



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

Date: Wednesday, 8 March 2017

Committee:
Central Planning Committee

Date: Thursday, 16 March 2017
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 - 8)

To confirm the Minutes of the meeting of the Central Planning Committee held on 16th February 2017.

Contact Shelley Davies on 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 13th March 2017.

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 Foxholes Farm, Little Ness, Shrewsbury - 16/04594/EIA (Pages 9 - 42)

Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works; application under Section 73a of the Town and Country Planning Act 1990 (retrospective) for the revised siting of six poultry rearing buildings, office building and the revised routing of part of the access track (revised scheme)

6 Shropshire Sand and Gravel, Gonsal Quarry, Condover - 13/00336/EIA (Pages 43 - 92)

Phased extension to Gonsal Quarry and restoration for nature conservation benefits together with the retention of existing plant, silt lagoons and haul route

7 Schedule of Appeals and Appeal Decisions (Pages 93 - 114)

8 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, 13th April 2017 in the Shrewsbury Room, Shirehall.



Committee and Date

Central Planning Committee

16th March 2017

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 16 February 2017

2.00 - 5.45 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, Dean Carroll, Miles Kenny, Pamela Moseley, Kevin Pardy, David Roberts, Tim Barker (substitute for Peter Nutting) and Jon Tandy (substitute for Amy Liebich)

93 **Apologies for absence**

Apologies for absence were received from Councillors Tudor Bebb, Amy Liebich (Substitute: Jon Tandy) and Peter Nutting (Substitute: Tim Barker).

94 **Minutes**

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 22nd December be approved as a correct record and signed by the Chairman subject to the following amendment to the third paragraph of Minute 88:

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Alan Mosley addressed the Committee as the adjoining ward Councillor.

95 **Public Question Time**

There were no public questions or petitions received.

96 **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.

Councillor David Roberts declared that he had a predetermined view of planning applications 16/03786/VAR – Land at **Page 1** Road, Shrewsbury and 16/04201/VAR

– Greenhouse Meadow, Oteley Road, Shrewsbury and therefore would leave the meeting during consideration of these items.

97 Land West Of Lesley Owen Way, Shrewsbury - 16/00476/OUT

The Technical Specialist Planning Officer introduced the outline application for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on the surrounding area. The Technical Specialist Planning Officer drew Members' attention to the Schedule of Additional Letters which included a letter of support from the Shrewsbury & Newport Canals Trust.

Mr Stuart Holt, Local Resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In response to a comment from Councillor Kevin Pardy, local ward Councillor, the Technical Specialist Planning Officer stated that the representation from the Shrewsbury & Newport Canals Trust was not in support of the application as she had previously stated.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Kevin Pardy addressed the Committee as the local ward Councillor. During his statement, a number of points were raised including the following:

- The area, although privately owned, was valuable green space;
- The findings from a previous appeal that the piece of land gave a sense of countryside to an urban area were still valid;
- The development would affect bat habitats;
- Additional houses would put a strain on infrastructure such as school places and water supplies; and
- The loss of green space was not justified.

Mr David Parker, on behalf of the Applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Technical Specialist Planning Officer, in response to a number of issues raised by the speakers confirmed that a European Protected Species three tests matrix had been completed in relation to the application, there was no public right to access the site, the whole of the site was on flood zone 1, and noted that conditions had been included which would provide ecological enhancements to the site.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Some Members expressed the view that the proposal failed to protect the natural environment contrary to policy CS6 of the Core Strategy

and considered that more information was required regarding the impact on badger setts.

RESOLVED:

That Members are minded to refuse this application on the basis that the proposed development fails to protect, restore, conserve and enhance the natural environment contrary to policy CS6 of the Core Strategy. In accordance with paragraph 17.4 of the Local Protocol for Councillors and Officers dealing with Regulatory Matters the application stands deferred to a future meeting.

98 Sunderton Farm, Uffington, Shrewsbury - 16/04518/EIA

The Technical Specialist Planning Officer introduced the outline application for the erection of four poultry sheds, feed bins, solar photovoltaic panels and ancillary equipment, creation of access tracks to the site and alterations to existing vehicular access (Amended scheme). The Technical Specialist Planning Officer confirmed that European Protected Species three tests matrix had been completed in relation to the application and referred to the impact of the proposal on designated heritage assets as outlined at paragraph 6.5 of the report.

The Technical Specialist Planning Officer requested that if the Committee were minded to approve the application that delegated powers be granted to the Area Planning Manager to grant permission subject to there being no objections received following a 14 day re-consultation of dwellings on the access road affected by the revised scheme and the rewording Condition 4.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Claire Wild addressed the Committee on behalf of the local ward Councillor. During her statement, a number of points were raised including the following:

- The site was low lying and surrounded by woodland and an ideal location for a poultry unit;
- The Parish Council fully support the application; and
- There had only been one objection received in relation to the proposal.

Having considered the submitted plans and listened to the comments made by the speaker, Members unanimously expressed their support for the officer's recommendation.

RESOLVED:

That delegated powers be given to the Area Planning Manager to grant planning permission subject to:

- The Conditions as set out in Appendix 1 of the report;
- The rewording of condition 4; and
- There being no objections received following a 14 day re-consultation of dwellings on the access road affected by the revised scheme.

99 Stapleton Grange, Longden, Shrewsbury - 16/04891/FUL

The Area Planning Manager introduced the application for the retrospective siting of Solar Array Panels and confirmed that the Committee had undertaken a site visit that morning where Members were able to assess the impact of the development on neighbouring properties and the surrounding area.

Councillor Neil Evans, on behalf of Longden Parish Council spoke in objection to the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Roger Evans addressed the Committee as the local ward Councillor. During his statement, a number of points were raised including the following:

- The application was supposed to be a temporary solution for 2 years;
- There have been several applications for this site and the community wondered what the intentions for it were;
- There should be safeguards from unplanned development; and
- The barn where the solar panels should have re-located has now been demolished;

Mr Martin Parrish, on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

RESOLVED:

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

100 The Rowans, 46 Upper Road, Shrewsbury - 16/05264/FUL

The Area Planning Manager introduced the application for the change of use from Children's Care Home (C2) to 5 Bedroomed Care Home for Adults with learning Difficulties (C3(b)) 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.

Having considered the submitted plans for the proposal Members unanimously expressed their support for the officer's recommendation.

RESOLVED:

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

101 Proposed Dwelling On The East Side Of Primrose Drive, Shrewsbury - 16/05410/FUL

The Area Planning Manager introduced the application for the erection of single detached dwelling and garage; formation of vehicular access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Ted Clarke, as local ward Councillor left the table, took no part in the debate and did not vote on this item.

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

- The proposal was overdevelopment of the site and would result in a loss of privacy for neighbouring properties;
- The garden would be too small for a dwelling of this size; and
- The plot size of the second application was smaller but the footprint of the dwelling was larger and closer to Primrose Drive than the previous application that was refused by Officers.

In response to comments from Members, the Area Planning Manager explained that it was a balanced decision and that Officers considered that this application overcome the previous reason for refusal as detailed at paragraph 6.3 of the Officer's report.

Debate ensued with the majority of Members expressing the view that the proposal was overdevelopment of the site and was out of keeping with the surrounding neighbourhood.

Having considered the submitted plans for the proposal the majority of Members expressed their objection to the proposal contrary to the Officer's recommendation.

Councillor David Roberts left the meeting at this point.

RESOLVED:

That planning permission be refused contrary to the Officer's recommendation for the following reason:

Members considered the proposal to be overdevelopment of the site, noting that the scale and design of the proposed development would have an adverse impact on the local street scene being out of keeping with the surrounding neighbourhood. As such the proposal is contrary to Policy CS6 of the Shropshire Core Strategy and Policy MD2 of the Shropshire Site Allocations and Management of Development.

102 Land at Oteley Road, Shrewsbury - 16/03786/VAR106

The Principal Planning Officer introduced the application for the variation of the Section 106 Legal Obligation pursuant to SA/02/0278/F which had been deferred at the meeting held on 24th November 2016.

Councillor Jon Tandy left the meeting at this point.

Mr David Kilby, on behalf of the Shropshire Playing Field Association spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- He agreed with the previous speaker and felt that granting delegated powers to Officers to approve the application was inappropriate;
- He referred to the history in relation to the community pitch and the lack of effort to develop the area in line with the legal agreement; and
- He noted the lack of responsibility by Shrewsbury and Atcham Borough Council and Shropshire Council to enforce the legal agreement.

Mr Stuart Thomas, agent for the applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Having considered the submitted plans for the proposal, Members unanimously agreed to defer the application to allow Sport England the opportunity for further information about the replacement pitch and for Members to consider the terms of the Section 106 legal agreement.

RESOLVED:

That consideration of the application be deferred.

103 Greenhous Meadow, Oteley Road, Shrewsbury - 16/04201/VAR

The Principal Planning Officer introduced the application for the variation of Condition 2 attached to Ref: 14/00587/VAR dated 17/03/2016 to relocate the community football pitch which had been deferred at the meeting held on 24th November 2016.

Having considered the submitted plans for the proposal, Members unanimously agreed to defer the application to allow Sport England the opportunity for further information about the replacement pitch and for Members to consider the terms of the Section 106 legal agreement.

