside the area approved for development under the outline approval and also showed an oak tree that was to be retained as being removed. The amended site plan now shows the correct area outlined in red and the oak tree retained. Amended drawings of the house types have also been received and although large houses they have been significantly reduced in size compared to the original submission.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the West part of a field accessed by a field access off an unclassified road to the West of the site with houses on the opposite side of the road. The site is bordered to the South by a mature hedge, with a dwelling beyond, there is a hedge along the boundary with the road to the North and the field is open to the East.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 Community Representations**4.1 - Consultee Comments**

- 4.1.1 **SC Rights of Way:** There are no legally recorded public rights of way at any status which cross or abut the site identified.
- 4.1.2 **SC Ecology:** Recommends that native species, found locally in Shropshire, are used in the landscape scheme.
- 4.1.4 **SC Trees:** The amended site layout satisfactorily addresses previous concerns and withdraws objections to this application. Suggests a condition requiring further tree protection details including a site specific method statement for the installation of the no dig access track.
- 4.1.4 **SC Highways:**

Approval of reserved matters

Appearance – not a highway consideration

Landscaping – not a highway consideration

Layout - no objection subject to the development being constructed in accordance with the approved details and the suggested conditions and informatives

Scale – the proposed scale of the development is considered acceptable from a highway perspective

Discharge of conditions

Condition no.10 – seeks that the details on the means of access, construction and sightlines be submitted as part of the application for reserved matters. The submitted information is incomplete and the proposed access construction within the highway is not in accordance with the Council's specification.

Observations/Comments:

The principle of the proposed development has been previously approved under outline consent 13/03841/OUT and the highway comments are forwarded in respect of the submitted details for the approval of reserved matters and condition no.10 as imposed on the outline consent. The proposed layout of the access, internal private driveway, parking and turning areas as shown on drawing no. 1510-PL-02 are acceptable. The sightlines from the access have not however been demonstrated whilst the charcoal permeable pavers are not acceptable and not in accordance with the Council's specification for a residential access crossing within the highway.

- 4.1.5 **SC Drainage:** No proposed surface and foul water drainage details, plan and calculations as per our Drainage Comments dated 8 October 2013 have been submitted for approval.

4.2 - Public Comments

- 4.2.1 Bomere Heath PC: (Comments to proposal as first submitted). Several councillors expressed their concern that the three houses proposed in this development are too large and imposing and that, given their position in the centre of the hamlet, would dominate the whole area and detract from the natural character of the village. It was decided that, because of these concerns, all councillors should be allowed two or three days to compare this latest "reserved matters" application with the Outline plan as passed in 2013.

A majority of councillors are now of the opinion that the new proposals are not in conformity with the outline plan. Each of the three houses is significantly bigger than originally proposed. The configuration of the three houses has been changed - they have been straightened out to form one long imposing line. This has been achieved by enlarging the size of the whole plot by making it deeper from front to back, which careful measurement has shown. This also is not in conformity with the original plan. The Parish Council object to these RES measures and respectfully requests that the size of the properties be reduced.

- 4.2.2 Eleven letters of objection summarised as follows:

- ☐ The access should be positioned further along the road to reduce the number of vehicles accessing the highway on a dangerous bend.

- ☒ The access road is unsuitable for construction and delivery vehicles and an alternative temporary access should be made
- ☒ Construction vehicles and work will create noise and disturbance for existing residents
- ☒ Objects to the removal of one Oak tree
- ☒ The land forms part of the 'Pimhill, Berwick Estate and Severn Valley Area of Special Landscape Character ' and should not be developed.
- ☒ The houses proposed are significantly larger than at the outline stage and are out of scale with the surrounding properties and will alter the character of the hamlet. Loss of privacy
- ☒ Impact on existing foul and surface water systems
- ☒ Object to the fact that the pedestrian access through the site has been removed
- ☒ Would be happy for the site area to be enlarged to enable the houses to be set back further within the field

5.0 THE MAIN ISSUES

The principle of development has been established by the outline consent and the main issues are:

Access

Layout, scale and appearance

Impact on existing residents

Landscaping and trees

Ecology

Drainage

6.0 OFFICER APPRAISAL

6.1 Access

6.1.1 Vehicular and pedestrian access to the site will be via the existing field access. Condition 10 on the outline approval required details of the means of access to be submitted as part of the application for reserved matters. Highways have confirmed that whilst the proposed layout of the access and the internal private driveway, parking and turning areas are acceptable the sightlines from the access have not been demonstrated and the pavers are not in accordance with the Council's specification for a residential access crossing within the highway. A further condition will be imposed requiring the detail of the sight lines and construction of the access to be submitted for approval.

6.1.2 Some residents have commented that a pedestrian access through the site has

been removed. The Public rights of way officer has confirmed that there are no legally recorded public rights of way within or adjacent to the site. The amended plan does show a strip of land to the south outside the residential curtilage of plot 1 and this could provide pedestrian access to the field to the rear if required and agreed with the owner.

6.2 **Layout, scale and appearance**

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.2 Layout - The plan has been amended so that the site area has been reduced and is the same as that approved at the outline stage. The proposal is for three large detached dwellings that will face the internal access drive and the pond to the front of the site. All three houses include a single storey rear extension to provide a family room that will have floor to ceiling windows to the East elevation that will look out over the field to the rear, and patio doors to the South elevation that will open onto the private rear garden. It is considered that the site can satisfactorily accommodate three large dwellings and the layout provides more than satisfactory private rear garden area, parking space and gardens to the front in addition to detached double garages. The plot sizes are also considered to be comparable with the plot sizes of the houses opposite to the West and the adjacent site to the South.

6.2.3 Scale and appearance - Some residents and the Parish expressed concern regarding the scale of the buildings as first submitted and that they would not be in keeping with surrounding properties. The nearest properties are the large detached houses opposite built in the 90s and the large detached property to the South that now has permission for a large two storey side extension. The scale of the proposed houses has been significantly reduced to that as first submitted and they will be set back from the road frontage due to the pond and trees to the front of the site. As referred to above they will be situated within plot sizes comparable to those nearby and are not considered to be out of scale with the surrounding development. The houses are a traditional design with front facing gables and include a number of traditional features and detailing including deep brick plinths, steep pitched roofs, chimneys, projecting gables and bay windows. They are to be constructed of brick with a tiled roof and it is considered that the traditional design and appearance of the dwellings will be in keeping with the scale and appearance of the surrounding properties. The new development will be softened by the existing trees and pond to the front of the site and it is considered that the proposal would have no adverse impact on the character and appearance of the locality.

6.3 **Impact on existing residents**

6.3.1 CS6 also seeks to safeguard residential amenity. The nearest properties include Garret House and 1-3 The Rowans opposite, and Gardeners Cottage to the South.

1-3 The Rowans and Garret House currently enjoy views of the site and countryside beyond. However there is no right to a view and due to the proposed properties being set back behind the pond and existing trees it is not considered that the dwellings would appear obtrusive or overbearing. Although the East facing gables of Garret House and 3 The Rowans are close to the roadside due to the separation distance between the existing properties and the front of the proposed properties it is not considered that the proposal would result in overlooking or a loss of privacy.

- 6.3.2 Similarly the house proposed for plot 1 to the South is separated a good distance from the existing Gardeners Cottage not to appear overbearing or obtrusive, and the existing Oak tree will partially obscure views. There are currently no windows in the side elevation of Gardeners Cottage that will face the site (other than a bathroom window) and the only windows proposed in the side elevation of the approved two storey extension will also be bathroom windows. There are no first floor windows proposed for the South facing gable of the house on plot 1 that will be nearest the boundary and a condition can be imposed to ensure that no additional windows can be inserted. It is therefore considered that the proposal would not result in overlooking and a loss of privacy of Gardeners Cottage.

6.4 Landscaping and trees

- 6.4.1 The submitted layout also includes landscaping that includes the retention of existing trees and hedgerow and the planting of 2 new oak trees. A 1 metre buffer strip of rough grassland and scrub is indicated around the edge of the pond and the wider area around the pond to be planted with a meadow grass and wildflower mix. The access drive will be permeable tarmac and the private drives permeable pavements. A 1.1m high post and rail fence and mixed native species hedgerow is proposed to be planted along the Eastern boundary to separate the gardens from the field. It is considered that the proposed landscaping scheme is acceptable given the rural location and that a tree protection condition will ensure that all trees are satisfactorily retained.

6.5 Ecology

- 6.5.1 The ecological implications of developing this site were considered in full at the Outline stage and the relevant conditions imposed. The ecological survey and report found a small population of GCN in the pond closest to the development area and a medium population in a nearby pond within 100m. There will therefore be the potential to disturb or damage individual newts as land within 50m of a pond supporting GCN will be disturbed and work will therefore need to be conducted under licence from Natural England. The report sets out the mitigation required and a condition was imposed regarding works to follow a strict method statement and copy of an EPS licence be submitted prior to commencement of work. A bat activity survey was also conducted and found bats foraging by the hedge and large oak tree. This tree has high bat roost potential and is proposed to be retained. The conditions that were imposed at the outline stage do not need re-imposing and have to be adhered to. The only additional comments that the Ecologist has provided is that native species, found locally in Shropshire, are used in the landscape scheme. A landscape implementation and management condition will

be imposed and this will ensure that native species are used. It is considered that the proposed landscaping and development of the site will enhance the bio-diversity of the site compared to its current use as an agricultural field.

6.6 Drainage

6.6.1 Surface water drainage will be provided via soakaways and foul drainage to septic tank. The Council's Drainage Engineer commented at the Outline stage that surface water soakaways should be designed in accordance with BRE Digest 365 and that the septic tank should conform with Building Regulations H2. It was suggested that these details be submitted at the reserved matters stage but as surface water and foul drainage will be fully considered as part of building regulation approval this will ensure that the proposal meets with the relevant part of the regulations highlighted by the drainage team. An informative was imposed on the Outline consent advising what is required.

7.0 CONCLUSION

7.1 The principle of development has already been established by the outline consent. The detailed proposal is considered to be appropriate in scale, density, pattern and design taking into account the local context and would have no adverse impact on the character and appearance of the locality and would also safeguard residential and local amenity. A safe means of access and adequate parking can be provided and the proposal would have no adverse ecological implications or result in the loss of mature trees and the proposed landscaping will enhance the bio-diversity of the site. The proposal is considered to accord with Shropshire Council LDF Policies MD1, MD2, CS4, CS6, MD13 and CS17.

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: MD1, MD2, CS4, CS6, MD13 and CS17.

RELEVANT PLANNING HISTORY:

12/04340/OUT Outline planning application for the erection of 5 dwellings (all matters reserved)
WDN 29th November 2012

13/02151/OUT Outline planning application for the erection of 3 dwellings (all matters reserved)
(revised scheme) WDN 14th August 2013

13/03841/OUT Outline Application for 3 no. open market dwellings including new access and associated drainage. GRANT 30th April 2015

11. Additional Information

List of Background Papers: File 16/01827/REM
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr John Overall
Appendices APPENDIX 1 - Conditions

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

1. 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

2. 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) 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 method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

d) 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.

e) 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.

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

3. The details submitted with regard to condition 10 attached to the outline consent are not approved and prior to construction details of the construction and sightlines of the means of access shall be submitted to and agreed in writing by the LPA. Details shall be fully implemented in accordance with the approved details prior to the first occupation of the development.

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

4. The internal private driveway, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan drawing no.1510-PL-02 prior to the dwellings being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

5. All hard and soft landscape works shall be carried out in accordance with the approved plans and shall include native species. The works shall be carried out prior to the first occupation of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

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

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

7. The first floor and second floor windows in the North facing side elevation shall be permanently formed as a fixed light and glazed with obscure glass and shall thereafter be retained. No additional windows or other openings shall be formed above ground floor level in either the North or South facing side elevations.