RESOLVED:

That consideration of the application be deferred.

104 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 16th February 2017 be noted.

105 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 16th March 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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<u>Committee and date</u>
Central Planning Committee
16 March 2017

<u>Item</u>
5
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> 16/04594/EIA	<u>Parish:</u>	Little Ness
<u>Proposal:</u> Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works; application under Section 73a of the Town and Country Planning Act 1990 (retrospective) for the revised siting of six poultry rearing buildings, office building and the revised routing of part of the access track (revised scheme)		
<u>Site Address:</u> Foxholes Farm Little Ness Shrewsbury Shropshire		
<u>Applicant:</u> Foxholes Farm Ltd		
<u>Case Officer:</u> Kelvin Hall	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 340808 - 320449



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Recommendation: That delegated authority is granted to the Planning Services Manager to grant planning permission subject to conditions as set out in Appendix 2, and any amendments considered necessary, and the completion of a variation to the existing Section 106 legal agreement to secure HGV routing controls

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application seeks permission for the erection of two additional poultry rearing buildings, one general purpose building and associated hardstanding and works following demolition of an existing livestock shed. It also seeks retrospective permission for the revised siting of existing buildings and access track at the site.
- 1.2 Proposed revised siting of existing buildings and road: During the consideration of this application Officers identified that the existing poultry sheds on the site had not been constructed in accordance with the approved plans. In particular:
- the three poultry buildings that were permitted in 2016 (ref. no. 14/02385/EIA) were constructed approximately 20 metres to the west of their approved location;
 - the office building was constructed approximately 10 metres from its approved location;
 - part of the access track has been constructed approximately 18 metres to the south-west of the approved location.
- 1.3 Revised plans have been submitted to seek to regularise this situation.
- 1.4 Proposed new buildings: The westernmost poultry building would be 100.8 metres long x 24.7 metres wide. The easternmost building would be 113 metres long x 24.7 metres wide. Both would be 2.5 metres to eaves and 4.8 metres to ridge. They would accommodate 100,000 birds in total. They would be of metal portal frame construction with side wall cladding. The finished floor levels would be the same as the adjacent buildings. The general purpose building would measure 42.7 metres long x 30 metres wide; 8 metres to eaves and 12.25 metres to ridge. Two new small control rooms would be constructed: one between the easternmost shed and the proposed new shed; and one at the northern elevation of the proposed westernmost shed. The existing hardstanding at the northern side of the site would be extended.
- 1.5 The existing surface water detention basin, located at the south of the site, would be extended to accommodate the additional run off. Some additional landscape planting would be undertaken to infill gaps along the farm track. In terms of proposed lighting, there would be 100w metal haylide lamp above the main doors of each poultry house. These would be utilised during catching at night. In addition there would be a pair of LED lamps equivalent to a 500w halogen at each end of the feed bin passage ways. These would be used to control room doors for the night checks. The proposed lights would face downwards and be protected by a metal cowl.
- 1.6 Management cycle: At the start of the cycle, fuel and food is delivered to the site and the poultry houses are pre-warmed. Bedding is spread in the sheds, and then the chicks are delivered from a hatchery. When the birds reach around five weeks old a proportion of the birds would be collected and transported to the abattoir. This would take place over two days during the day and night. One week later the remainder of the birds would be collected. At the end of the growing period the used litter would be removed and taken directly to the litter store adjoining the anaerobic digester. The buildings are then cleaned.

- 1.7 Environmental Impact Assessment: The proposed development is of a type listed in Schedule 1 of the Environmental Impact Regulations and as such the planning application is accompanied by an Environmental Statement which includes a number of detailed reports.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The application site is at the existing poultry development at Foxholes Farm, approximately 700 metres to the north of the village of Little Ness. The existing poultry development includes six poultry rearing buildings, an office and storage building, a general purpose building, surface water attenuation pond, and hardstanding. One of the proposed poultry buildings would be located in line with the existing buildings: one at the eastern end of the development; the other at the western end. The proposed general purpose building would be located at the south-western corner of the site, partly on the footprint of an existing agricultural building that is to be removed.
- 2.2 The nearest residential properties are those at Little Ness to the south, the closest being approximately 480 metres away. Other residential properties in the vicinity of the site include Milford House, approximately 510 metres to the east, and Greystones approximately 600 metres to the west.
- 2.3 Public footpaths in the vicinity of the site are:
- West-east direction, approximately 240 metres to the north;
 - North-south direction, approximately 20 metres to the west;
 - Southwest-northeast direction, approximately 330 metres to the southeast.
- 2.4 The Grade II* Listed Church of St Martin is located approximately 480 metres to the south-west of the application site.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

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

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

- 4.1.1 **Great Ness and Little Ness Parish Council** Objects. The Parish Council are not satisfied that the full extent of the additional traffic, including agricultural vehicles, is known. Until that information is provided the Parish Council will not support this application. The Parish Council are aware that there are already traffic problems on the Great Ness/Baschurch road as a consequence of developments in this Parish and Baschurch and the 24 hour operation of some farms. The passing points, provided under an earlier application, are proving inadequate for this increased size and quantity of traffic using the road at present. The Planning Officer may consider it timely to initiate a traffic survey of the Baschurch/Great Ness road. There has been considerable development in the area but no significant improvements to the road.

The Parish Council are also concerned over the cumulative effect of four, soon to become five, large chicken farms in close proximity to each other, on the public health and well-

being of residents of the parish. We are in correspondence with the Environmental Health department but, as yet, have not received the reassurances we seek. Until those reassurances are provided the Parish Council is not prepared to support this or any other applications to expand chicken farms in the parish.

4.1.2 Baschurch Parish Council (adjacent parish) Neither supports nor objects to the proposed development.

- not aware of any impact caused by HGVs from the existing development. As the proposed development will use the same travel arrangements, Baschurch Parish Council does not believe the new development will affect Baschurch Parish and does not object to the development on this basis
- the applicant is known to farm land within Baschurch Parish and there is farm traffic movement associated with this. As these movements do not form part of this planning application, Baschurch Parish Council have no comment to make on this. However, should this land become subject to a wider consideration of the planning application, Baschurch Parish Council would like to be reconsulted

4.1.3 Ruyton XI Towns Parish Council (adjacent parish) Objects.

A comprehensive transport plan has not been submitted by the applicant providing details of vehicle movements expected to arise from this expansion of the business. Vehicle movements should include agricultural vehicle movements. Such vehicle movements affect both Gt Ness and Little Ness Parish, its neighbouring parishes and can have adverse effects on their communities.

4.1.4 Environment Agency No objections.

Environmental Permitting Regulations: The proposed development will increase the number of birds on site by 100,000 birds. Foxholes Farm currently operates under an Environmental Permit, regulated by the Environment Agency under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement and Sanctions guidance.

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

Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative

Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off

Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance.

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

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

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

4.1.5 **Natural England** No objections.

Internationally and nationally designated sites: The application site is within or in close proximity to a number of internationally designated sites, and therefore has the potential to affect their interest features. International sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to elements of the Midlands Meres and Mosses Phase 1 Ramsar site and elements of the Midlands Meres and Mosses Phase 2 Ramsar site and also notified at a national level as Fenemere Site of Special Scientific Interest (SSSI) and Hencott Pool SSSI.

In considering the European site interest, Natural England advises that you, as a

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

International Sites - No objection: Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided, Natural England concurs with this view. This is because the Environment Agency has indicated that atmospheric deposition on the sites as a result of this proposal is likely to be lower than the thresholds which they consider to be significant.

Nationally designated sites – No objection: Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

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

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

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

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

Amended plans: The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

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

Planning Officer to include the Habitat Regulation Assessment screening matrix in their site report. Natural England must be formally consulted on Shropshire Council's Habitat Regulations Assessment and their comments taken into consideration prior to a planning decision being made.

Ecological Enhancement: A linear tree and shrub plantation covering 0.5ha on the south bund is already in place. The planting extends the full length of the proposed poultry extension. 45m of new hedgerow will be planted in a significant gap in the west hedgerow, replacing the loss of 65m of isolated hedgerow. The planting is shown on the Soft Landscape Proposed Plan drawing number 1475.03 dated 16/09/2016. This should be conditioned on a planning decision notice.

Great Crested Newts: Both the modern pools, close to the site (80 and 100m distance), were considered unsuitable for great crested newt by Churton Ecology. Informatives should be included.

Badgers: No active badger setts were recorded within 50m of the proposed development. The proposed informative should be on the decision notice. An informative should be added.

Bats: A mature tree just off site has bat roost features. The west hedgerow, in conjunction with the hedgerow along the south boundary of the extended poultry farm, is likely to be of local/site value for commuting and foraging bats. Increased artificial lighting on sensitive features may result in disturbance or deterioration of bat foraging and commuting habitats. Providing a condition requiring the prior approval of any external lighting is on the decision notice a negative impact on bats is unlikely.

Nesting Birds: Works (on hedgerow, scrub, trees or buildings) during the bird breeding season (between July 31st and March 1st) may damage or destroy the nest of a wild bird whilst in use, which would constitute an offence. An informative should be added.

Environmental Permit: The proposed application will result in capacity at Foxholes Farm increasing by 100,000 birds. The Environment Agency Permitting decision report has been based on an increase at the site from 390,000 to 450,000 bird places.

The Environment Agency has provided SC Ecology with the Ammonia Modelling Screening output. The screening assessment undertaken by the Environment Agency has considered any Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites within 10km; any Sites of Special Scientific Interest (SSSI) within 5km and also any National Nature Reserves (NNR), Local Nature Reserves (LNR), ancient woodlands and local wildlife sites (LWS) within 2km of the farm. The Environment Agency has confirmed that based on the information the applicant has provided detailed modelling is not required to be submitted with the applicants permitting application.

Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can

therefore use the Ammonia Screening Output (provided by Kevin Heede via email dated 17th November 2016) to complete the assessment of air pollution impacts for European Designated Sites within 10km, National Designated Sites within 5km, and Local Wildlife Site/Ancient Woodlands in 2km.

All sites screen out below the permitting threshold and therefore no further modelling is required to support this planning application.

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

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

Amended plans: No additional comments to make following amendments.

- 4.1.7 **Historic England** Has advised that it does not wish to comment in detail, but has provided the following general observations.

The proposed two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works are within the setting of the scheduled ancient monument of motte south east of St Martin's Church (National Heritage List for England UID 1013556) and the Grade II* Church of St Martin (National Heritage List for England UID 1055114). Although it is acknowledged that there will be a minimal impact on the significance of the assets due to development within their setting given the distance to the development and there siting within an already established poultry unit, we would recommend that to ensure any impact is minimised conditions are attached to any planning permission so that any current and proposed landscaping scheme is fully implement and maintained in the long term. The external finish and colour of the new buildings should also be agreed with the Council both to minimise the visual intrusion of the buildings into the setting of the heritage asset and to maintain a consistency throughout the development.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

- 4.1.8 **SC Conservation**

In considering this proposal, due regard to the following local and national policies, guidance and legislation is required in terms of historic environment matters: 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) and the Planning Practice Guidance.

This application proposes two new poultry and related hardstanding immediately adjacent to the existing row of poultry barns at Foxholes Farm, north of the settlement of Little Ness. Our Team has previously provided extensive input on the heritage assets in the wider landscape surrounding the subject site. With this current application, a Heritage Statement has been prepared by Indigo Planning, which is acknowledged. The Heritage Statement finds that the proposed development will affect the settings of both the Grade II* Church of Saint Martin and the Scheduled Castle to the south east of the Church, but concludes that the additional poultry sheds proposed will not cause harm to the setting of these heritage assets, and there will be no loss of significance to these heritage assets, and this conclusion is also acknowledged. A Landscape Plan has also been submitted with this application. We would note that as developments of this type also have the potential to have an adverse impact on landscape character, and while we would not provide specific comments on this aspect of the proposal, we would recommend that appropriate conditions are added to ensure all existing and any proposed additional landscaping is fully implemented and maintained in the long term. We would also recommend that the external finish and colour of the new buildings and the material and colour of the hardstanding is agreed in order to minimize impacts on the surrounding area, and is consistent throughout the development.

- 4.1.9 **SC Public Protection** Conditions in relation to night time movements have previously been placed on this poultry installation stating that no more than 11 one way movements shall take place between the hours of 02:00 - 07:00 hours. The current application states that there will be no additional night time movements and therefore I would recommend that this condition is placed on this latest application specifying that it is in relation to the cumulative movements from all eight sheds on site.

In addition please can the applicant state how many current night time movements occur. For clarification I am classifying night time hours as 23:00 - 07:00 hours. Once this information has been provided please contact me for further comment.

- 4.1.10 **SC Highways Development Control** No objections, subject to the development being carried out in accordance with the approved details and recommended conditions.

It is considered that the Transport Statement within the submitted EIA, supporting this proposed development, is sufficiently robust and adequately demonstrates the expected HGV impact of these additional poultry units on the adjacent public highway network.

Given the extensive highway mitigation previously undertaken to facilitate preceding developments on this site it is considered that the expected additional HGV movements associated with this specific development can be adequately accommodated within the existing network. It is recommended that conditions are imposed to require the submission and approval of a Construction Method Statement and to require the prior completion of parking, loading, unloading and turning of vehicles (see Appendix 1).

- 4.1.11 **SC Drainage** The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.

In the Flood Risk and Drainage under the Environmental Statement, it states that the

surface water drainage will discharge to new French drains along the new poultry units and general purpose building and outfall into the existing attenuation basin which will be upsized. However, no drainage details drawings have been submitted for approval. The drainage plan should include details on how the contaminated water in the yard from spillages or cleaning of sheds will be managed/ isolated from the main surface water system. Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

4.1.12 **SC Trees** No response received.

4.1.13 **SC Rights of Way**

The Definitive line of Public Footpath No UN4 runs along a track to the west of the existing farm buildings and poultry sheds and appears to provide access to the site.

From the plans provided it appears that the footpath will not be directly affected by the physical development of the 2 additional poultry sheds however the applicant should adhere to specific criteria to ensure the path remains open (to be provided in informatives).

4.2 **Public comments**

4.2.1 The application has been advertised by site notice and in the local press. In addition, 64 properties in the local area have been directly notified.

4.2.2 Three objections have been received from members of the public, as summarised below.

- vibration to house when lorries drive by
- obstructions on highway
- drivers exceed 25mph limit for vehicles with an unsprung rear axle
- disturbance by day and night traffic, every 7 – 12 minutes
- impact on Milford Bridge
- impact on roads, verges and hedges
- need a full and up-to-date assessment of the impact of the additional traffic created
- a new traffic survey is required; traffic survey undertaken in 2011 and has not been updated; has been significant increase in traffic with new house building and permissions for nearly 100 houses
- Shotatton crossroads should not be used as a route, as conflicts with other road users include route to schools, by patients visiting the surgery at Bachurch; by shop and post office customers
- Will be considerable increase in traffic when new houses are built
- Concern over Shropshire Council's highways officer comments: has only considered HGV traffic generated; should consider all traffic as well as increased from new house building
- Highways officer makes an inadequate assessment of the vehicular traffic that would be generated
- Highways team should also be taking into account the cost of maintaining the single track lane from Baschurch to Nesscliffe, including repairs to potholes, dropped verges, flooding and bridge repairs
- Highways report should include an assessment of the structural condition of the lane
- Additional Farm Traffic

- no reference to the increased farm traffic that will result from the extra muck from the two additional sheds which will need to be mixed in the proportion of one tonne of muck to 2.2 tonnes of maize and sugar beet brought in to be fed into the Anaerobic Digester, which has a capacity of nearly 10,000 tonnes per annum
These
- no map to show where the fields are or what routes would be taken to take the produce to the AD
- adverse impact on highways from additional traffic bringing material in to the AD plant
- damage to listed bridge and Milford
- Vulnerable Road Users.
- Impact on recreational users of local roads and lanes by walkers, dog walkers, joggers and runners, cyclists and horse riders
- Noise from large tractors and trailers passing by properties at extremely unsociable hours

5.0 THE MAIN ISSUES

- 5.1
- Environmental Impact Assessment
 - Planning policy context; principle of development
 - Siting, scale and design; impact upon landscape character
 - Historic environment considerations
 - Highways access and traffic considerations
 - Ecological considerations
 - Drainage and pollution considerations
 - Residential and local amenity considerations

6.0 OFFICER APPRAISAL

6.1 Environmental Impact Assessment

- 6.1.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. The proposed development would provide 100,000 bird places, and as such it is EIA development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.2 Planning policy context; principle of development

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

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

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

6.2.3 In terms of the economic and social dimensions to sustainable development, the application states that the proposed development would provide further diversification of the existing farm business to provide greater resilience against economic forces. The scheme comprises further investment in a rural business. The application states that the proposed development would increase the direct employment at the site from 2.5 to 4 full time equivalent employees. In addition there would be additional contract labour requirements at certain times during the crop cycle. Additional labour requirements include those at the processing plant and those required during construction.

6.2.4 In terms of the wider environmental dimension to sustainable development, the proposed development would integrate with the current activities on the farm, principally the existing poultry rearing development, the arable farming enterprise, and the adjacent anaerobic digester. The feed wheat grown at the farm would be fed to the chickens, and poultry litter would be used as a feedstock to be converted into heat and electricity by the anaerobic digester. Indirectly, the by-product of the anaerobic digestion process would be used as an organic fertiliser on the arable land.

6.2.5 The development of agricultural businesses is supported by national and local planning policies. The proposal would have social, economic and environmental benefits through local employment requirements and the further development of a rural business. In principle therefore it is considered that the provision of a poultry unit development in this location can be supported. However policies also recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.

6.3 Siting, scale and design; impact on landscape character

6.3.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape

character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. SAMDev Plan policy MD7b states that applications for agricultural development should be of a size/scale which is consistent with its required agricultural purpose, and where possible are sited so that it is functionally and physically closely related to existing farm buildings.