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

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<u>Committee and date</u>
Central Planning Committee
24 November 2016

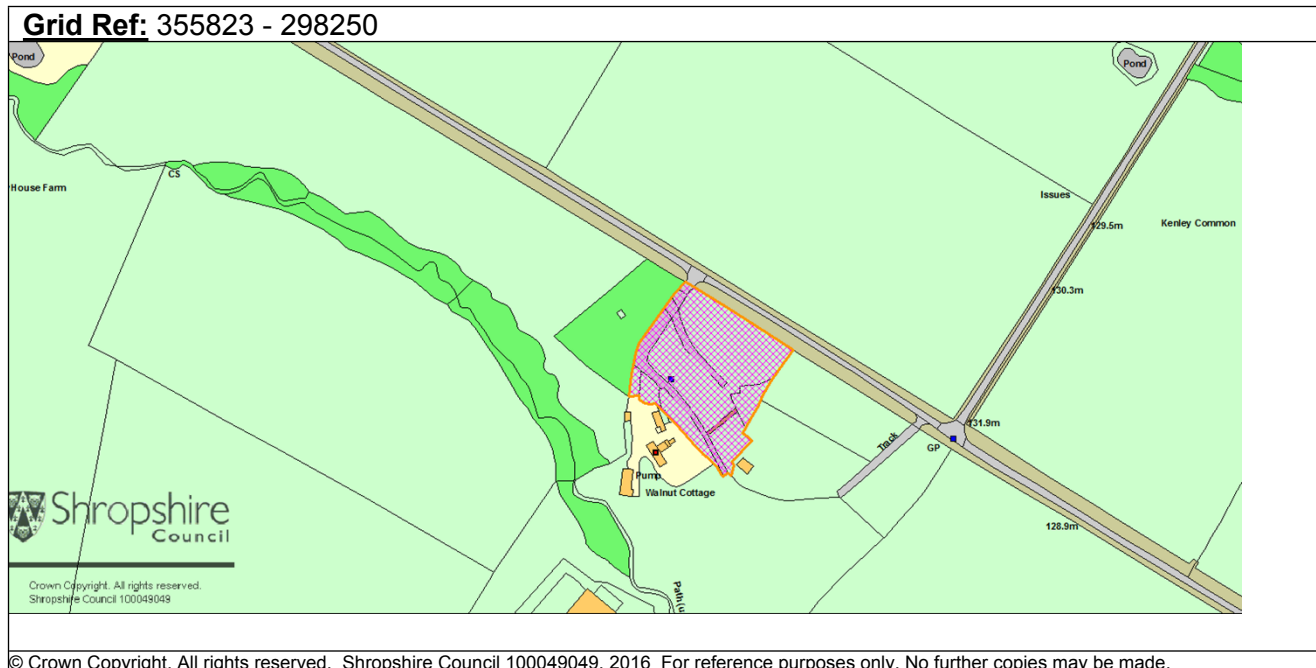
<u>Item</u>
9
Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/02140/FUL	<u>Parish:</u> Kenley
<u>Proposal:</u> Application under Section 73a of the Town and Country Planning Act for retrospective planning permission for the siting of 15 touring caravans, formation of childrens play area, erection of shower and toilet blocks, lighting fixtures, flag poles and the creation of a wider vehicular access with new entrance gates and associated boundary treatment (amended description)	
<u>Site Address:</u> Milward Rise Kenley Shrewsbury Shropshire SY5 6NS	
<u>Applicant:</u> Mr & Mrs W Milward	
<u>Case Officer:</u> Mandy Starr	<u>email:</u> planningdmsw@shropshire.gov.uk



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

1.1 This application which is retrospective is for the change of use of an agricultural field of 0.6ha for the siting of up to 15No touring caravans for recreational use including hard standing areas; erection of toilet block and shower block, entrance gates, walls and pillars, lighting and flag poles; formation of children's play area on a field that is sited in front of a dwelling known as Walnut Cottage, Kenley which is Grade II listed. The application site is known as Milward Rise Caravan Park.

1.2 The applicant's took over the existing caravan site four years ago which had been operating under a Caravan Club Licence for 5 caravans. Within a year, the applicants had applied for a Caravan Site Licence from Shropshire Council which was granted by Public Protection (CS/SC031018). Works to enlarge the site started after this time, but the applicants were not made aware that they also needed full planning permission for the use of the land for 15No touring caravans and associated operational development.

2.0 SITE LOCATION/DESCRIPTION

2.1 Milward Rise Caravan Park is situated on the 'C' class road that runs to the south of Kenley Common. It is set back from the road behind a wide grass verge and to the south east is the village of Hughley whilst to the north is Bank Farm. To the south west of Walnut Cottage is Pool Farm. The site is some 5km from the A458 Much Wenlock to Shrewsbury Road to the north of the site. It is also about 2km to the west from the B4371 that leads from Church Stretton to Much Wenlock along the Wenlock Edge.

2.2 Walnut Cottage is an old C17 squatter's cottage which was extended in the late C18 with later additions and alterations in a small amount of agricultural land. The dwelling is a Grade II listed building which has been much altered in recent years. Although the site is in the open countryside, it is just outside the Shropshire Hills Area of Outstanding Natural Beauty as the eastern boundary of this designation is just to the east at Hughley.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 The proposed development is considered to accord with the requirements of the Council's adopted policies, but has result in a large number of contrary opinions having been received, so as a result this would require the case to be determined by Committee under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

The Case was considered at the Central Agenda Setting Meeting on 11th August 2016 and both the Chair and Vice Chairman of the Committee wished to consider this scheme at Committee.

4.0 Community Representations

4.1 - Consultee Comments

SuDS

Drainage details, plan and calculations should be conditioned if planning permission were to be granted.

SC Ecology

Recommend condition and *informatives*

Shropshire County Highways

(*Original comments 01.07.2016*) No Objection - Subject to the development being carried out in accordance with the approved details and the conditions/informatives.

(*Additional comments 26.09.2016*) following submission of revised plan showing gate being set back by 15m in order to comply with highway requirements:

No objection to the amended information as this seeks to address previous conditions set out in earlier response. The submitted Amended drawing No PMD-02 (received 22.08.2016) is considered acceptable subject to surfacing of the access between the carriageway and gates being confirmed as a suitable bonded material. Recommend additional condition with a time limit of three months for the surface to be laid with a bonded material.

SC Trees

Trees on site do not appear to have been affected by this retrospective application and I support the proposed new tree and hedge planting therefore I have no objection on the grounds of trees.

SC Archaeology

We have no comments to make with respect to archaeological matters.

SC Conservation Historic Environment

This application seeks retrospective planning permission for the siting of a caravan park and our Team has been consulted as the caravan park is sited immediately to the front of the Grade II listed Walnut Cottage, originally a small 17th Century squatter's cottage, later altered and extended in the 18th and 19th Centuries, and more recently a new wing was granted approval and constructed I understand in 2013; a traditional outbuilding associated with Walnut Cottage, converted to a holiday let, is also in close proximity and forms a group with Walnut Cottage.

A Heritage Statement has been submitted In our view based on the material provided there is a degree of impact on the heritage assets as the caravan park does impact on their setting, and efforts to minimize this impact visually would be supported in terms of minimal/reduced lighting, minimal hardstanding, minimal and well maintained subsidiary structures, etc.

- Public Comments

4.2 **Church Preen, Hughley and Kenley Parish Council:**

Original comments dated 08.07.16 The Council voted by a majority decision (there being two abstentions) to object to the Retrospective Planning Application above as it was felt that the area was already well served by similar tourism providers and a major development, such as this, would detract from the natural beauty that tourists visit the area to experience.

Additional comments received 02.10.2016: 29.09.2016 September 2016 the Parish Council voted to object to the creation of a wider vehicular access associated with this retrospective planning application.

Reason for objection is: The entrance would be wider than the carriageway, industrial and not in keeping with the character of Kenley Common. The need for the stone wall is understood but would like to see trees planted in front of it.

62 letters have been received of which 34 are in support of the scheme, 26 object to the scheme and 2 comment on the scheme.

Comments of support made in respect of scheme:

- Recently updated to a children and pet friendly site
- Cheapest of all three sites in area
- Site is very clean including the chalet
- Disagree and are shocked by the extent and rudeness of objectors comments as these are not valid
- Site is not a new site as it has been here for a number years
- Not a large site but it is welcoming with welcoming hosts
- Cannot understand the comment referring to suburban lighting as there is only 1No light and need a torch to go out at night
- Play area is amazing and being wooden is environmentally friendly
- Find flag poles attractive features and cannot understand why 2 are objectionable
- Gates are not “flashy” and give security to site and gated entrance was in place before current owners moved in and many properties in local area have gated entrances
- No objection to use of CCTV as gives on site security
- Brick wall at access has been restored using local stone – need to compare this with the high brick wall built at the riding school at Hughley
- Applicants have instigated a landscaping plan to minimise visibility with hedges being now allowed to grow up
- Compared to nearby site where vehicle got damaged this site is much safer

- Consider that the managed grass verge is an important feature
- Never encountered any problems entering or leaving site in this remote area as site has never presented a problem for road users
- Cannot understand objections to site being made larger as this would increase the tourism for the surrounding area and increase revenue
- Have stayed in caravans in Hughley for past 15 years on all three sites and they all can be seen from road at different times of the year and all have electric lighting and security gates
- When site was operated by previous owners it was not maintained to the same standards at all
- Use of gravel/ recycled stone hardstandings assists with drainage to reduce flooding in Hughley
- Issue of site being unsightly is ridiculous and would not spoil views of AONB as there is already a caravan site in AONB
- Ideal for disabled customers as site is well managed
- Good facilities with toilet and shower blocks
- Would appear that an objector who says that they have lived here for 30 years was not aware of the run down appearance of the previous campsite

26 letters of objection have been received making the following comments:

- With regard to the Design & Access Statement (DAS), it says that this site is to compliment the area and accommodate visitors that visit nearby tourist areas and local amenities. Would disagree as visitors are already accommodated at Hughley without any visibility issues to mar the landscape. The additional trade that the applicant claims his site brings to local businesses is illusory as the only persons to benefit are the applicant as there are no public houses, shops or cafes nearer than Much Wenlock or Church Stretton and there are several caravan sites between these towns already.
- Object to the large number of caravans, grandiose entrance, multiple gateways, brightly coloured playground equipment, floodlights and flagpoles, large signs, intimidating CCTV that covers open space and use of white marker posts on Kenley Common which all look suburban and out of place in rural landscape. Would disagree with DAS that states that development has been sympathetically sited without detrimental effect on the surrounding landscape.
- The grass verge outside of the site is not within the control of the applicant so the white bollards that he has stuck in grass should be removed and the second access to the site should be re-instated as a farm gateway not used as a further business access to the site
- Caravans are stored on the site throughout the winter and are viewed as an expanse of white objects that are not screened from neighbours
- Caravans can be clearly seen from the surrounding higher ground all

year round

- Concerned that planning permission is granted for this site, then there would be further pressure to develop the adjoining field for more caravans in future
- Scheme is not sympathetic or without detriment to the green and unbroken landscape of Kenley Common which was distinctive for its natural beauty beforehand and by creating kerbs is causing hazards to road users
- Do not agree with the assertion that the desirability of the new development would make a positive contribution to the local character and distinctiveness. The local area is already adequately services in terms of tourism and places to stay which are hidden and undisruptive, so the siting of 15No caravans is not making a positive contribution to local character and distinctiveness; so suggest that the site is reduced back to 5No caravans as before which would not require such large areas of hardstanding and commercial development
- The applicant purchased the property in the full knowledge that this was a Caravan Certified site with a maximum of 5No caravans, so the applicant should not assume that planning permission for a larger site would be granted as he already operates a further business from the site already
- . With regard to the NPPF which seeks to support local rural tourism and leisure developments that benefit business in rural areas cannot agree that this means a caravan park that is visible and on the same level as the road with a large entrance and lighting that does not respect the character of the countryside and brings tourists in the area is compliant with “ appropriate locations where identified needs are not met by existing facilities” when there is a much larger site only 300m from the site that meets these needs and which is totally hidden from view and which meets the identified needs of the village.
- With the two well established caravan parks in the vicinity do not believe that there is any local economic benefit for this scheme
- Dispute the wording that states in DAS that the proposed layout has been purposefully been designed to fit in with the surrounding landscape and ensure that the touring caravans are unobtrusive in the countryside as the hedges have been reduced and there is a playground and telephone box and is clearly visible from the road and surrounding countryside
- Much of Ape Dale is in AONB, so a site with the flag poles, white bollards on the verges and lights visible at night already erodes the rural aspect and if the site is allowed to increase by 200%, it will affect the ethos of the area which is already under pressure from other types of development
- Consider that the design is a balance between two aims of the planning system with efficient economic development and protection of the landscape so consider that 5No caravans are an efficient

- economic development for this family site but 15 does not protect the county's landscape
- Disagree with comment that the scale of the site is smaller than other sites in the surrounding area and will continue to be small scale due to the minimal number of visitors using the site. Instead site should be smaller due to the openness of the site which does not have the advantages of following natural contours as elsewhere
 - Dispute the comment regarding Ecology which states that the site has been used for many years as a caravan site for at least 12 years prior to applicants arriving. There was a small caravan site on the land for 5No caravans only not 15
 - Concerned about the ecological damage caused by removal of hedges and digging up of established pastures to create additional hardstandings for caravans
 - Walnut Cottage is one of 8 listed buildings in parish so it unacceptable to legalise the desecration of this once lovely dwelling and its setting due to this entirely unsympathetic commercial development which has already been done without prior consent.
 - This is a change of use of the land not an agricultural diversification venture and this site has been developed without planning permission and is an ugly intrusion into the landscape and applicant is intent on completely overdeveloping the site and encouraging touring caravans as well as large motor homes onto narrow country lanes in an area already well served by well-screened discrete sites in the locality
 - The additional unauthorised vehicular access compromises highway safety as do the existing single track roads servicing the site which are not suitable for touring caravans which have already resulted in danger to local horse riders in the area due to the removal of an existing pull in area.
 - Highly visible from Wenlock Edge and from AONB and National Trust viewpoints
 - This is not a genuine application for a new development but a retrospective application for a caravan site which is already in use without planning permission and which is intended to act as a "Trojan Horse" to allow the incremental expansion of the site in a way that uses tactics to circumvent the planning process
 - Should be noted that the majority of the supporters of this case are not local and come from built up areas so they like to come to Kenley, but if such sites are allowed to grow in such rural areas in such volume, then this will no longer be attractive open countryside and people would object to the proliferation of caravan sites alongside roads as it would no longer be a peaceful retreat
 - Would suggest that the Planning Authority has a duty of care to protect the countryside from unsympathetic development and not allow its ruination to support the financial gain of one resident
 - Ground is poorly drained and there is a potential flood risk

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and use of site
Visual impact and landscaping
Assessment regarding the Change of Use of land
Impact on the setting of Listed Building
Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 **Core Strategy**

CS5 Countryside and Green Belt states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. It does however permit development proposals on appropriate sites which maintain and enhance countryside vitality and character where they improve the sustainability of the rural communities. Any application will therefore need to assess the characteristics of the site and the nature of any impacts to the local environment and amenities and consider whether any identified impacts are capable of being satisfactorily mitigated.