- 6.3.2 It should be noted that the poultry development has not been constructed in accordance with the approved plans. In particular the three poultry buildings that were permitted under permission ref. 14/02385/EIA have been positioned approximately 20 metres to the west of their approved position. In addition the approved route of the site access road runs along the eastern boundary of the easternmost poultry building. This has been constructed approximately 20 metres further east, such that there is a large space between the easternmost poultry building and the road.
- 6.3.3 The layout of the site that was permitted by 14/02385/EIA provided for a sizeable gap between the three then-existing poultry sheds and the three proposed sheds. The three new sheds were actually constructed without this gap. The result of this was that the six permitted sheds occupy a significantly smaller footprint than permitted. Although the proposal includes a new poultry building on the eastern side of the site with a width of 24.7 metres, it would extend the development eastwards by only 17 metres in relation to the approved layout.
- 6.3.4 Siting and design: The proposed poultry sheds would be sited adjacent to existing sheds, and would conform to the existing orientation of the poultry buildings. The proposed general storage building would be sited partly on the footprint of an existing building to be removed. The proposed buildings would be well related to the existing development, and it is considered that the siting is acceptable. The new poultry buildings would generally match those of the existing ones in terms of design and colour. The storage building would be agricultural in appearance and in keeping with this agricultural landscape.
- 6.3.5 Site location and context: The Environmental Statement includes a Landscape and Visual Impact Assessment (LVIA). This confirms that there are no landscape designations affecting the site and surrounding area.
- 6.3.6 Impact on landscape character: In terms of the existing baseline, the existing poultry development sits relatively low in the landscape. The LVIA suggests that the existing development is a well located agricultural development in an agricultural landscape. The LVIA states that in terms of landscape impact the height of a building is generally more significant than its floor area. The two poultry houses would be 4.8 metres high, and the general purpose building would be 12.25 metres high. Whilst the proposed development will have a relatively large footprint, the poultry houses would be relatively low compared with other types of modern farm buildings and they would always be seen in the context of the existing poultry farm. The LVIA considers that the development would have a low adverse effect on a landscape character. It considers that, cumulatively with the existing buildings, this effect would be medium adverse.

The proposed development would be seen in the context of the existing poultry buildings.

- 6.3.7 The undulating topography in the surrounding area would provide some screening of the development. Existing landscape planting in the area includes woodland planting along the southern side of the development and an existing retained hedgerow to the south. These would provide increasing levels of screening as they develop further. Officers consider that the addition of two further poultry buildings and a general storage building to this development can be accommodated within this landscape without having an unacceptable impact on the visual character of the area.
- 6.3.5 Visual effects: The LVIA has assessed the likely visual effects of the development, i.e. the impact upon visual receptors, from both public viewpoints and private views.
- 6.3.6 Views of the proposed development from the public highway to the south-east would be possible through breaks in hedgerows. Nevertheless, given the distance involved (500 metres or more) and the intervening vegetation it is not considered that these would be significant views. The buildings would be visible from the public footpath to the south-east of the site. These views would be at a distance of approximately 280 metres or more, and would be experienced in the context of the existing development. Such views would reduce in time as the tree planting to the south develops further. The proposed development, particularly the proposed general purpose building, would be visible from the public right of way to the west. This building would replace an existing agricultural storage building, and overall views therefore would not be dissimilar to existing.
- 6.3.7 There would be some visibility of the development from the Little Ness Churchyard, approximately 450 metres to the south-west. Such views would be limited by distance and by the developing landscaping. Further away, the upper parts of the general purpose building would be likely to be visible from the higher ground of The Cliffe, approximately 1.45km to the north-east. The development would be seen in the context of the existing site, and Officers consider that these views would not be significant in the overall landscape.
- 6.3.8 In general terms, Officers consider that views of the development from surrounding private and public viewpoints would be seen either at distance, through existing developing screen planting and/or against the backdrop of other buildings at the site. Overall it is not considered that the effects of the proposal on visual receptors would be significant.
- 6.4 **Historic environment considerations**
- 6.4.1 Core Strategy policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan policies MD2 and MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting.
- 6.4.2 The planning application is accompanied by a Heritage Statement which identifies heritage assets within the vicinity of the proposed development and assesses the impact of the proposal on these.
- 6.4.3 The Heritage Statement finds that the proposed development will affect the settings of

both the Grade II* Church of Saint Martin to the south, and the Scheduled Castle to the south east of the Church, but concludes that the additional poultry sheds proposed will not cause harm to the setting of these heritage assets, and there will be no loss of significance to these heritage assets. Neither Historic England nor the Council's Historic Conservation team have raised any concerns over these conclusions. As the woodland planting along the southern boundary of the site develops it will provide additional screening of the development from these heritage assets. A planning condition can be imposed to require that these landscape features are retained. Officers consider that the proposal is consistent with Development Plan and national policies for the protection of heritage assets.

6.5 **Traffic, access and rights of way considerations**

- 6.5.1 Core Strategy policy CS6 requires that all development is designed to be safe and accessible. Policy CS17 seeks to protect and enhance environmental networks, including public rights of way.
- 6.5.2 The planning application is accompanied by a Transport Statement which assesses the additional traffic that would be generated by the proposed expansion of the business. Highway improvements, comprising the construction of passing places and the widening of the carriageway, have previously been undertaken in support of a previous planning permission for poultry units at Foxholes Farm. Previous planning permissions for poultry buildings at the site have been granted subject to a Section 106 agreement to control the routing of HGVs to and from the site. If planning permission is resolved to be granted, this agreement would need to be varied to ensure that the routing agreement is relevant to the current proposal to extend the site. The routing agreement provides for a warning and barring system to drivers who do not comply with the routing restriction, and this would be incorporated within any revised agreement. The agreement also requires records to be made of all HGVs that visit the site, including vehicle registration numbers. This would assist with following up any future reports of breaches of the routing restriction.
- 6.5.3 In terms of traffic movements, the Transport Statement states that the proposed eight-house poultry operation would generate an additional 44 HGVs (88 movements) during each 48-day cycle. This would increase the total number of HGVs associated with each cycle to 145 (290 movements). This represents an increase in less than one additional HGV visiting the farm each day.
- 6.5.4 As with the existing operation, HGV traffic would be concentrated around certain activities during the bird cycle, specifically bird thinning and collection operations. The Transport Statement states that on 18 days of the 48-day crop cycle there would be no HGV movements to the site, and on 35 of the 48 days there would be three or less HGVs. For the eight shed operation as proposed, bird thinning would take place on days 35, 36 and 37. Final bird clearance would take place on days 42, 43 and 44. During these operations it is proposed that there would be no more than two HGV movements during the night-time hours of 02:00 – 07:00), and no more than four HGV movements at other times. A planning condition can be imposed to restrict vehicle movements during the night-time, and this is discussed further below.
- 6.5.5 Concerns have been raised by parish councils and local residents regarding the traffic assessment that has been submitted, and the adequacy of the existing passing places.

The Council's Highways Officer considers that the Transport Statement is sufficiently robust and adequately demonstrates the expected HGV impact of the proposed development. Given the limited additional traffic that would be generated by the proposal Officers do not consider that it would be reasonable or necessary to require additional mitigation or highway improvements to be undertaken. It is considered that the proposed development is acceptable in highway terms. The planning conditions recommended by the Highways Officer can be imposed on any planning permission.

6.6 **Ecological consideration**

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

6.6.2 Ammonia emissions: An initial Screening Assessment report in relation to ammonia emissions, which are generated through the breakdown of the poultry manure, has been provided by the Environment Agency. This has given due consideration to designated ecological sites in the wider area. The Agency has confirmed that this has identified that further detailed modelling is not required in relation to this matter. The required Habitat Regulation Assessment matrix is appended to this report.

6.6.3 Protected species: The planning application sets out the findings of an extended Phase 1 habitat survey carried out in 2016. The survey does not identify any significant ecological impacts. The proposal would result in the loss of an isolated hedgerow which is 65 metres long. A 45 metres long section of hedgerow would be planted within a gap in the hedgerow along the western side of the site. Although shorter in length, as it links with adjacent hedgerow to provide a linear corridor it is considered that this would provide satisfactory mitigation and ecological enhancement. The Council's Ecologist has not identified any significant issues in respect of the proposal, but has recommended that conditions are imposed to require the implementation of the landscape planting, the prior approval of any external lighting. These can be added to the decision notice if permission is granted (see Appendix 1). Officers conclude that the proposal would provide sufficient protection and enhance of the environmental network in line with Core Strategy policy CS17 and SAMDev Plan policies MD2 and MD12.

6.7 **Impact on water resources**

6.7.1 Core Strategy policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity. Policy CS6 requires that development safeguards natural resources, including soil and water.

6.7.2 The site is located within Flood Zone 1 which indicates that the risk of surface water flooding is low. It is proposed that surface water would fall to French drains alongside the new buildings and these would direct water to the existing attenuation basin to the south of the site. This basin would be enlarged to accommodate the additional flow.

6.7.3 Detailed designs of the surface water or dirty water management system have not been submitted, and a condition can be imposed to require that these are submitted for

approval as recommended by the Council's Drainage team.