CS6 which deals with sustainable design and development principles states that development should conserve and enhance the built, natural and historic environment and be of an appropriate scale and design taking into account local character and context. It also needs to take into account the health and wellbeing of communities including safeguarding residential and local amenity and that development is designed to a high quality consistent with good practice standards including appropriate landscaping and taking account of site characteristics and ground contamination.

CS7 deals with Communications and Transport. Sustainable development requires the maintenance and improvement of integrated, accessible, attractive, safe and reliable communication and transport infrastructure and services.

CS13 Economic Development, Enterprise and Employment. This policy seeks to support enterprise and deliver sustainable economic growth and prosperous communities. The policy also seeks to ensure that the business investment recognises the economic benefits of the County's environment and quality of life as unique selling points which need to be valued, conserved and enhanced. There is a need to promote a sustainable pattern of development in line with the spatial strategy means that much of the economic development takes place in Shrewsbury and the Market towns, but in rural areas small scale economic

development and non-agricultural farm diversification schemes, green tourism and leisure are areas of economic activity for which policy provision needs to be made. This type of development needs to link in with Policy CS5 as proposals in the countryside should be consistent with their scale and impact with the character and quality of the location

CS16 deals with Tourism, Culture and Leisure. In order for the Council to deliver high quality sustainable tourism and cultural and leisure development they must enhance the vital role that these sectors play with regard to the local economy, benefiting local communities and visitors alike and need to be sensitive to the county's intrinsic natural and built environment. Emphasis will be placed on the development of high quality visitor accommodation in accessible locations served by a wide range of services and facilities which would enhance the role of Shropshire as a tourist destination to stay. In rural areas, proposals must be of an appropriate scale and character for their surroundings; be close to or within existing settlements..

In addition the rural and tranquil nature of the countryside is a key component of the County's attractiveness as a visitor destination and significantly adds to the quality of life for the residents. It is therefore vital that tourist facilities such as provision for touring caravans are compatible with their location so that the county's unique character and tranquillity are maintained. It is also recognised that some visitor accommodation development in rural areas can have positive economic benefit. In addition appropriate conditions restricting the accommodation to holiday use only will be employed to ensure that the touring caravans do not become owner occupied second homes which do not positively contribute to the production of sustainable communities and are economically much less significant.

CS17 which deals with Environmental Networks is also concerned with design in relation to the environment and places the context of a site at the forefront of consideration so that any development should protect and enhance the diversity, high quality and local character of Shropshire's built, natural and historic environment and it does not adversely affect the values and function of these assets.

CS18 Sustainable Water Management requires that developments will need to integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on the water quality and quantity including ground water resources and to provide opportunities to enhance biodiversity by ensuring that all developments include appropriate sustainable drainage systems (SUDS) to manage surface water so that all development should aim to achieve a reduction in the existing runoff rate, but must not result in any increase in runoff rate.

6.1.2 **Shropshire Site Allocations and Management of Development (SAMDev) Plan**

MD2 deals with Sustainable Development. This requires that for a development to be considered acceptable it must achieve local aspirations for design in terms of

visual appearance and how a place functions as set out in local community led plans and it must also contribute to and respect local distinctive or valued character and existing amenity value by a number of specific criteria such as responding to the form and layout of the existing development and the way it functions including building heights, lines, scale etc. It must also reflect local characteristic architectural design and details. There is also a requirement to consider the design of the landscaping which responds to the local character and context of the site.

MD7b General Management of Development in the Countryside. This requires that when considering development proposals there is a need to support rural vitality and the viability of the countryside as a dynamic functional environment and environmental and economic resource will be a significant consideration. Permitted schemes will have planning conditions attached to control the quality of development and to ensure that the scheme incorporates appropriate agreed mitigation measures to include landscaping and waste management.

MD11 deals with Tourism facilities and visitor accommodation. Tourism and leisure proposals that require a countryside location will be permitted where the proposal compliments the character and qualities of the sites immediate surroundings and meets the requirements set out in Policies CS5, CS16, MD7, MD12, MD13 and other relevant local and national guidelines. All proposals need to be well-screened and sited to mitigate the impact on the visual quality of the area through the use of natural on-site features, site layout and design and landscaping and planting schemes where appropriate. Proposals which are within and adjoining the Shropshire Hills Area of Outstanding Natural Beauty will need to pay particular regard to landscape impact and mitigation.

In addition further to the requirements of CS16, proposals for new and extended touring caravan and camping sites should have regard to cumulative impact of visitor accommodation on the natural and historic assets of the area, road network or over intensification of the site. The Council will continue to use restrictive conditions for visitor accommodation to ensure that the economic benefit from visitor accommodation is retained.

MD12 deals with the Natural Environment which in connection with other associated policies seeks through applying guidance, the conservation, enhancement and restoration of the county's natural assets which will be achieved by ensuring that the social and economic benefits of the development can be demonstrated to clearly outweigh the harm to the natural assets where proposals are likely to have an unavoidable significant adverse effect, directly or indirectly or cumulatively on any of the following: locally designated biodiversity sites; priority species and habitats; woodlands, trees and hedges and landscape character and local distinctiveness. In these circumstances a hierarchy of mitigation then compensation measures will be sought. There is also a need to encourage development which appropriately conserves, enhances, connects, restores or recreates natural assets particularly where this improves the extent or value of these assets are recognised as being in poor condition. Finally there is a need to

support proposals which contribute positively to special characteristics such as adjacent high priority biodiversity areas.

MD13 deals with the historic environment. This requires that all of the County's historic assets should be conserved, sympathetically enhanced and restored by considering their significance in terms of a heritage asset as well as ensuring that the social or economic benefits of the development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset or its setting taking into account the degree of harm. There is also a need to encourage development which delivers positive benefits as set out in the community led plans.

6.1.3 **National Planning Policy Framework 2012**

Paragraphs 7, 28, 29, 32, 56, 64, 66, 67, 73, 109, 112, 113, 115, 118, 123, 125, 128, 129, 130, 131, 132, 133, 134,

6.1.4 **Supplementary Planning Guidance**

Much Wenlock and surrounding area Place Plan 2015- 2016

Within the national planning guidance of the NPPF it states that there “are three dimensions to sustainable development; economic, social and environmental”. The planning system has to perform a number of roles, so that in terms of economy there is a need to build a strong responsive and complete economy to support growth and innovation and by identifying development requirements including infrastructure.

There is a need to consider the social role that a development brings which supports “strong, vibrant and healthy communities” by creating a high quality built environment with accessible local services that reflect the area's needs and support the cultural well-being.

Finally there is a need to contribute to by protecting and enhancing the natural, built and historic environment so that this would improve biodiversity, minimise waste and pollution and mitigate and adapt to climate change.

6.2 Siting, scale and use of site

6.2.1 The application which is retrospective is for the retention of 15No hardstandings to provide bases for 15No touring caravans and associated car parking areas, the retention of a children's play area, the retention of shower and toilet blocks, lighting fixtures, entrance gates, entrance walls and flag poles.

6.2.2 The applicant purchased the site including the Grade II listed dwelling of Walnut Cottage in 2012 and work started on the change of use of land on 20 December 2012. Prior to this time, the previous owner had used this field as a Certified

Caravan Park with the Caravan Club for up to 5No caravans. This use did not need planning permission. However the use of the land for 15No caravans does; as this is a material change of use of the land even though a Caravan Site Licence for 15No touring caravans had been granted by the Council's Public Protection Service in 2013. Works were completed on the caravan site on 20 April 2014.

6.2.3 When the case officer visited the site in March, there were over 10No touring caravans on the site sited on the hardstandings. A number of them were clearly not in use as they were closed up, but there were cars parked outside of two of the touring caravans suggesting that they were being occupied.

6.2.4 There was also a children's play area sited to the east of the site near the boundary of the former field. This was enclosed in low white plastic fencing. The various items of play equipment were constructed from brightly coloured plastic and appear to have been installed by the previous owner. The equipment includes a playhouse, slide, climbing frame and trampoline all positioned on a wood chip surface. In support of the scheme the agent states that the playground is constructed out of wood apart from the slide and swing seat. The applicant would be prepared to repaint the timber equipment if necessary, but the playground is not visible from most angles and with the proposed planting schedule will not be visible at all.

6.2.5 Beyond the caravans and to the south of the children's play area is the shower block and on the other side of a pathway is a toilet block. Both of these buildings are clad in dark materials. Shower block 1 has a flat roof and a floor area of 8.2m² and a roof height of 3.7m. It is clad in timber boarding. The WC and shower block 2 is also constructed of wood but has a pitched roof. It has a floor area of 6.2m², an eaves of 2.1m and a ridge of 3.7m high. The property has an existing septic tank in a field to the south of the site, but a new one is also proposed and plans have been submitted showing its location which it is outside of the red edging.

6.2.6 The Council's Sustainable Drainage Team have requested conditions be imposed in relation to the proposed new foul drainage prior to the new septic tank being installed. Also outside of the red edging is a detached outbuilding that was in situ prior to 1948. Planning permission was granted under SA/08/01544/F to convert this former agricultural building into a one bedroom holiday let. However it would appear that the permitted layout has been changed to convert it into a two bedroom holiday let instead. The Agent was asked to provide additional information on this issue and has confirmed that there is some confusion in the wording on the website. To clarify where it says that there are two beds, this means two beds not two bedrooms. So there is only one 1No bedroomed holiday let on site which can either have a double bed or twin beds in it.

6.2.7 Just to the north of the holiday let is the car parking area for the holiday makers who use hardstandings to park their caravans on but the site appeared to be insufficiently large to accommodate all the parking and turning of 15No vehicles. The agent has now submitted a further revised site plan received on 17.10.2016 that shows the individual pitch numbers and their associated car parking space.

So for spaces 1-5 that are set in a row at the rear of the site, they have a dedicated separate parking area near the driveway; whilst pitches 6 to 15 are towards the front of the site and all have individual spaces for their vehicles. The rest of the site will remain as grass. Each pitch has a power point and there is access to water.

6.2.8 A single lighting column was seen during the officer's site visit which is understood to be the sole form of lighting which is used by people during the night. The lights are set with a movement sensor on a 2 minute timer to minimise any disturbance. The column is 3.7m high and has a luminance of 4 x 30watt bulbs with a distance of light spanning a 7m radius

6.2.9 In addition to this, beyond the front gates there are 4No short lamp standards that light the way into the driveway but these would not appear to be operational. The agent has provided additional information in that the lights along the driveway are not currently connected to a source of power. However the intention is to have them on sensors and timers to guide clients through the entrance gates at night and they will only be on for a limited time of 2 minutes. It should also be noted that night time arrivals to the site are an infrequent occurrence.

6.2.10 During the original site visit in March, the site had 6No flag poles at the entrance of the site. These have now been reduced to two 4.2m high flagpoles only that display both the Union Jack and the Welsh flag.

6.2.11 Prior to the applicant purchasing the site the entrance into the property from the highway was via an existing domestic entrance that had a five bar gate. An established hedge with a semi-mature ash tree along the driveway formed the boundary treatment that restricted views into the site. It is clear that little remains of the hedging and ash tree at the entrance to the site as substantial changes have taken place to this entrance in the form of the building of two stone walls either side of pillars that now support a pair of large metal automatic entrance gates with the Flagpoles sited behind the stone walls.

6.2.12 Since the application was submitted and following a highway request to site the entrance gates further into the site by 15m, a revised drawing PMD-02 has been submitted on 22.08.2016. This would mean that the existing 4m wide entrance driveway would be changed to that of 7.3m wide to allow for the passage of 2- way traffic. The applicant has confirmed that the existing gates are already set back from the edge of the carriageway by 15m, so a set of new gates would be sited in the same position. This would then allow for vehicles to completely pull off the highway without affecting other road users or vehicles leaving the site. The new gates would be Inward opening electric gates. The left hand stone wall would be relocated further south. The right hand stone wall would be left in place, but extended back from the road by a further 2m. New hedge planting is proposed behind the southern boundary wall.

The applicant was asked to consider removing the stone walls from the site

- 6.2.13 altogether as the original boundary treatment here was post and rail fencing and hedging. In response to the request, the agent has stated that they have agreed to the requirements as specified for the entrance by the Highway Authority
- 6.2.14 The Highway Authority have raised no objection to the amended entrance details as the proposed plans would now fulfil their requirements provided that the proposed works are carried out within 3 months of the date of the approval of the scheme. In addition, the agent has stated that with regards to the landscaping at the entrance of the site, they wish to use the same style of gates and wall to be reinstated once the changes have been made to the entrance. The agent also states that this access is the applicant's vehicular access to their property and there is a high dependency adult living on the site in the care of the applicants. Therefore if a 5 bar timber gate is installed instead of replacement high metal gates, then this will not provide the security to stop the high dependency adult from leaving the site. In addition, the proposed 1.8m high gates will provide security for the caravan users and their children and are not of an uncommon design in the local area as many private residences have both walls and metal gates at the entrance of their properties.
- 6.2.15 The applicant has also confirmed that a hedge will be planted to the rear of the wall that backs onto the site. This is to ensure that the required visibility splays from the site to the highway would be kept free from vegetation. The hedge planting would also enhance the biodiversity of the site and could include a creeper such as ivy to blend into the hedge as well as covering the wall.
- 6.2.16 A further query was raised by the case officer following information given on the website regarding the site being used for camping accommodation as well. The agent has confirmed that camping site. The camping area has been incorporated into the caravan area, so should a client wish to camp, they would then occupy a vacant caravan pitch and put on the tent on the grass allocated section and the car on the hardcore where the touring caravan would be.
- 6.2.17 Furthermore in respect of the website which appears to indicate that there are 3No shower blocks, that is not the case; there are only two as shown on the submitted site plan. The agent also confirms that there is no second holiday let unit on the site.
- 6.3 Visual impact and landscaping
- 6.3.1 It was clear from the site visit in March that the site was very visible from the Kenley Road and moreover the caravans could be distinctly picked out in the landscape when viewed from Wenlock Edge right up to when the trees went into leaf. Unlike the Mill Farm Caravan Park which is sited in an enclosed valley, this site is on slightly sloping ground that rises up to the north so any caravans can be easily picked out from the higher land of Wenlock Edge.
- 6.3.2 Although the site is not within the Shropshire Hills Area of Outstanding Natural Beauty, there are two areas of the AONB either side of this site and views can be

made into this site from these locations.

6.3.3 The applicant was advised of the lack of suitable landscaping prior to the submission of this application and has confirmed that the hedge height between the Common and the site will now not be reduced in height as before, so that any caravans would not be so visible from the road. It is considered that a hedge height no lower than 3m high along the road side is necessary. In addition, it is now proposed to plant single specimen conifers between the hardstandings and the eastern edge of the site that would in time effectively block any views from the Edge.

6.3.4 However there are other visual impact considerations here too including whether or not the stone walls, pillars, gates and flagpoles are sufficiently sympathetic to the rural nature of the site given that this entrance has been significantly altered since 2011. Of particular concern are the two stone walls that vary between 900mm to 1200mm high and the high 1.8m high metal gates.

6.3.5 In addition when the case officer originally visited the site, there were 6 flagpoles and flags; three each side of the gates sited behind the stone walls. The applicant was advised that 6 flagpoles represented a cluttered appearance that was inappropriate in the open countryside. The flagpoles have since been reduced to two only either side of the entrance pillars.

6.3.6 It was also noticed that one of the objections related to the use of CCTV cameras being sited so as to scan over the site and also public land. Such a camera was in evidence during the original site visit in a position that would appear to scan public land over the common land. The agent has stated that the CCTV is installed to give views of the entrance gates to the applicant's property. The cameras are sited here for two reasons: there is a high dependency person living at the property and also for security as the site has been the subject of break-ins in the past.

6.3.7 The additional comments of the Parish Council are noted with respect of their new objection to the creation of a wider vehicular access for the site and the request for the planting of trees in front of the relocated stone wall for the wider access. In response to the latest objection, it is clear that the highway authority safety requirements need to ensure that two vehicles can pass each other between the edge of the carriageway and the gates. In order that this can be achieved, it will mean that there is a requirement for an increase in width of the access to 7.3m wide instead of 4m at present and in order to maintain the statutory visibility splays, nothing can be planted in front of the walls.

6.3.8 Concern was also raised by the officer, regarding the unauthorised creation of fencing and gates that were erected earlier in the year replacing an existing field gate and hedge further to the south of the site beyond the wide verge. This was proposed to be used for the entrance to the proposed new caravan site that was submitted under 16/00357/FUL for the change of use land to touring caravan park

to include provision of 14No hardstandings and new vehicular access. This application was withdrawn. The applicant has been advised that it would be unlikely that the Officers would support any further increase of pitches in this location due to the openness of the site. The applicant was asked to agree to re-instate the former agricultural gate and hedging that had been removed prior to the erection of the double gates and closeboarded fencing. The agent has confirmed that the agricultural gates will be reinstated.

6.3.9

It was noted that some of the objectors made reference to large signs being displayed in the area. The applicant was advised that if he wished to display any further signage in addition to the sign embedded in the existing walling then he would need to apply for Advertisement Consent. The agent has responded by stating that the sign that is currently displayed is now smaller than the original sign that was in place when the client's brought the property and it measures 600mm x 900mm.

6.4

6.4.1 **Assessment regarding the Change of Use of land**

Prior to the applicant's purchasing the site, the property comprised of a Grade II listed dwelling and an associated outbuilding (that was given permission in 2008 for conversion into a holiday let) and various other outbuildings scattered around the site as well as a small area of agricultural land in the form of a small holding and a Certified Caravan Licence to site up to 5No touring caravans on the property in the field in the front of the dwelling.

6.4.2

Since the applicants have purchased the site, there has been a material change of use of the field that is sited between the highway and Walnut Cottage in the form of a formal caravan park with hardstandings and associated development.

6.4.3

In support of the scheme, it was indicated that this change of use was actually a form of farm diversification, but this would not appear to be the case here as the applicant already operates a separate business in Groundworks with an operating base near Shrewsbury. There was no sign of any farm animals during the site visit in March, so this change of use is not considered to be farm diversification but a separate business use and this is supported by the previous planning permission to convert an outbuilding to a holiday let.

6.4.5

Paragraph 28 of the NPPF states that to support a prosperous rural economy a positive approach should be taken regarding new development, but this has to be considered against other parts of the NPPF too including the fundamental need to ensure that sites are well designed.

6.4.6

The closest similar business to this site is that of the Mill Farm Caravan site to the south of the site. This occupies a large 40 pitch site, but due to the topography of the land at Mill Farm, this site is very well screened from the surrounding countryside including Wenlock Edge. However, the applicant's site is different. Due to the openness of the site and flat topography, touring caravans are by their

very nature far more visible in the surrounding landscape and from Wenlock Edge.

- 6.4.7 The Council's supplementary Planning Guidance includes the Much Wenlock Place Plan 2015-2016 and the application site is situated in the village of Kenley which is con-joined with Church Preen and Hughley within the Plan and as being within the sphere of influence of Much Wenlock. The Plan identifies the town's importance as a tourism destination and seeks to improve facilities for tourists.
- 6.4.8 This proposal seeks to regularise an existing unauthorised touring caravan site by making improvements to the character and appearance of the site to minimise its impact on the surrounding landscape by way of additional planting. Should permission be granted, then this seasonal touring caravan use would encourage more visitors to support the rural economy in this area and also has the potential to add to local employment base here too.
- 6.4.9 Within the national planning guidance of the NPPF one of the three dimensions to sustainable development is the economy as well as considering social and environmental issues too. The planning system has to perform a number of roles, so that in terms of economy there is a need to build a strong responsive and complete economy to support growth and innovation and by identifying development requirements including infrastructure. There are many touring caravans in the County that reflect its role as a tourist destination. A further small-scale seasonal touring caravan site would be compliant with the Council's policies.
- 6.4.10 Notwithstanding this benefit it should be noted that the lack of suitable public transport in the area would mean that most journeys would be by private car and due to the limited facilities in the villages, journeys would be to Much Wenlock or Church Stretton towns, so the immediate rural local area would not directly benefit.
- 6.4.11 It was clear from the site visit in March that there were a number of caravans already sited on the hardstandings which did not appear to be in use; so they were being stored there. Due to the location of the site, outside caravan storage would be unacceptable here in visual impact terms. The applicant was advised that if permission were to be granted then this would be for touring caravans only. The agent has now stated in his response of 17.10.2016 that he can confirm that the site is used for seasonal touring caravan pitches only and there are no permanent caravans stored on the site belonging to clients. The only caravan that is stored on the premises is the applicant's own touring caravan for when they go on holiday. However the agent has not specified what 'seasonal' means in terms of times of opening. Locally, it is noted that a nearby touring caravan site at Lower Hill Camp Site opens from April to October, whilst Mill Farm Caravan Park at Hughley operates from March to January, but this includes static caravans too.
- 6.4.12 Moreover this benefit needs to be weighed up against the acknowledged environmental impact on the area of this previously unauthorised use of the land for touring caravans. The use of suitable landscaping and appropriate conditions to ensure that no further pitches are installed on the site without planning

permission will ensure that the Council retains control of this site in the future.

6.5 **Assessment of the heritage asset**

6.5.1 The Historic England description of the dwelling states that it was an original Squatter's cottage from the seventeenth century and was later extended in the eighteenth century and with much later additions and alterations

6.5.2 The core of the dwelling is timber framed with plaster and painted brick infill, now mainly re-built and extended in roughly coursed gritstone rubble, machine tile roof. A new wing was granted approval and constructed in 2013. There is also a traditional outbuilding that has been converted to holiday let use that is in close proximity to the dwelling. These two buildings form a group. The prominent new wing with its modern timber framing can be clearly seen on the north east facing elevation of the dwelling as this fronts directly onto the caravan site.

6.5.3 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, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF) published March 2012, the Planning Practice Guidance, and Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

6.5.4 In respect of the requirements set out under the NPPF, the applicant has submitted a Heritage Statement produced by 'Castlerring Archaeology' and they describe the significance of the heritage asset affected. There is a requirement that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by the proposal so as to consider the impact of the proposal on the heritage asset in order to avoid or minimise the conflict between the heritage asset's conservation and any part of the proposal. There is also a need to ensure that the retention of this touring caravan park would also preserve the character and appearance of the dwelling and its setting

6.5.5 There is a need to consider the impact of the current 15 No berth touring caravan site and its associated development including shower blocks, children's play area, areas of hardstanding etc. on the significance of the designated heritage asset and to ensure that great weight is given to the asset's conservation. The more important the asset, the greater the weight should be. 'Castlerring Archaeology' has concluded that given the accumulative alterations and extensions to Walnut Cottage and the evolution of the building within its setting, the caravan park has a neutral impact on the listed cottage and so would not harm the significance of the designated heritage asset.

6.5.6 The Officers, however consider that there is some degree of impact on this Grade II listed dwelling (even though it has been extended in the past) due to the fairly close proximity of the touring caravan site and its associated development which has resulted in the listed building being physically obscured by the touring

caravans and holiday let when viewed from the entrance driveway.