6.8 Residential and local amenity considerations

- 6.8.1 Core Strategy policy CS5 requires that proposals for large scale new agricultural development demonstrate that there are no unacceptable adverse environmental impacts. Policy CS6 requires that developments safeguard residential and local amenity. SAMDev Plan policy MD7b states that planning applications for agricultural development will be permitted where it can be demonstrated that there would be no unacceptable impacts on existing residential amenity.
- 6.8.2 The poultry operation at Foxholes Farm already benefits from an Environmental Permit issued by the Environment Agency. This allows for an operation with up to 450,000 birds. The Agency has confirmed that issues such as odour and noise emissions would be addressed through the Permit. Should any issues arise which result in the operation not conforming to the Permit then the Agency has enforcement powers available to deal with these.
- 6.8.3 Odour and noise considerations: The potential impacts of the proposed development from odour and noise emissions have been scoped out of the Environmental Impact Assessment process, and therefore specific assessments relating to these matters have not been submitted. The closest residential properties are 480 metres away. It is considered that this is a sufficient buffer distance for a development of this type. No specific concerns over on-site noise or odour matters have been raised by the Council's Public Protection Officer. It is considered that the proposed development does not raise particular land-use planning issues regarding noise or odour, and that the Environmental Permitting regime will satisfactorily deal with any issues that may arise.
- 6.8.4 The proposal does have the potential to adversely affect residential amenity through disturbance caused by night-time HGV movements. The existing planning permission for the site includes conditions that restrict the number of HGV movements allowed during the night-time hours of 02:00 – 07:00 hours. A similar condition can be imposed in relation to any planning permission granted for the current proposal, to ensure that this applies to the eight-shed operation. It is considered that this is necessary in order to restrict the likelihood of disturbance to residents along the HGV route. The detailed wording of an appropriate planning condition is being discussed with the Council's Public Protection Officer, and Members will be advised of any updates on this matter in advance of the Committee meeting.

7.0 CONCLUSION

- 7.1 The proposed extension to the existing poultry rearing development at Foxholes Farm would provide two additional sheds of a similar design to the existing ones, and would be laid out to complement the existing development. The proposed general purpose building would be sited partly over the footprint of an existing agricultural building that is to be removed. The additional buildings would result in a development of a significant size, with eight poultry buildings in total. It is acknowledged however that the existing development occupies a smaller footprint than permitted as the development has not been constructed in accordance with the approved plans. Furthermore, the poultry buildings sit low in the landscape, and are relatively well screened from surrounding

viewpoints due to the topography of the area and existing developing woodland and existing hedgerow. Some additional planting works would be undertaken to provide additional landscape mitigation. It is considered that the proposed development can be satisfactorily accommodated within this landscape.

7.2 It is not considered that the additional traffic generated by the proposal would have a significant impact on the local road network. Existing restrictions relating to HGV routing and the frequency of night-time movements can be imposed on the proposed extended site. It is considered that the proposed development is located a satisfactory distance from residential receptors and heritage assets to avoid issues from adverse amenity and harm. Satisfactory mitigation is proposed for the loss of a hedgerow, and initial ammonia screening has found that there would be no significant issues in respect of designated ecological sites in the wider area. Existing infrastructure to avoid pollution and contamination would be adapted to accommodate the proposed extension. Detailed controls over matters such as noise and odour emissions would be regulated under the Environmental Permit that has been issued for the expanded operation.

7.3 The proposal would provide benefits in terms of employment and the further development of a rural business, and would link in with the adjacent anaerobic digester which utilises poultry manure from the site to produce electricity and heat. Overall, whilst acknowledging that the scale of the development would result in some adverse impact on the landscape character of the area it is considered that on balance the proposal can be supported in relation to Development Plan and national planning policies and that the granted of planning permission subject to conditions and a variation to the existing Section 106 agreement can be recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

Both of these risks need to be balanced against the risk of not proceeding to determine

the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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



Appendix 1 - Habitat Regulation Assessment (HRA) Screening Matrix

Application name and reference number:

16/04594/EIA
 Foxholes Farm
 Little Ness
 Shrewsbury
 Shropshire
 Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works.

Date of completion for the HRA screening matrix:

22rd November 2016

HRA screening matrix completed by:

Nicola Stone
 Planning Ecologist
 01743-252556

Table 1: Details of project or plan

<p>Name of plan or project</p>	<p>16/04594/EIA Foxholes Farm Little Ness Shrewsbury Shropshire Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hard-standing and works.</p>
<p>Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.</p>	<p>Midland Meres and Mosses (Ramsar phase 1) Fenemere Fenemere Midland Meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water. Fenemere is also important for its rich aquatic invertebrate fauna. It is included within the Ramsar Phase for its open water, swamp, fen, wet pasture and Carr habitats with the species <i>Cicuta virosa</i> and <i>Thelypteris palustris</i></p> <p>Midland Meres and Mosses (Ramsar phase 2) Hencott Pool Most of Hencott Pool Midland Meres and Mosses Ramsar Phase 2 (11.5ha) is swamp carr on very wet peat dominated by alder <i>Alnus glutinosa</i> and common sallow <i>Salix cinerea</i> with frequent crack willow <i>Salix fragilis</i>. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen plants. It is included in the Ramsar Phase for its Carr habitat and the species</p>

	Carex elongata and Cicuta virosa
Description of the plan or project	Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

The applicant has applied for a variation of their Environmental Permit by Environment Agency to allow for a total of 450,000 bird places (Application reference number EPR/MP3430WS/V002). During the permitting process the Environment Agency has carried out modelling of the emissions from the proposed poultry rearing buildings and assessed the impact that this could have on designated sites. The output of the Ammonia Modelling Screening has been provided to SC Ecology via email dated 17th November 2016 via Kevin Heede).

The relevant thresholds agreed by Environment Agency and Natural England are (when using the EA emissions model):

- emissions of ammonia under 4% of the critical level for a European Designated site (sites within 10km considered)
- emissions of ammonia under 20% of the critical level for a Site of Special Scientific Interest (sites within 5km considered)
- emissions of ammonia under 50% of the critical level for a County Wildlife site or Ancient Woodland (sites within 2km considered)

The Environment Agency has concluded that the applicant does not need to submit detailed modelling with their application.

The proposed development can be screened out of the Habitat Regulation Assessment since all potential emission effects are below the Environment Agency and Natural England agreed Thresholds, and no other effect pathways have been identified.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 61 of the Habitats Regulations in completing this Habitat Regulation Assessment.

The Significance test

There is no likely significant effect on European Designated Sites from planning application 16/04594/EIA.

The Integrity test

There is no likely effect on the integrity of the European Designated Sites from planning application 16/04594/EIA.

Conclusions

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

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

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

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

Habitat Regulation Assessment Out



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

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

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

Appendix 1 - Habitat Regulation Assessment (HRA) Screening Matrix

Application name and reference number:

16/04594/EIA
 Foxholes Farm
 Little Ness
 Shrewsbury
 Shropshire
 Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works.

Date of completion for the HRA screening matrix:

22rd November 2016

HRA screening matrix completed by:

Nicola Stone
 Planning Ecologist
 01743-252556

Table 1: Details of project or plan

<p>Name of plan or project</p>	<p>16/04594/EIA Foxholes Farm Little Ness Shrewsbury Shropshire Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hard-standing and works.</p>
<p>Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.</p>	<p>Midland Meres and Mosses (Ramsar phase 1) Fenemere Fenemere Midland Meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water. Fenemere is also important for its rich aquatic invertebrate fauna. It is included within the Ramsar Phase for its open water, swamp, fen, wet pasture and Carr habitats with the species <i>Cicuta virosa</i> and <i>Thelypteris palustris</i></p> <p>Midland Meres and Mosses (Ramsar phase 2) Hencott Pool Most of Hencott Pool Midland Meres and Mosses Ramsar Phase 2 (11.5ha) is swamp carr on very wet peat dominated by alder <i>Alnus glutinosa</i> and common sallow <i>Salix cinerea</i> with frequent crack willow <i>Salix fragilis</i>. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen</p>

	plants. It is included in the Ramsar Phase for its Carr habitat and the species <i>Carex elongata</i> and <i>Cicuta virosa</i>
Description of the plan or project	Erection of two additional poultry rearing buildings and one general purpose agricultural building, plus associated hardstanding and works.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

The applicant has applied for a variation of their Environmental Permit by Environment Agency to allow for a total of 450,000 bird places (Application reference number EPR/MP3430WS/V002). During the permitting process the Environment Agency has carried out modelling of the emissions from the proposed poultry rearing buildings and assessed the impact that this could have on designated sites. The output of the Ammonia Modelling Screening has been provided to SC Ecology via email dated 17th November 2016 via Kevin Heede).

The relevant thresholds agreed by Environment Agency and Natural England are (when using the EA emissions model):

- emissions of ammonia under 4% of the critical level for a European Designated site (sites within 10km considered)
- emissions of ammonia under 20% of the critical level for a Site of Special Scientific Interest (sites within 5km considered)
- emissions of ammonia under 50% of the critical level for a County Wildlife site or Ancient Woodland (sites within 2km considered)

The Environment Agency has concluded that the applicant does not need to submit detailed modelling with their application.

The proposed development can be screened out of the Habitat Regulation Assessment since all potential emission effects are below the Environment Agency and Natural England agreed Thresholds, and no other effect pathways have been identified.

Shropshire Council is relying on the evidence and reasoning of Environment Agency and Natural England under Regulation 61 of the Habitats Regulations in completing this Habitat Regulation Assessment.