- 6.5.7 The comments of the Conservation Officer are noted in respect of requiring a high standard of facility at this site in order that it would not detract from the setting of the heritage asset. It is therefore considered necessary that any further development like additional external lighting etc. be strictly controlled. As for the existing structures, the existing amenity blocks are currently constructed from timber boarding and blend in fairly well with the dwelling and associated holiday let building and the surrounding landscape. It is acknowledged that the children's play area does have brightly coloured equipment but most of it is painted timber construction, but views to this are limited from outside the site.
- 6.5.8 Provision however needs to be made to deal with the touring caravan site were it to close, as the arrangement of hardstandings does have a material impact on the setting of the listed building. There is a need to ensure that the site is reinstated to agricultural land following any closure of the site to ensure that the setting and significance of the heritage asset would be protected in the long term.
- 6.5.9 In conclusion, the case officer takes the view that the retrospective change of use of the field in front of this designated heritage asset to a touring caravan site is considered to have resulted in less than substantial harm to the listed building as the pitches are sited in a field to the north of the dwelling; ensuring that the listed building retains its separate curtilage.

Other Matters

6.6 Ecology

- 6.6.1 There is no objection to the development provided that a condition regarding any further external lighting at the site such as the driveway bollard lights which are to be controlled by a timer.

6.6.2 Highways

- 6.6.2.1 In general, the principle of this proposed development is considered to be acceptable from a highway and transport perspective. However, the current and proposed access arrangements were considered to be inadequate for the scale of the development proposed. The access is currently of single vehicle width, and with the increase in visitor numbers there is the potential for increased two way traffic movements, at the entrance. The submitted proposals did not provide for this situation meaning that visiting vehicles would have to wait or reverse into the public highway, to make way for other traffic within the site.
- 6.6.2.2 It was recommended, that the access be widened for a suitable distance to accommodate two way vehicle movements, including better entrance radii to improve long vehicle turning movements. Also the gates should be located at least 15 metres away from the adjacent carriageway, to ensure that a towed caravan can be pulled fully clear of the highway, before opening the gates.

- 6.6.2.3 Since the application was submitted and following a highway request to site the entrance gates further into the site by 15m, a revised drawing PMD-02 has been submitted on 22.08.2016. This would allow for the existing 4m wide entrance gates to be replaced with a new set of metal gates 7.3m wide instead allowing for the passage of 2- way traffic off the highway without affecting other road users. The applicant has also confirmed that the existing gates are already set back from the edge of the carriageway by 15m, so the new gates would be sited in the same position. The new gates would be inward opening electric gates. There are currently existing stone walls sited either side of the existing gates that range from 900mm to 1200mm high with associated pillars. New hedge planting is shown as to be planted to the campsite side of the boundary wall.
- 6.6.2.4 It should be noted that the applicant was asked to remove the stone walls altogether as the original boundary treatment here was post and rail fencing and hedging. In response to the request, the agent has stated that they have agreed to the requirements as specified for the entrance by the Highway Authority and so the stone walling would be reinstated once the new driveway is enlarged.
- 6.6.2.5 The Highway Authority has reviewed the revised plans and has no objection, provided that the applicant undertakes the required works within 3 months of the date of the permission. In addition, the agent has stated that with regards to the landscaping at the entrance of the site, they wish to use the same style of gates and wall to be reinstated once the changes have been made to the entrance.
- 6.6.2.6 In support of the replacement gates the agent stated that this access is also the applicant's own vehicular access to their property too and that there is a high dependency adult also living on the site in the care of the applicants. Therefore if a replacement timber gate was to be installed instead of replacement high metal gates, then this will not provide the security to stop the high dependency adult from leaving the site. In addition, the proposed 1.8m high gates will provide security for the caravan users and their children and are not of an uncommon design in the local area as many private residences have both walls and metal gates at the entrance of their properties.
- 6.6.2.7 The applicant has also confirmed that a hedge will be planted to the rear of the wall that backs onto the site. This is to ensure that the required visibility splays from the site to the highway would be kept free from vegetation. The hedge planting would also enhance the biodiversity of the site and could include a creeper such as ivy to blend into the hedge as well as covering the wall.
- 6.6.2.8 A number of objectors made reference to the unauthorised bollards that had been inserted into the common land by the applicant. The agent has confirmed that bollards have now been removed from the front of the verge.
- 6.6.3 **Waste Management**
- 6.6.3.1 From the site visit undertaken in the Spring it was clear that there was some provision for waste collection and information is on site and the application form

indicates that both waste and recycling materials are collected. However the layout plan does not show the location of the waste site in the campsite and whether there are any turning facilities for refuse vehicles to turn in the site to pick up the waste.

- 6.6.3.2 In support of the scheme, the agent states that the location of the waste and recycling area has been marked on a plan and that currently waste is taken by the applicant to the skip weekly or more frequently if required. This is not considered to be altogether satisfactory as the applicant operates a commercial business, so this waste from the application site cannot be considered householder waste. Therefore should permission be granted a condition would be required for the submission of a Waste Management Plan.

6.6.4 **Site Manager**

- 6.6.4.1 It was brought to the case officer's attention that the applicant's employ a site manager who appeared to be living in one of the touring caravans on site during the summer. It was the view of the case officer that a whole-time residential site manager is unlikely to be necessary for such a small site; especially when the applicant also lives on the site in Walnut Cottage. Furthermore, such a use would appear to involve the creation of a second planning unit which would be unacceptable in this location.

- 6.6.4.2 The agent has confirmed that his client is partially disabled and therefore requires help to ensure the smooth running of the caravan park. The part time 'site manager' helps the applicant with jobs 2 to 3 days a week.

- 6.6.4.3 It is not felt that this response adequately deals with the issue as to whether one of the pitches should be being used for a site manager's caravan as such a job could also be done by local person. Therefore it felt that a suitable condition should be imposed to ensure that the use of the 15No pitches would be for seasonal holiday makers only, so as to prevent the creation of separate planning unit.

7.0 CONCLUSION

- 7.1 This application is for a retrospective development following the issuing of a site licence in 2013 by the Council. However no planning permission had been granted prior to this licence being issued for the 15No touring caravan site. Following a site investigation and ongoing negotiations with the applicant sufficient details have now been submitted in order that a full assessment of this scheme can be made.

- 7.2 As the site is just outside of the Shropshire Hills Area of Outstanding Natural Beauty, the principle of a seasonal 15No berth touring caravan site as shown on the submitted revised site plan (received 17.10.2016) can be considered acceptable, subject to a number of changes to the current situation. These include

the enlargement and alteration of the existing vehicular access off the highway so that it would be compliant with highway standards; the recent removal of four of the flagpoles leaving just 2No by the entrance walls; an appropriate landscaping scheme that would both enhance and eventually screen the touring caravans from long distance views from Wenlock Edge; the closure of the recently formed fencing and gates further to the south of the site and the reinstatement of the a new agricultural field gate and associated hedging to match the existing boundary hedges.

7.3 The proposal is also considered to result in less than substantial harm to the setting of the designated heritage asset of Walnut Cottage the Grade II listed dwelling and so would also preserve the character and appearance of this dwelling and its curtilage.

7.4 The proposal is considered to be compliant with the Core Strategy Policies, those of the Shropshire Sites Allocations and Management of Development (SAMDev) and the National Planning Policy Framework and subject to conditions on use of the touring caravan park including a restriction to prevent the siting of a caravan for a site manager on a permanent basis; development in accordance with the deposited plans; full details existing and proposed external lighting; the proposed new metal gates and new walling; a detailed landscaping and planting plan; a waste management plan and a re-instatement condition should the site close in the future, the scheme is considered to be acceptable.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework 2012
National Planning Practice Guidance 2014

Core Strategy

- CS5 Countryside and Green Belt
- CS6 Sustainable Design and Development Principles
- CS7 Communications and Transport
- CS13 Economic Development, Enterprise and Employment
- CS16 Tourism, Culture and Leisure
- CS17 Environmental Networks
- CS18 Sustainable Water Management

Shropshire Sites Allocation and Management of Development 2015

- MD2 Sustainable Design
- MD7a Managing Housing Development in the Countryside
- MD11 Tourism Facilities and Visitor Accommodation
- MD12 Natural Environment
- MD13 Historic Environment

Much Wenlock and surrounding area Place Plan 2015-2016

RELEVANT PLANNING HISTORY:

12/03350/FUL Erection of two demountable buildings for the maintenance and storage of agricultural plant and machinery; formation of hard-standing and access GRANT 27th November 2012

12/03432/FUL Erection of a two storey extension to side/rear elevation; internal alterations GRANT 16th September 2013

12/03433/LBC Alterations in association with erection of a two storey extension to side/rear elevation; internal alterations GRANT 16th September 2013

12/05232/DIS Discharge of Condition 3 (Replacement Roofing) attached to Listed Building Consent SA/08/1562/LB - Internal and external alterations in connection with conversion of outbuilding into one, 1 bedroomed holiday let unit affecting a Grade II Listed Building DISAPP 20th December 2012

14/00351/DIS Discharge of condition 3 (external materials), 4 (roof construction), 5 (roof windows) and 6 (joinery windows) relating to application 12/03432/FUL for the erection of a two storey extension to side/rear elevation; internal alterations. DISPAR 14th February 2014

14/00355/DIS Discharge of condition 3 (external materials), 4 (roof construction), 5 (roof windows) and 6 (joinery windows) relating to application 12/03433/LBC for the erection of a two storey extension to side/rear elevation; internal alterations. DISAPP 23rd July 2014

16/00357/FUL Change of use of land to touring caravan park to include provision of 14 hardstandings and creation of new vehicular access WDN 6th April 2016

16/01753/FUL Retention of two demountable buildings for a further temporary period and erection of a new agricultural building for the maintenance and storage of agricultural plant and machinery and formation of an area of handstanding (Amended Description) PCO

16/02140/FUL Application Documents can be viewed under the Shropshire Council Planning website.

SA/97/0820 Erection of extensions to provide kitchen and living room on ground floor and additional bedroom and en-suite at first floor together with internal and external alterations and repairs. PERCON 2nd October 1997

SA/97/0819 Erection of extensions to provide kitchen and living room on ground floor and additional bedroom and en-suite at first floor. PERCON 2nd October 1997

SA/96/0852 Erection of a 2 storey extension to provide kitchen and dining room on ground floor and bedroom on first floor after removal of existing store. PERCON 31st October 1996

SA/96/0853 Erection of a 2 storey extension to provide kitchen and dining room on ground floor and bedroom on first floor after removal of existing store. PERCON 31st October 1996

SA/08/0008 Conversion of building to Stock shed/Stable WDN 7th January 2008

SA/08/0007/F Conversion of existing agricultural outbuilding to stock shed/stable to include re-building parts of external stone walls and a replacement roof (part retrospective) (amended description) PERCON 5th March 2008

SA/07/0071 Refurbishment of derelict building to provide toilet facilities in association with use of land for the siting of 5 touring caravans WDN 6th March 2007

11. Additional Information

[View details online:](#)

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Claire Wild
Appendices APPENDIX 1 - Conditions

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

1. 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 WITHIN A TIME LIMIT OR WITHIN THE NEXT PLANTING SEASON

2. The access arrangements shown on the submitted Drawing No. PMD-02 shall incorporate surfacing in a bound material for the full width of the access between the gates and carriageway and shall be fully implemented within three months of the date of the planning permission.

Reason: In the interests of Highway Safety

3. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority to include written confirmation that the hedgerow along the roadside boundary would be retained at not less than 3m high throughout the year. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

4. Within three months of the date of the decision a Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The details contained in the approved Waste Management Plan shall be adhered to at all times.

Reason: The information is required as soon as possible to safeguard the amenities of the area.

5. Within three months of the date of this permission a scheme of the proposed surface water drainage shall have been submitted to, and approved by the Local Planning Authority. The approved schemes shall be completed before the development is occupied.

Reason: To ensure satisfactory surface water drainage of the site and to minimise flood risk elsewhere as a result of the development.

6. Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage field soakaways should be submitted for approval within three months of the date of

this decision notice to include the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the number of persons for the proposed development and the sizing of the septic tank and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

CONDITIONS THAT REQUIRE APPROVAL DURING CONSTRUCTION

7. Prior to the erection of any further 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 Trusts Bats and Lighting in the U.K. guidance.

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

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

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

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

9. There shall be no more than 15No touring caravans/motorhomes with the associated car parking spaces on the area outlined in red and indicated as 'application site' on the approved plan received 17.10.2016.

Reason: To prevent an over-intensification of use of the site adjacent to the Grade II listed designated heritage asset of Walnut Cottage and to control the number of pitches on the site in the interests of visual amenity.

10. When the land ceases to be used as a seasonal touring caravan site for 15No pitches as hereby permitted, all caravans, structures including the toilet/shower blocks, children's play area, the hardstandings associated with the touring caravan pitches, external lighting and any other development associated with the touring caravan site that has been brought onto the land in connection with the use shall be removed. Within 6 months of that time, the land shall be restored in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: Permission would not normally be granted for this development due to the impact on the setting and visual amenity of the designated heritage asset of Walnut Cottage a Grade II Listed Building.