The Significance test

There is no likely significant effect on European Designated Sites from planning application 16/04594/EIA.

The Integrity test

There is no likely effect on the integrity of the European Designated Sites from planning application 16/04594/EIA.

Conclusions

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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

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

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

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

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

Habitat Regulation Assessment Outcomes

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

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS13 - Economic Development, Enterprise and Employment
Economic Development, Enterprise and Employment
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD7B - General Management of Development in the Countryside
MD12 - Natural Environment

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

09/01778/FUL Erection of five poultry units and ancillary works including creation of new access and off-site highway improvements. REFUSE 27th May 2010

12/01419/EIA Erection of 3 poultry rearing sheds; 2 control rooms, 7 feed bins, office/store building, water tower, vehicular access, road improvement works (in Great Ness & Little Ness) earth bund and landscaping scheme GRANT 24th October 2012

12/01434/FUL Duplicate Entry - previously sent via Planning Portal NPW 2nd April 2012

12/04447/DIS Discharge of Conditions 3 to 14 and 16 of planning permission 12/01419/EIA DISAPP 21st December 2012

13/00881/AMP Re-alignment of feed bins and small increase in floor area by erection of general purpose store between sheds 1 and 2 GRANT 8th March 2013

13/00967/SCR Proposed new Anaerobic Digestion Plant EAN 13th March 2013

13/01316/MAW Erection of a 500kWe Anaerobic Digester (AD) plant for the purpose of farm diversification and for the production of renewable energy GRANT 4th July 2013

13/03098/AMP Non Material Application following grant of planning permission ref.

13/01316/MAW to relocate the transformer and CHP and reposition the infrastructure within the site. Erection of a 500kWe Anaerobic Digester (AD) plant for the purpose of farm diversification and for the production of renewable energy GRANT 9th September 2013

13/03753/DIS Discharge of Conditions 5 (Construction Management Plan), 11a (Odour Management Plan), 14 (Amenity Complaints Procedure), 16 (Specifications and Surface Treatment), 20a (Secondary Containment), 21a (Drainage Scheme), 22a (Lighting Scheme), 23 (Fire Protection Measures), 24a (Badgers) and 27a (Landscaping) attached to planning ref.

13/01316/MAW. Creation of a 500kwe anaerobic digester (ad) plant for the purpose of farm diversification and for the production of renewable energy DISAPP 14th October 2013

13/04456/AMP Proposed non-material amendment to previously approved planning permission reference 12/01419/EIA for the erection of 3 poultry rearing sheds; 2 control rooms, 7 feed bins, office/store building, water tower, vehicular access, road improvement works (in Great Ness & Little Ness) earth bund and landscaping scheme GRANT 16th November 2013

14/02385/EIA Erection of three poultry rearing buildings, eight feed bins and other ancillary buildings, landscaping including ground modelling and tree planting GRANT 18th July 2016

15/00771/MAW Construction of farm lagoon to store digestate with lined reception pit for safe out-loading; erection of a 1.8m security fence around the lagoon GRANT 9th June 2015

15/01035/MAW Variation of Condition No 3 (approved documents) attached to Permission

13/01316/MAW (erection of Anaerobic Digester (AD) plant) to allow for the removal of building and re-arrangement of two approved buildings (retrospective) GRANT 14th April 2015

15/02159/MAW Erection of extension to storage clamps for Anaerobic Digester (AD) Plant GRANT 31st January 2017

Act 1990 (retrospective) for the revised siting of six poultry rearing buildings, office building and the revised routing of part of the access track (revised scheme) PDE

Appeal

10/01833/REF Erection of five poultry units and ancillary works including creation of new access and off-site highway improvements. DISMIS 30th June 2011

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 David Roberts

Appendices APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

- o the parking of vehicles of site operatives and visitors
- o loading and unloading of plant and materials
- o storage of plant and materials used in constructing the development
- o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- o wheel washing facilities
- o measures to control the emission of dust and dirt during construction
- o a scheme for recycling/disposing of waste resulting from demolition and construction works
- o a traffic management and HGV routing 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

5. 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.

6. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

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

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

7. The external colour and finish of the poultry houses and general purpose building shall match that of the existing adjacent poultry houses.

Reason: To ensure the materials and appearance of the development are appropriate in the landscape.

8. The landscaping works as shown on drawing no. 1475.03 shall be completed within the first available planting season following the construction of the poultry sheds hereby permitted. Notwithstanding the details provided on the landscape drawing no. 1475.03, any trees or plants, that within a period of 10 years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with other species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the visual impact arising from the development is mitigated in accordance with the approved details.

9. Construction works shall not take place outside 07:30 to 18:00 hours Monday to Friday and 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of the area.

10. Bird removal from the site shall take place on no more than 48 days during the year and of those 48 days on only 44 may birds be removed from the site during the hours of 0200 and 0700. When transporting birds a maximum of two HGV movements per hour may occur between the hours of 0200 and 0700.

Reason: To protect the health and wellbeing of residents along the access route to the installation.

11. (a) The number of birds kept at the site (comprising the eight poultry rearing buildings) within the poultry rearing buildings shall not exceed 398,296 birds at any time.
(b) Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to local planning authority on request.

Reason: To avoid adverse impacts due to intensification 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 to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
2. No drainage to discharge to highway
Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
3. All pollution prevention guidance (PPGs) that was previously maintained by the Environment Agency has been withdrawn from use and can now be found on The National Archives (<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>) but may still be of assistance to inform the above. Pollution prevention guidance contained a mix of regulatory requirements and good practice advice. The Environment Agency does not provide 'good practice' guidance. Current guidance explains how to: report an environmental incident, get permission to discharge to surface or groundwater, manage business and commercial waste, store oil and any oil storage regulations, discharge sewage with no mains drainage, work on or near water and manage water on land.
4. GCN
Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

Badger

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

Wild birds

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

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

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

5. The applicant should adhere to the criteria stated below:

The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.

Building materials, debris, etc must not be stored or deposited on the right of way.

There must be no reduction of the width of the right of way.

The alignment of the right of way must not be altered.

The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.

No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation

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<u>Committee and date</u>
Central Planning Committee
16 March 2017

<u>Item</u>
6
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> 13/00336/EIA	<u>Parish:</u>	Condover
<u>Proposal:</u> Phased extension to Gonsal Quarry and restoration for nature conservation benefits together with the retention of existing plant, silt lagoons and haul route		
<u>Site Address:</u> Shropshire Sand and Gravel, Gonsal Quarry, Condover		
<u>Applicant:</u> Shropshire Sand And Gravel		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmc@shropshire.gov.uk	

Recommendation:- Grant Permission subject to the conditions and legal obligations set out in Appendix 1 subject to removal of the original requirement for provision of a permissive footpath in the restored quarry area.

REPORT

1.0 PURPOSE OF THE REPORT

1.1 This report seeks an amendment to a legal agreement recommended in connection with an application for a small southerly extension to Gonsal Quarry, Condover and submission of an updated restoration plan. The application was reported to the committee on 17th June 2013 when Members resolved to approve the application subject to a legal agreement and in accordance with the officer recommendation.

1.2 The legal agreement covers the following matters:

- 1) Extended aftercare for 10 years;
- 2) Convening a steering group to oversee habitat management;
- 3) A vehicle routing agreement to avoid approaching from or leaving in a southerly direction;
- 4) A highway maintenance payment of 9 pence per tonne.

2. AMENDMENT TO LEGAL AGREEMENT

- 2.1 At the committee meeting Members also heard from a representative of Condover Parish Council who requested that an additional clause was imposed on the legal agreement in order to deliver a circular permissive footpath route within the restored quarry site. This request was considered at the time to meet relevant legal tests and was accepted by the committee. An additional legal clause was added to cover this matter. Unfortunately however the applicant has not been able to reach agreement with the landowner. Hence it has not been possible to complete the agreement and issue the permission.
- 2.2 In order to progress matters the applicant has been in discussion with the Parish Council and an alternative scheme delivering equivalent benefits has been agreed with the Parish Council. This involves gifting an area of woodland to the immediate south of Condover to the Parish Council and payment of £10,000 towards a project to develop facilities at Condover Village Sports Ground.
- 2.3 These alternative voluntary provisions would not meet relevant legal tests. Accordingly, the developer and the Parish Council have been advised that this would need to be progressed separately from the planning legal agreement. Shropshire Council would not be a party to any such agreement. The developer has confirmed that these matters would be progressed separately.
- 2.4 The officer report to the July 2013 committee concludes that the other recommended legal clauses relating to habitat management and highway matters are appropriate and sufficient to deliver a sustainable development. The permissive footpath would have delivered social benefits enhancing the overall sustainability of the proposals but was not considered essential by officers to deliver a sustainable development. Officers would maintain this position.
- 2.5 Notwithstanding this, the developer has confirmed that the woodland transfer and sports ground payment would be progressed by means of a separate agreement with the Parish Council. The developer has a strong incentive to complete an agreement on this matter with the Parish Council in the context of the ongoing quarrying operations. In this respect it should be noted that a further extension to the quarry has been allocated in the SAMDev plan.
- 2.5 On this basis it is recommended that the requirement for provision of a permissive footpath in the restored quarry area as set out in the minutes of the committee meeting of 17th June 2013 is removed from the legal agreement.