11. No touring caravan/motorhome for a Site Manager in connection with the management of this touring caravan site hereby permitted shall remain on this site on an permanent all-year round basis.

Reason: The site lies in the open countryside in which the siting of a Manager's Caravan/Motorhome would not normally be permitted.

12. There shall be no long term, out of season storage of any caravans or motorhomes on the application site

Reason: The site lies in an area in which caravans/motorhomes would not normally be permitted except for occupation as holiday accommodation only.

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 2012 paragraph 187.

2. This planning permission does not purport to grant any consent under the Town and Country Planning (Control of Advertisement) Regulations 1992 for the advertisements shown on the deposited plans. A separate consent will be needed in this particular respect and this permission is granted without prejudice thereto.

3. This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway (footway or verge) or carry out any works within the publicly maintained highway, or highway including any a new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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

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

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 an 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. Widespread reptiles (slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from intentional killing and injury. Reasonable precautions should be taken during works to ensure that these species are not impacted.

If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) when the weather is warm. Any reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles or amphibians are present.

6. 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.

7. 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.

8. As part of the SuDS, the applicant should consider employing measures such as the following for the disposal of surface water drainage in a sustainable manner:

Water Butts

Rainwater harvesting system

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

Attenuation

Greywater recycling system

Green roofs

9. National Planning Policy Framework 2012

National Planning Practice Guidance 2014

Core Strategy

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS7 Communications and Transport

CS13 Economic Development, Enterprise and Employment

CS16 Tourism, Culture and Leisure

CS17 Environmental Networks

CS18 Sustainable Water Management

Shropshire Sites Allocation and Management of Development 2015

MD2 Sustainable Design

MD7a Managing Housing Development in the Countryside

- MD11 Tourism Facilities and Visitor Accommodation
- MD12 Natural Environment
- MD13 Historic Environment

Much Wenlock and surrounding area Place Plan 2015-2016

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Committee and date
 Central Planning Committee
 24 November 2016

Item
10
 Public

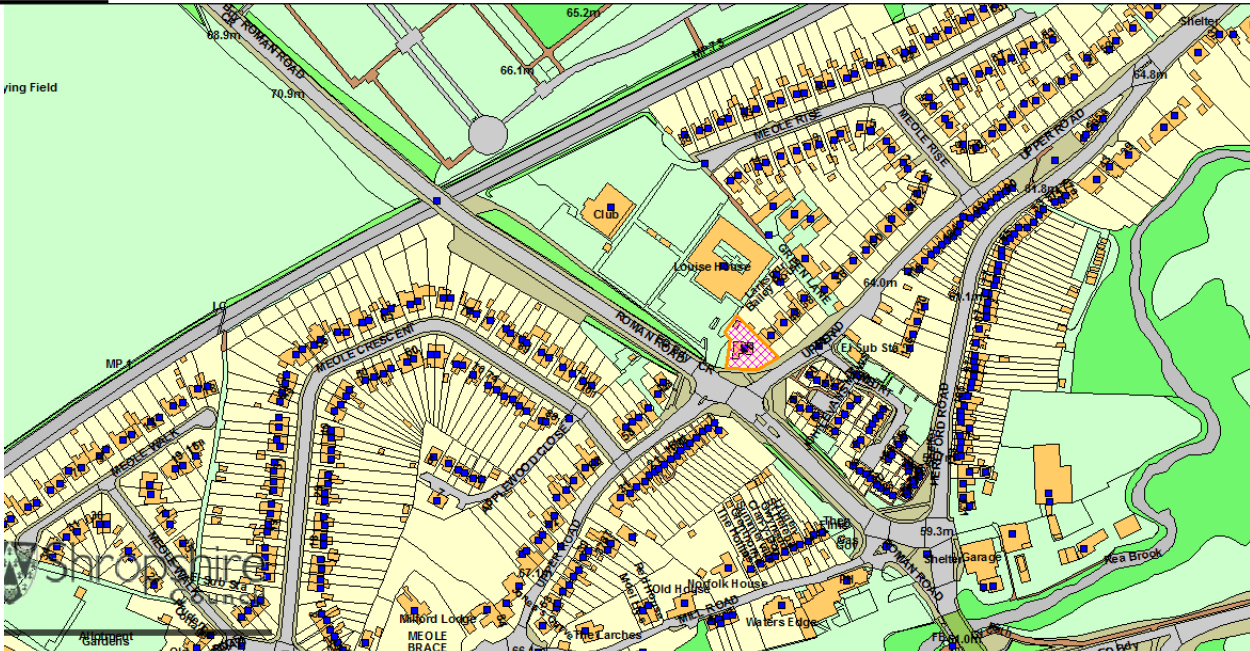
Development Management Report

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

Summary of Application

Application Number: 16/04061/FUL	Parish:	Shrewsbury Town Council
Proposal: Internal and External alterations		
Site Address: The Rowans 46 Upper Road Shrewsbury SY3 9JQ		
Applicant: Shropshire Council		
Case Officer: Cathryn Robinson	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348963 - 310941



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

Recommended Reason for Approval

REPORT

1.0	THE PROPOSAL
1.1	This application seeks permission for both internal and external alterations to the existing residential care facility. The internal works proposed are not considered to constitute 'development' which requires officer approval, thus the external alterations only are to be assessed. These include; the removal of an existing chimney breast and stack and the construction of ramps and paving.
2.0	SITE LOCATION/DESCRIPTION
2.1	The Rowans is a sizeable detached property occupying a corner plot positioned to the intersection of Roman Road and Upper Road; currently occupied as a residential care facility, the property is located within a generally residential context with the rear garden backing onto Council owned facility Louise House. The development site sits approximately North-East of the Meole Brace Conservation area.
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	This application is made by the Council; as per the adopted 'Scheme of Delegation' this type of application will be determined by the relevant planning committee.
4.0	Community Representations
4.1	- Consultee Comments
4.1.1	Shrewsbury Town Council The Town Council raises no objections to this application.
4.1.2	SUDs We have no comment from the drainage and flood risk perspective, regarding this proposal as there are no proposed changes to the footprint of the building.
4.2	- Public Comments
4.2.1	This application was advertised via notice at the site. Further seven neighbouring properties were individually notified by way of publicity. At the time of writing this report no representation had been received in response to this publicity.
5.0	THE MAIN ISSUES
	Principle of development Siting, scale and design of structure

	Impact on visual and neighbouring amenities
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Section 7 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.
6.1.2	Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance 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 function of these assets. MD13: The Historic Environment of the Site Allocations and Management of Development (SAMDev) plan further encourages development which delivers positive benefits to heritage assets.
6.2	Siting, scale and design of structure
6.2.1	The external works proposed consist of; the removal of the existing chimney stack and breast, the replacement of an existing ground floor with a door and the installation of a replacement bathroom window to the first floor. The replacement window, aside from being obscure glazed, shall mimic the existing in both materials and form. The proposed UPVC door to the South elevation also well integrates with the existing fenestration. Whilst, aesthetically, the loss of the chimney is somewhat regrettable it is not inappropriate. The proposed ramps and paving are also deemed appropriate.
6.3	Impact on visual and neighbouring amenities
6.3.1	Whilst not sited within the Meole Brace Conservation Area, the development site sits opposite this designation thus must be carefully considered in terms of visual impacts. The chimney stack, set for removal, is positioned to the North-West corner of the property; as afore-noted, whilst its removal is somewhat regrettable, its removal does not pose harm to the character of the neighbouring conservation area positioned to the South-West.
6.3.2	The introduction of an obscure glazed elevation to the first floor bathroom to the West elevation is considered an amenity improvement in terms of providing additional privacy from view of both motorists and pedestrians travelling South-East along Roman Road. Minor their nature, it is not considered that the remainder of the works proposed would pose adverse harm to the amenity of neighbouring residents.

7.0	CONCLUSION
7.1	The works are judged to be in scale and character with the original dwelling and its setting, and of no demonstrable harm in terms of neither visual nor residential amenities. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended.
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 six weeks 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 1990.
9.0	Financial Implications
	There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

National Planning Policy Framework

MD2 - Sustainable Design

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

PREAPP/10/02118 Installation of a window in a shower room. Approx 600mm wide x 1200mm high, to be obscure glazed with a top hung opening light. 11th August 2010
16/04061/FUL Internal and External alterations PDE

11. Additional Information

View details online:

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

Cllr M. Price

Local Member

Cllr Amy Liebich

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**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT****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 in order to secure an appropriate outcome as required by National Planning Policy Framework paragraph 187.

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

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

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

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Committee and date
 Central Planning Committee
 24 November 2016

Item
11
 Public

Development Management Report

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

Summary of Application

Application Number: 16/04085/FUL	Parish: Bicton
Proposal: Erection of part single, part two storey extension to include first floor balcony	
Site Address: Milns Bridge Shepherds Lane Shrewsbury Shropshire SY3 8BT	
Applicant: Mr & Mrs W Mohamad	
Case Officer: Cathryn Robinson	email: planningdmc@shropshire.gov.uk

Grid Ref: 345303 - 314167



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

Recommended Reason for Approval

REPORT

1.0	THE PROPOSAL
1.1	This application seeks permission for the erection of part single, part two storey extensions to the existing property including the addition of a first floor balcony.
2.0	SITE LOCATION/DESCRIPTION
2.1	Milns Bridge is a modest detached property, occupying a generous plot established within a ribbon of residential development which comprises part of the settlement of Bicton. The property, located to the Western peripheries of this residential cluster, backs onto open countryside. The property is accessed via a private track protruding from the C-classified highway Sheperds Lane, which North of the site joins the B4380 Holyhead Road which travels east into Shrewsbury.
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	The Parish Council have provided views contrary to the Officers recommendation. This application has been discussed with the Local Member whom agrees that the objection of the Parish Council is based on material considerations, and as such has requested a committee determination of the scheme. The Area Planning Manager considered the request in consultation with the Chair and Vice-Chair of Committee in accordance with the scheme of delegation, and it was agreed to refer the application to Committee.
4.0	Community Representations
4.1	- Consultee Comments
4.1.1	Bicton Parish Council Bicton Parish Council strongly objects to this application. These proposals are out of keeping with the locale and do not fit in with the natural or built landscape in any way. The proposed extension is too large and completely swamps the existing building, in effect making it a new build. The use of so much

	aluminium and glass would clash with the rest of the built environment and, in appearance, is industrial in a residential area. The whole proposal would be damaging to the historical landscape. To allow this proposal to be built would amount to urbanization.
4.2	- Public Comments
4.2.1	Four neighbouring properties were individually notified by way of publication of this application. At the time of writing this report, no representation had been received in response to this publicity.
5.0	THE MAIN ISSUES
	<p>Principle of development</p> <p>Siting, scale and design of structure</p> <p>Impact on visual amenity</p> <p>Impact on neighbouring amenity</p>
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Section 7 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.
6.1.2	It is acknowledged that the works proposed are substantial, and can neither be considered to be subservient to the original property nor conserving its character as is required by the aforementioned policies regarding appropriate additions to properties. However it is noted that the development site is located within the development boundaries delineating the Bicton and the Four Crosses area as a community cluster as referenced by SAMDev settlement policy S16.2(vi); here residential development is permitted, by way of infilling and conversion schemes, on suitable sites within the development boundary. As a plot directly affixed to the main nucleus of this settlement, which would be deemed a 'suitable site within the development boundary', officers are afforded some flexibility in their assessment of the proposed works due to the site being deemed acceptable for new residential development.

6.2	Siting, scale and design of structure
6.2.1	Proposed are both single and two storey extensions which shall transform this property to a modern family home. The comments of the parish are noted in regard to the extent of the works being tantamount to a new build; however for the policy reasons highlighted above this in itself is not a reason to consider the scheme as unacceptable. Similarly, regarding the parish concern for the inclusion of much modern building material; paragraph 55 of the National Planning Policy Framework seeks to encourage innovative design, particularly within rural context, which help to raise design standards and significantly enhance its immediate settings. Thus the prominence of aluminium and glass as construction materials isn't inappropriate in its own right.
6.2.2	The ridgeline as proposed shall sit at approximately 7.4m; this is an increase of approximately 0.6m in comparison to the existing, however it is noted that it remains below the tallest point of the existing property, the chimney, which stands at approximately 7.7m tall. Whilst not surpassing the upper confines of the existing dwelling, the majority of the proposed additions are observed above the main bulk of existing dwelling; this has obvious implications in terms of substantial alterations to the massing, bulk and silhouette of the existing property. When assessed as an extension to the existing property, the development proposed cannot be considered in scale as is desired by Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles. However, as previously noted, this plot benefits from policy support for new residential development; as such, provided the proposal is appropriate its design and scale as part of its surrounding context, the application may still be able to align with policy CS6 and be viewed favourably.
6.2.3	Proposed is a modern dwelling, constructed primarily of grey zinc metal sheeting. It is acknowledged that these are not the most traditional of domestic construction materials, and as noted by the parish council are not a common feature of the vernacular. However this material, combined with elements of the proposed property silhouette, is reminiscent of contemporary agricultural design; in considering that the property curtilage backs out onto agricultural fields, this is not considered inappropriate.
6.2.4	The additions proposed represent a substantial increase to the property's levels of accommodation; the dwelling as proposed provides an internal footprint approximately 64% larger than that currently observed by the main dwellinghouse and associated outbuildings. However it is noted that the property sits within an extremely generous curtilage, where such an increase shall observe as neither contrived nor inappropriate within its immediate context.
6.2.5	In its present format, the dwellinghouse and its associated linked garage/studio outbuilding appear somewhat un-cohesive; in this light the proposal is deemed an aesthetic improvement in providing a coherent property. Efforts have been made to reduce the bulk and massing, by establishing two lesser elements linked together to create the property as a whole. These elements have also been orientated by

	way of ensuring that no one elevation displays only roof-slope or gable end, which helps to break up any potentially bulky or overly linear silhouettes which may arise from the formation of a property of this scale. Additionally significant levels of fenestration are included within the scheme, which further works to lessen the prominence of the works.
6.3	Impact on visual and neighbouring amenities
6.3.1	Accessed via a private drive protruding from a classified C-highway, and backing onto open countryside, wider views of the property are to an extent somewhat limited. However, considering the extent of the changes proposed, potentially adverse visual impacts must be carefully considered. As viewed from the East, from the adjacent fields, the dwelling appears not dissimilar to a cluster of small agricultural buildings; whilst a contrast to the generally residential immediate context, and a relatively substantial visual alteration to the existing dwelling, the development sites' location adjacent to agricultural fields (the other side of which modern agricultural buildings are observed) provides a further context within which the innovative design can comfortably sit. As such, though posing a relatively substantial visual change, it is not considered that adverse impacts arise from this.
6.3.2	Despite representing a relatively significant increase in terms of its scale it is not considered that this enlargement shall substantially increase the activity levels at the property. Whilst providing the applicants the opportunity to expand their family, the property shall remain a single dwellinghouse thus the proposal shall not fundamentally alter the property function nor associated activity of occupants. As such it is unlikely that the proposal, in general, shall pose unacceptable levels of disturbance to neighbouring dwellings.
6.3.2	The proposal incorporates relatively substantial levels of fenestration, and the introduction of a first floor balcony. The bulk of fenestration is confined to the North-East elevation which overlooks the applicants' garden; in this direction approximately 35m of garden separates the dwelling from its curtilage boundary with a further approximately 7.7m separating the application site from the nearest building. It is noted also that these buildings are not in residential use, thus their occupants less susceptible to harm. The nearest residential neighbour, Merida, is located approximately 33m to the East; the orientation of the proposal sees that no fenestration directly faces this direction, thus mitigating harm in terms of potential overlooking. Similarly the balcony as proposed has been carefully located in this regard. As such, it is not considered that the proposal shall give rise to unacceptable impacts to the amenity of neighbouring residents.
7.0	CONCLUSION
7.1	Whilst not obviously in scale and character with the original dwelling, the development proposed is nevertheless considered to be acceptable in its scale within its plot and surroundings. Equally, whilst largely contrasting with the locality in terms of general design and construction materials, the NPPF states that innovative design must not be stifled. The design as proposed is judged to be

	acceptable in terms of its modern and bespoke approach and the proposal will not have any demonstrable harm in terms of either visual or residential amenities. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <p>② 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.</p> <p>② 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.</p> <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>

	This legislation has been taken into account in arriving at the above recommendation.
8.3	Equalities
	The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of ‘relevant considerations’ that need to be weighed in Planning Committee members’ minds under section 70(2) of the Town and Country Planning Act 1990.
9.0	Financial Implications
	There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and SAMDev Policies:

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

RELEVANT PLANNING HISTORY:

16/04085/FUL Erection of part single, part two storey extension to include first floor balcony
PDE

SA/77/0720 Erection of single storey extension to kitchen. PERCON 1st September 1977

16/04085/FUL Erection of part single, part two storey extension to include first floor balcony
PDE

11. Additional Information

[View details online:](#)

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

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 no's. 011, 012, 013, 014, 015, 016, and 020.

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**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

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

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

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 in order to secure an appropriate outcome as required by the National Planning Policy Framework paragraph 187.

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

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

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

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<u>Committee and date</u>
Central Planning Committee
24 November 2016

<u>Item</u>
12
Public

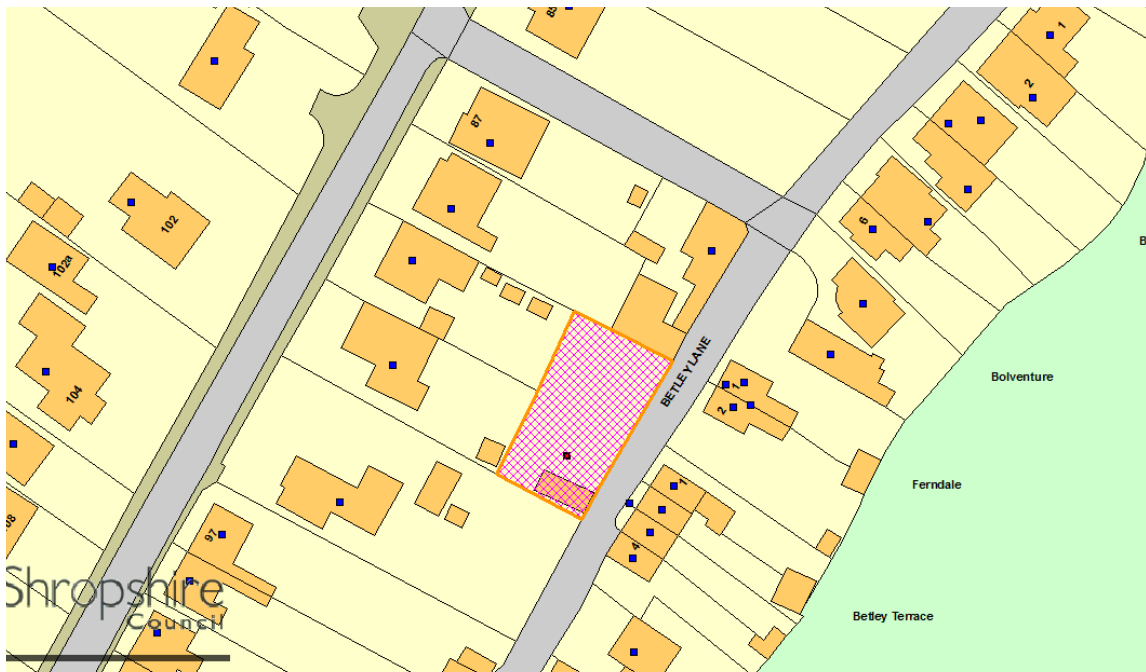
Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/04348/FUL	<u>Parish:</u>	Bayston Hill
<u>Proposal:</u> Erection of a detached bungalow following removal of existing dutch barn		
<u>Site Address:</u> Land West Of Betley Lane Bayston Hill Shrewsbury Shropshire		
<u>Applicant:</u> Ms Kathleen Gwilliam		
<u>Case Officer:</u> Mared Rees	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 348281 - 308267



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

1.0	THE PROPOSAL
1.1	This application seeks full planning permission for the construction of 1 no. dwelling and associated car parking.
1.2	Access would be direct via Betley Lane, which is unclassified and runs along the eastern boundary of the site.
2.0	SITE LOCATION/DESCRIPTION
2.1	The application site is located within Bayston Hill Settlement Boundary as identified on Policy Map S16 INSET 4.
2.2	The application site appears to currently be in use as a garden/allotment area. Site boundaries comprise hedgerows with some conifer trees along the south. An existing dilapidated building is currently located on the site.
2.3	Detached bungalows lie to the west of the site, terraced and semi-detached properties lie to the east, rear gardens of the properties along Lyth Hill road lie to the south whilst some storage buildings lie directly to the north.
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	The proposed development is considered to accord with the requirements of the Councils relevant adopted policies. The Parish Council have objected to the application and it has been agreed between Chair and Head of Development Management that the application is determined at Central Planning Committee, as set out under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.
4.0	COMMUNITY REPRESENTATIONS
4.1	- Consultee Comments
	SC Highway Authority – No objection. No objections are raised subject to conditions to secure adequate turning area for parking, set back of any entrance gates away from the boundary and the submission of a Construction Method Statement.
	SUDS – No objection.

	Conditions recommended to secure submission of a surface water drainage and disposal scheme.
	SC Ecology – No objection. Conditions recommended to secure provision of nesting and roosting boxes and submission of an external lighting plan.
	SC Affordable Housing – No comments received at the time of writing. Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, national policy prevails and an affordable housing contribution would not be sought in this instance.
	Parish Council – No comments received at the time of writing.
4.2	- Public Comments
	13 representations received. 12 no. objecting to the proposal and 1 no. neither objecting to or supporting the proposal. Concerns raised include:- <ul style="list-style-type: none"> • Highway safety implications in regards to vehicular and pedestrian movements. • Adverse impacts on services. • Increase in drainage problems. • Adverse impact on the character of the area. • Precedent would be set for applications of a similar nature along the lane. • Disturbance during construction period. • Adverse impacts on existing levels of residential amenity. Increase in noise.
5.0	THE MAIN ISSUES
	Principle of development Character and Appearance Residential Amenity Highway Safety Drainage Affordable Housing Ecology
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	The application site is situated within Bayston Hill Settlement Boundary as identified on Policy Map S16 INSET 4.
6.1.2	Bayston Hill is identified as a Community Hub where SAMDev Policies MD1 and

	MD3 support sustainable development in Community Hubs, having regard to other relevant policy considerations.
6.1.3	Core Strategy Policy CS4 states that communities will become more sustainable by ensuring that market housing development makes sufficient contribution to improving local sustainability through a suitable mix of housing that caters for local needs and delivers community benefits to meet identified requirements for facilities, services and infrastructure.
6.1.4	The proposal would provide 1 no. single storey 2 bed dwelling within the settlement boundary of Bayston Hill, which would help to contribute towards the mix of local housing in the locality.
6.1.5	The proposal would help to foster some economic growth both during the construction phase of development and throughout the associated supply chain, as well as making a contribution towards the Community Infrastructure Levy (CIL).
6.1.6	In locational terms, the proposal is within 150m of the nearest bus stops which provide direct services Monday to Saturday to Shrewsbury and Meole Brace Sainsburys.
6.1.7	Bayston Hill also has a number of facilities and services including public houses, churches, a primary school, dental practice, surgery and a public library.
6.1.8	The proposal would involve the demolition of an existing outbuilding on the site which is dilapidated in appearance and is considered would be an improvement to the existing situation.
6.1.9	The principle of development is considered to be acceptable subject to compliance with visual and residential amenity policies and other associated matters including highway, drainage and affordable housing.
6.2	Character and Appearance
6.2.1	Shropshire Council's SPD 'Type and Affordability of Housing' states that in considering proposals for building on domestic gardens:- <i>'the Council will give careful consideration to all relevant factors on a case by case basis.'</i>
6.2.2	The plot is considered to be a sufficient size to provide a single storey bungalow and associated amenity space, without appearing overly cramped or incongruous.
6.2.3	The proposal is not considered would appear overly discordant in its location in the context that there are existing single storey storage buildings located directly north of the site and which are also on the western part of Betley Lane.
6.2.4	A proposed bungalow is considered would be appropriate to the locality, in the context of its siting to the rear of existing bungalows which front onto Lyth Hill Road.