3. CONSULTATIONS

- 3.1 Condover Parish Council has advised that at its meeting of 5th April 2016 the Council resolved without dissent to agree specifically a revised legal agreement to:
- a) Transfer of land ownership of the Condover Woodland Park site to the Parish Council. and
 - b) A donation of £10,000 towards development of Condover Village Sports Ground facilities (funds to be held by Condover Parish Council).

- 3.2 The chairman of the parish Council has confirmed in writing to the officer that this matter has been agreed with the developer and the developer has provided similar confirmation to the officer.
- 4.0 SOUNDNESS OF EXISTING COMMITTEE DECISION
- 4.1 Given the timescale which has elapsed since the original committee decision it is appropriate to review the decision to ensure that it remains sound. The following conclusions can be made:
- 4.2 Environmental considerations: There have been no significant changes to the local environment since the original committee resolution. The application site continues to encompass the existing area at Gonsal Quarry including plant site, lagoons, worked out areas and the small southerly building sand extension. The site continues to be unaffected by any statutory environmental designations. The restoration proposals were recognised as delivering significant environmental / habitat improvements and were supported by ecological consultees. This continues to be the case.
- 4.3 There have been no changes in terms of the highway context of the site. Future traffic movements would continue to observe an existing routing restriction in place at the quarry. The legal agreement would also deliver appropriate funding for maintenance works on the local highway at a rate of 9 pence per tonne. Highway officers did not object to the original application and nothing has changed to affect the highway context of the scheme. The proposals involve output of mineral at up to 40,000 tonnes per annum which is a significant reduction relative to historical levels.
- 4.4 The proposals would also continue to deliver visual improvement through greening up of the worked-out areas of the quarry, some areas of which are currently visible from the Lyth Hill. In environmental terms therefore it is considered that the proposals would continue to deliver significant environmental improvements and that the original committee decision remains robust.
- 4.5 Policy considerations: The minerals guidance in the NPPF remains the same as it was when the development was considered initially by the committee. Practice guidance accompanying the NPPF has been updated but the key principles of national guidance remain unaffected. The relevant Core Strategy Policies including policy CS20 (sustainable mineral working) remain current. The SAMDev plan was emerging at the time of the committee decision and has been adopted in the intervening period. The policies in this plan reinforce pre-existing policies and guidance. Hence, there has been no material change in the context of national or local policies relating to mineral working and the environment.
- 4.6 In terms of need for mineral the proposals involve a small southerly extension to an existing quarry site. Relevant policies continue to support extensions in favour of new 'green field' sites. The site has limited mineral reserves but will nonetheless make a useful contribution towards Shropshire's required production of sand and gravel. The reserves within the site have been incorporated as part of the County's sand and gravel 'landbank' since the original committee resolution. On this basis it is considered that the need for the quarry extension continues to be supported.

4.7 Overall it is concluded that the justification for the proposals can still be supported in environmental and policy terms. Hence, it is concluded that the original committee resolution to approve the application remains sound.

4. CONCLUSION

4.1 The application received an approval resolution from the committee in June 2013. However, issue of planning permission was delayed due to difficulties in completing an associated legal agreement. Discussions between the applicant and Condover Parish Council have since led to agreement on an alternative scheme of community benefits which allows the original requirement for a permissive footpath in the restored quarry to be removed. This agreement will be progressed separately by the developer and the Parish Council.

4.2 The officer has reviewed the original approval resolution and considers that this remains sound. Implementation of the permission has the potential to deliver significant environmental and habitat enhancements relative to the current situation. It is recommended that the original committee resolution to approve the application is reaffirmed subject to the recommended legal agreement, but with removal of the clause requiring provision of the permissive footpath.

5. ADDITIONAL INFORMATION

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MHCNLXTDF0000>

List of Background Papers: Planning application reference 13/00336/EIA and the related Environmental Impact Assessment, plans and supplementary reports as listed in Appendix 1 of Annex 1 attached.
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Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member Cllr. T.Barker

Appendices: APPENDIX 1 of ANNEX 1 - Legal obligation heads of terms and recommended conditions
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ANNEX 1

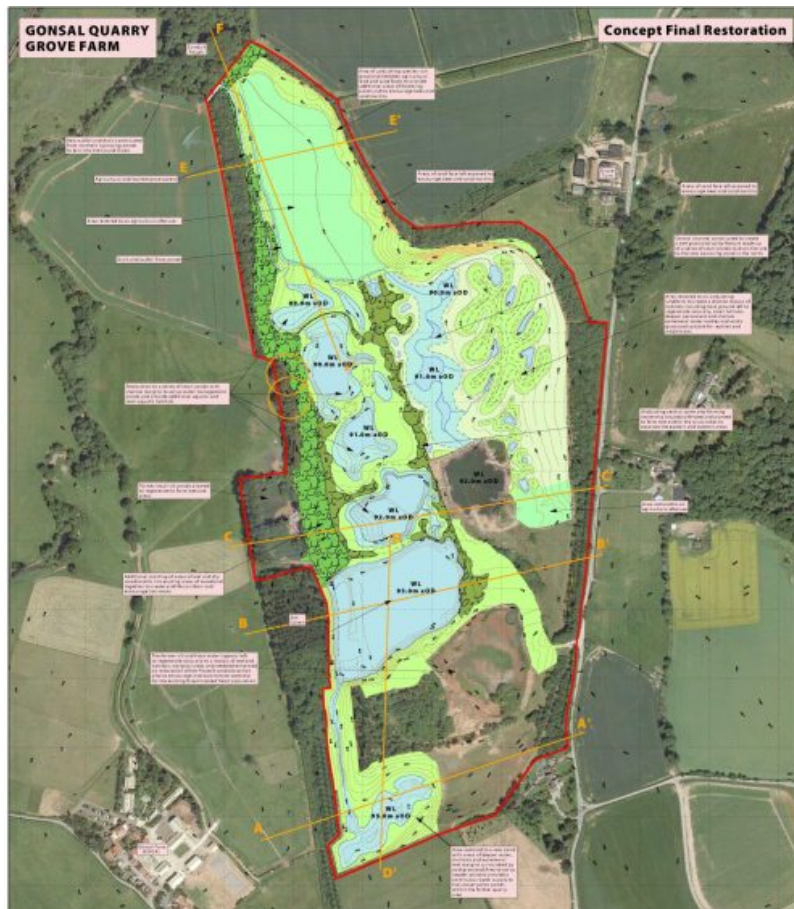


Officer Appraisal Report

Summary of Application

<u>Application Number:</u> 13/00336/EIA	<u>Parish:</u>	Condover
<u>Proposal:</u> Phased extension to Gonsal Quarry and restoration for nature conservation benefits together with the retention of existing plant, silt lagoons and haul route		
<u>Site Address:</u> Shropshire Sand and Gravel, Gonsal Quarry, Condover		
<u>Applicant:</u> Shropshire Sand And Gravel		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmc@shropshire.gov.uk	

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



Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. This is in accordance with the advice of the Governments Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. The applicant sought and was provided with pre-application advice by the authority. Further information was subsequently provided by the applicant in response to the planning consultation process in relation to ecology, hydrology and public access. The submitted scheme, as supplemented by the further information, has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended planning conditions and legal obligation.

REPORT

1.0 THE PROPOSAL

1.1 The applicant Shropshire Sand & Gravel is proposing 1) an amendment to the approved restoration scheme for the existing quarry site to produce a mix of nature conservation wildlife habitats and 2) a small southerly extension to produce building sand for removal at a reduced rate under strict highway controls.

1.2 Amended restoration: The approved restoration scheme for Gonsal Quarry was designed in the mid 1990's and will create deep water bodies in the western part of the Site and low lying agricultural land in the east of the Site. The restoration scheme offers limited opportunities for bio-diversity enhancement and is therefore out of line with current Government Policy. Ecological surveys have confirmed the presence of a significant population of Great Crested Newts, a European protected species, in the worked out quarry areas. To implement the approved restoration scheme without revision would directly affect the habitat of the European species and would breach European and UK Law. Therefore, the Applicant has been liaising with ecological stakeholders to prepare a revised restoration 'masterplan' which maintains and enhances the ecological benefits of the Site. This includes a wider expanse of shallow water features and the retention of unworked areas of woodland within the existing consented area in the north west of the existing Quarry. Restoration works at the existing Quarry have been halted pending the outcome of this Planning Application.

1.3 Quarrying proposals: In general, concreting sand occurs in the northern part of Gonsal Quarry with plastering and building sand located in the southern part of the Quarry. In order to ensure the effective supply of a variety of building products to the local construction industry, it is proposed to work the remaining concreting sand reserves at Gonsal Quarry, comprising the margins of the existing access road (Phase A) and beneath the existing plant area (Phase C), in tandem with the building sand reserves in the extension area (Phase B). The proposals would involve the extraction of approximately 250,000 tonnes of additional sand, resources including 150,000 tonnes of extant reserves. Extraction and restoration within the existing Gonsal Quarry and proposed extension area would be undertaken in a phased manner over approximately 8-10 years with an extraction rate of approximately 50,000 tonnes per annum or 1000 tonnes per week. Historically, sand and gravel production levels from the Site have been

approximately 150-200,000 tonnes per annum. Twelve full time jobs would be retained, together with a variety of sub-consultants i.e. hauliers, etc.