6.2.5	Traditional features such as a bay window and pitched roofs would help to ensure the dwelling is sympathetic to the existing locality. A condition to secure details of materials prior to commencement of development would further help to achieve this.
6.2.6	The overall scale of the dwelling is considered to be limited, having an approximate footprint of 72m ² and a maximum ridge height of 4.8m.
6.2.7	This, as well as the proposed use of gables and the properties set back from Betley Lane, is considered would help to reduce the overall massing of the building when viewed from various points along the street scene.
6.2.8	A condition securing a robust landscaping scheme is considered would help to further integrate the property with the surrounding area.
6.2.12	Having regard to the provisions set out within Core Strategy Policy CS6 and SAMDev Policy MD2, as well as Shropshire Council's SPD 'Type and Affordability of Housing', the proposal is not considered would result in such adverse impacts on existing and proposed levels of visual amenity, sufficient to warrant refusal of the application.
6.3	Residential Amenity
6.3.1	Spacing standards between the rear elevation of the properties at No's 91 and 93 and the west elevation of the proposed dwelling are considered to be appropriate.
6.3.2	The dwelling would be sited so that the vast majority of the building would front the open space between No's 1 and 2 adjacent.
6.3.3	The part of the proposal nearest to No 2 would measure approximately 15.6m to the front elevation.
6.3.4	There would be no principal windows facing the front elevation of No 2 and the dwellings proposed height would be single storey. In this regard, the proposal is not considered would result in any direct overlooking or overshadowing into principal rooms in the proposed dwelling or the existing property at No 2.
6.3.5	The part of the proposal nearest to No 1 would measure approximately 14.4m to the front elevation.
6.3.6	It is not considered that there would be any direct overlooking between existing and proposed principal windows.
6.3.7	The facing windows in the side elevation of the proposed dwelling, although serving principal rooms, are considered would be secondary in their nature, given their limited width and that the main principal windows would be located in the south elevation.

6.3.8	The single storey height of the proposed dwelling would not result in any overbearing impacts to No 1.
6.3.9	Further, given the windows on the south elevation are considered to be significant in their overall scale, it is not considered that the proximity between the property at No 1 and the side elevation of the proposed dwelling would result in adverse overbearing impacts to the proposed development.
6.3.10	Adequate private amenity space is considered could be achieved as part of the proposal.
6.3.11	Boundary treatments would be secured via condition and would assist in providing screening around the perimeter of the property, at ground floor level.
6.3.12	Having regard to the above, the proposal is not considered would raise such adverse impacts on existing and proposed levels of residential amenities, sufficient to warrant refusal of the application.
6.1.13	The proposal would comply with Core Strategy Policy CS6 and SAMDev Policy MD2.
6.4	Highway Safety
6.4.1	Access to the site would be direct off Betley Lane.
6.4.2	The submitted Block Plan has not demonstrated adequate turning area as proposed, therefore a condition would be attached to any grant of consent to ensure this is secured.
6.4.3	A condition is also recommended to secure an appropriate set back of any gate to the boundary of the site.
6.4.4	Highway Authority further recommend that in order to provide the required visibility, boundary treatments running along the carriageway should be maintained maintain no higher than 600mm. A condition to secure this is considered appropriate.
6.4.5	A Construction Method Statement which shall include a Traffic Management Plan would also be conditioned.
6.4.6	Highway Authority raise no objection subject to the above conditions.
6.4.7	The proposal would comply with Core Strategy Policy CS6 and SAMDev Policy MD2.
6.5	Drainage
6.5.1	SC Drainage raises no objection subject to conditions to secure a surface water

	drainage and disposal scheme.
6.6	Affordable Housing
6.6.1	The Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG in regards to affordable housing.
6.6.2	At the time of writing, affordable housing contributions are not sought for developments of less than 10 dwellings.
6.6.3	Therefore, national planning policy prevails in this instance and an affordable housing contribution would not be sought in for this application.
6.7	Ecology
6.7.1	SC Ecology raises no objection, subject to conditions to secure provision of artificial nesting and roosting boxes and an external lighting plan.
7.0	CONCLUSION
7.1	The principle of development for a new dwelling in this location is considered to be acceptable.
7.2	The proposal is considered would respect the form and layout of existing, surrounding development by virtue of the sufficient plot size, and overall design and layout of the dwelling. In this regard the proposal is considered would not result in adverse impacts on existing or proposed levels of visual amenities.
7.3	The proposal is not considered would adversely impact on existing or proposed levels of residential amenities.
7.4	Impacts in regards to highway safety implications, ecology, drainage and affordable housing are considered to be acceptable.
7.5	The proposal is considered would comply with the above mentioned policies contained within the Core Strategy and SAMDev as well as the provisions set out within the Shropshire SPD 'Type and Affordability of Housing' and the NPPF.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <p>☐ 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,</p>

	<p>hearing or inquiry.</p> <p>☐ 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.</p> <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
	<p>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.</p>
9.0	Financial Implications
	<p>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.</p>

10. Background

Relevant Planning Policies**Central Government Guidance:
NPPF****Core Strategy and Saved Policies:
CS4, CS6, CS9, CS11, CS17****SAMDev:
MD1, MD2, MD3, MD12, S16****RELEVANT PLANNING HISTORY:**

16/01108/FUL Erection of a detached bungalow with single detached garage to replace existing dutch barn WDN 27th April 2016

16/04348/FUL Erection of a detached bungalow following removal of existing dutch barn PDE

11. Additional Information

[View details online:](#)

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

Cllr Jon Tandy Cllr Ted Clarke

Cllr Jane Mackenzie

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 involving the use of any facing or roofing materials shall take place until details or samples of the materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless any variation is agreed with the Local Planning Authority.
Reason: To ensure that the external appearance of the building is acceptable and to safeguard existing levels of visual amenities.
4. Prior to commencement of development, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
Reason: To ensure appropriate landscaping of the site.
5. Prior to commencement of development, a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and thereafter retained for the lifetime of the development.
Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.
6. Prior to commencement of development, the existing building on the site shall be removed shall not be reinstated or rebuilt.
Reason: In the interest of safeguarding visual amenities.
7. No development shall take place until details for the parking and turning of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be

laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- 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 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 works
- a Traffic Management Plan

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

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

9. Prior to first occupation of the development, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed prior to first occupation of the dwelling hereby approved. The boundary treatment shall be carried out in accordance with the approved details and permanently retained unless otherwise first approved in writing by the Local Planning Authority.
Reason: To ensure adequate and appropriate treatment to all boundaries in the interests of the visual and residential amenities of the locality.
10. Prior to first occupation of the development hereby permitted, a suite of artificial nesting and/or roosting boxes shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.
The following artificial nesting/roosting boxes shall be provided:
1. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species.
 2. A total of 1 woodcrete artificial nesting cup suitable for swallows.
- Reason: To ensure the provision of roosting/nesting opportunities for wildlife in accordance with Section 11 of the National Planning Policy Framework.
11. Prior to the erection of any external lighting on 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 Trusts Bats and Lighting in the U.K. guidance.

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

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

12. The approved landscaping plan shall be completed in accordance with the following:-
 - a) All landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)
 - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

Reason: To ensure appropriate landscaping of the site.
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A, B, C and E of Part 1 Schedule 2 of the Order shall be carried out.

Reason: To enable the Local Planning Authority to control the development and to safeguard visual and residential amenities of the area in accordance with Shropshire Councils Supplementary Planning Document 'Type and Affordability of Housing' 2012.
14. The bathroom window in the side elevation of the development hereby approved (as shown on approved plan Dwg No 0:500 I) shall be obscure glazed and thereafter retained as such, for the lifetime of the development.

Reason: In the interest of safeguarding residential amenity.
15. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.
16. Any boundary treatment running along the roadside boundary to Betley Lane shall be no higher than 600mm.

Reason: In the interest of highway safety.

Informatives

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

All vegetation clearance, tree removal 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 within 5m of an active nest.

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

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.

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.

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

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

Residential Dwellings per hectare	Change allowance	% of impermeable area
Less than 25	10	
30	8	
35	6	
45	4	
More than 50	2	
Flats & apartments	0	

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

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

This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway (footway or verge) or
carry out any works within the publicly maintained highway, or
authorise the laying of private apparatus within the confines of the public
highway including any a new utility connection, or
undertaking the disturbance of ground or structures supporting or abutting
the publicly maintained highway

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

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

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



<u>Committee and date</u>
Central Planning Committee
24 November 2016

<u>Item</u>
13
Public

Development Management Report

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

LPA reference	15/02483/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr Alan Reynolds
Proposal	Application for outline planning permission with some matters reserved for the erection of a 3 bedroomed detached dwelling.
Location	Land Adj 1 Kingston Drive Shrewsbury
Date of application	08.06.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	25.11.2015
Date of appeal	18.04.2016
Appeal method	Written Representation
Date site visit	20.09.2016
Date of appeal decision	09.11.2016
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

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Appeal Decision

Site visit made on 20 September 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 09 November 2016

Appeal Ref: APP/L3245/W/16/3148650

Land adjacent to No 1 Kingston Drive, Shrewsbury, Shropshire SY2 6SB

- 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 Alan Reynolds against the decision of Shropshire Council.
 - The application Ref 15/02483/OUT, dated 4 June 2015, was refused by notice dated 25 November 2015.
 - The development proposed is 3 bedroom detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was submitted in outline. The original planning application form indicated that approval was also sought for appearance, layout and scale. However, it is clear from the Council's decision notice, report and statement of case and the appellant's appeal documentation that it is agreed that all detailed matters are reserved except for access. I have, therefore, considered the appeal on that basis and treated the submitted plans as illustrative.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the occupants of 237 Wenlock Road with particular regard to outlook, privacy and overshadowing.

Reasons

Character and appearance

4. The appeal site is a rectangular plot located to the rear of 239 Wenlock Road and adjacent to 1 Kingston Drive. It is a reasonably sized plot though not as large as many others in the area. Kingston Drive is a modern development characterised by two storey detached dwellings of generally uniform design with open frontages and gardens creating a sense of spaciousness. In contrast, Wenlock Road comprises more traditional two storey villas set back from the road but with enclosed front gardens and long rear gardens.
5. The development would front on to Kingston Drive and, therefore, be seen within the context of that more modern open development. The bushes and

greenery along the site's border with the road appear visually as a continuation of the trees and planting along the side boundary of the rear garden of No 239. This leafy border provides a pleasant introduction to Kingston Drive and contributes towards the verdant appearance of the area.

6. It is significant that the appeal site once formed part of the large garden of No 239, associating it more with the character of Wenlock Road. Notwithstanding that the now separate plot could physically accommodate a dwelling, a new house on a plot sandwiched between the rear of No 239 and No 1 would reduce the spacious and open character of Kingston Drive and the area.
7. It is also relevant that this appeal follows the refusal of various previous full planning applications for both two storey and single storey dwellings on the site. The Council has drawn my attention to two appeal decisions¹. In both, the Inspectors found that the proposals would appear cramped and somewhat shoehorned into the site and consequently cause harm to the open and spacious character of Kingston Drive. Though this appeal relates to an outline application, previous proposals have failed to avoid significant adverse effects which I give some weight. Nevertheless, I am considering this appeal on its own merits.
8. The illustrative plan, Ref 2015:002, indicates that the dwelling would be small and that is also confirmed in the appellant's statement. Therefore, though scale is a reserved matter, it is reasonable to conclude that a small dwelling is envisaged for the site. A small dwelling would be out of character with the larger dwellings along Kingston Drive and those along Wenlock Road. Therefore, whilst the site is located within an area where the Council accepts residential development in principle, the relative size of the plot and the nature and pattern of the surrounding built environment means that the proposal would be discordant.
9. Furthermore, though landscaping is a reserved matter, the illustrative plans submitted indicate that it is envisaged that the existing bushes and vegetation would be largely retained, save for the proposed access. Therefore, it would, as with previous proposals, continue to contrast with the open frontages of other properties along Kingston Drive.
10. Consequently, I conclude that the proposed development would harm the character and appearance of the area. It follows that it would conflict with the objectives of policies CS6 of the Shropshire Local Development Framework: Adopted Core Strategy² (Core Strategy) and MD2 of the of the Site Allocations and Management of Development (SAMDev) Plan³, which amongst other things aim to ensure that development takes account of the local character of an area.

Living Conditions

11. The appeal site backs on to the rear garden of 237 Wenlock Road. The appellant argues that it must be possible to produce a design that is acceptable bearing in mind the constraints of the site and that overlooking would be negligible when compared with any modern housing development.

¹ APP/L3245/A/10/2142644 & APP/L3245/A/11/2165249

² Adopted March 2011

³ Adopted 17/12/2015

12. Whilst I understand the appellant's frustration, the proposal for a new dwelling within an existing and fixed surrounding built environment can be more problematic in terms of ensuring that changing that environment does not result in harm. It is clear from the planning history that a number of attempts have already been made with a range of designs to produce acceptable proposals which do not unduly compromise the living conditions of occupants of adjoining properties.
13. Nevertheless, as appearance, layout, scale and landscaping are reserved matters it is not possible to carry out a detailed assessment of the effects of the proposal on outlook, overlooking or overshadowing. Therefore, I am unable to conclude that there would be significant harm to the living conditions of the occupiers of No 237.

Conclusion

14. Although there is insufficient detail to conclude that the proposal would harm the living conditions of the occupiers of No 237, the significant harm that I have identified to the character and appearance of the area is decisive. It leads me to conclude that, for the reasons given above and having regard to all other matters raised, the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

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