- 1.4 **Plant Area:** The proposals seek to relocate the existing sand processing facility, storage areas and building sand bagging area into a new processing and stocking area on the lower quarry floor to the east of the existing plant area. The existing sand processing plant will be dismantled and replaced with a mobile Linatex sand plant. The existing concreting sand bagging operations will be transferred to the Applicant's Bridgwalton Quarry Site near Bridgnorth.
- 1.5 **Access / Traffic:** HGV vehicles associated with the mineral operations currently travel through the villages of Condover or Dorrington to access the A49. The current proposals seek to retain the existing Site entrance and access arrangements during the life of this permission. However, the level of activity of the Site would be significantly reduced, compared to historic production levels, to an average of 2 HGV movements per hour.
- 1.6 **Working hours:** The Application Site would continue to operate in line with the same hours of operation as permitted at the extant quarry site, namely, 0700 to 1800 Monday to Friday and 0700 to 1300 Saturdays. There would be no workings on Sundays or Bank Holidays.
- 1.7 **Environmental Statement:** An Environmental Statement accompanies the application under Schedule 2 of the EIA Regulations. The applicant has also submitted further technical information in response to questions raised during the planning consultation process, in accordance with Regulation 22 (formerly Regulation 19) of the EIA Regulations. This includes supplementary reports on water supply, aftercare management and public access. These matters are considered in section 6 below.

2.0 SITE LOCATION / DESCRIPTION

- 2.1 The Application area includes the extant operational quarry (approx. 41ha) together with open land (2.6ha) to the south west of the existing quarry and under the control of the Applicant. Access to the quarry is gained via the Condover to Ruyton road. Extraction operations are nearing completion with the remainder of the unworked reserves on the Site, estimated to be in the order of 150,000 tonnes, located principally under the existing processing/bagging area and the site access road.
- 2.2 The nearest 2 properties to the proposed extension are located 150m to the east and are screened from the proposed extension by topography and vegetation. A property with distant views towards the extension is located 250m to the south and two further properties are located 270m to the south-south west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposals to extend Gonsal Quarry and amend the existing approved restoration scheme have been referred to the Committee by Councillor Barker.

4.0 COMMUNITY REPRESENTATIONS

Consultee Comments

4.1 Condover Parish Council – Objection. Condover Parish Council unanimously opposes the application on the following grounds:

1. The application did not meet SC Core Strategy policies as outlined in the LDF (March 2011) as the community gained no community benefits:

CS 5 Countryside and Greenbelt
CS 8 Facilities, Services and Infrastructure Provision
CS 16 Tourism, Culture and Leisure
CS 17 Environmental Networks (7.4)
CS 20 Strategic Planning for Minerals

Note: Informal access and permissive footpaths were not considered a community benefit.

2. The Concept Final Restoration did not comply with the Council's SAMDev submission as quoted below:

'The PC expects subsequent landscaping to include new public footpaths and a new bridle way providing local residents with full public rights of way cross the quarry site (note the PC are not looking for any form of closed nature reserve or permissive access.)

3. The application contains no mention of CS9 Infrastructure Contribution; which again was included in the Council's SAMDev submission.

Extract: 'the PC will receive a levy in relation to new minerals extracted'.

4. The project's planned activity time span is difficult to understand. The Council strongly recommends that a one page project time plan/line is added to the application, which includes the individual extraction and restoration stages or timelines. This will assist all concerned in effectively monitoring the project.

5. Neighbouring residents have asked for additional screening, to reduce the nuisance of traffic and excavation noise and alleviate the nuisance of dust arising from the excavation of minerals.

6. The existing transport plan requires revision given that the present plan was written many years ago and circumstances have significantly changed which impact on it.

(This was agreed at the Planning Committee Meeting on 5-2-2013 and subsequently agreed by Full Council on 5-3-2013.)

4.2 Environment Agency – (holding objection on hydrology - 26/03/13)

- i. We have previously provided an EIA scoping opinion to inform this proposal dated 19 March 2009, this is provided in Appendix 12.1 of the planning submission. This was followed up by a response of 18 December 2009 (our reference SV/2008/102101/02) in response to further details on hydrological and hydro-geological investigations. This correspondence raised a number of concerns and recommendations for further work to inform any future planning application (EIA). Having reviewed the Environmental Statement (ES) dated December 2012 the ES is not considered sufficiently robust at this time, there are a number of uncertainties, and we would recommend that the applicant provides further information to fully consider the likely environmental effects of the project:

- ii. Hydrology: The Hydrogeological and hydro-geological investigation (study) of June 2009, Hafren Water, concluded that dewatering will result in a zone of impact of 320m from the edge of the quarry and that portion of the Cound Brook falls within this zone. The study states that the dewatering will impact on the brook as a consequence of this but dismisses any resultant impact as “negligible” without further justification. The study therefore fails to provide assurance that the risks of dewatering to the Cound Brook have been adequately ascertained. The study fails to consider the impact of the dewatering on the ponds at Grove Farm and Gonsall Farm. The study fails to consider the impact of the dewatering on the Spring at Chatbrook. The study has not adequately considered the potential hazard that may arise from leachate entering the quarry workings from the Grove Farm Landfill that is located only 80m from the perimeter of the Quarry.) In addition to the above, the ES fails to provide/interpret more up to date information since the last study – the majority of data, including flow data from the Cound Brook and groundwater data is only as recent as 2008. Recent data is more useful for site assessment, especially as calculations for dewatering requirements have been based on the old data too. On this basis, the EIA is not considered robust as it does not contain up to date ‘baseline’ information. This is necessary to provide a reference for all assessments, including the prediction of likely impacts, the comparison of alternatives and possible mitigation measures. Your Public Protection team (Shropshire Council) should also be contacted to ascertain whether there are any new local abstractions on record or potential receptor (private water supplies) since the last review was carried out (2008/2009). Note - Due to the most recent report being informed by evidence from 2008/2009, the aquifer is still referred to as ‘minor aquifer’ rather than the new classification of ‘Secondary A’ aquifer. Paragraph 12.73 of the ES mentions that ‘it is thought that in places to the north and northwest of the site groundwater is below the Cound Brook and does not therefore contribute to flows within the brook’. We would expect the ES to provide evidence to substantiate this claim. The report also states that due to the ‘short duration of dewatering any impacts are anticipated to be small’. Similar to the above, it would be useful for the term ‘short duration’ to be clarified in this instance to substantiate the small (likely significant?) impacts. It would also be useful if the location/stretches of Cound Brook, which are anticipated by the report to be impacted during dewatering, could be identified more specifically. We would also question whether this (any impact) has already been seen as a result of current dewatering? In relation to the above issue, it is mentioned that ‘Discharge from site to brook should mitigate this’ (decreased flow in the brook). If this does not provide sufficient mitigation are there additional measures/actions proposed to do so? In assessing the impact of the restoration proposals on the Cound Brook, the report details that at times of low flows groundwater levels are likely to be below brook level base of the pools. This appears to be a general assumption. Is it the case that groundwater monitoring point G5 will be retained should extraction commence in the proposed Phase B3 area? Are there any proposals for new monitoring locations as a result of the extra areas of land to be quarried? Are mitigation proposals in place should the Cound Brook and/or abstractions or pools/surface water features be impacted?
- iii. Water Quality/Pollution Prevention: Under the Water Framework Directive (WFD) the Cound Brook catchment (‘confluence of an unnamed tributary to confluence of the Condover Brook’ reference GB109054049490) is classified as being at ‘Good’ status. The objective is to achieve or in this case maintain ‘good status’ by 2027. There is no reference to WFD in the ES. To protect its WFD status we do need to protect the flow of water to, and in the brook. There is an existing discharge consent held by the quarry

which discharges into the Cound Brook at grid reference SJ 48010 04720. The consent reference is S/02/21645/T. Informative - Guidelines should be followed should this application be approved. This includes the proposal of a mobile Linatex plant replacing the existing sand processing and the decommissioning and moving of other equipment on site. Continued vehicle pollution prevention measures should also be followed to protect controlled waters.

- iv. Flood risk: All of the quarry site, including the proposed extension lies within Flood Zone 1 (Low Probability) on our Flood Map. We would refer you to our West Area Flood Risk Standing Advice, for development within Flood Zone 1, but make the following strategic comments on the EIA: A Flood Risk Assessment (FRA) undertaken by Hafren Water has been submitted as part of the application but this is from June 2009 and also assesses a part of the site further to the north of the quarry with associated access road partly in the floodplain (Flood Zone 3 and 2) and a crossing over the Cound Brook which is no longer proposed. The proposed development as submitted falls outside of the floodplain i.e. within Flood Zone 1 (low probability) and the key aspect is to ensure that the proposed extension does not result in an increase in flood risk elsewhere either by interrupting existing surface water drainage systems of the surrounding land or by increasing surface water run-off rates into the Cound Brook. The proposed surface water drainage arrangements, for the quarry extension, should consider events up to an including the 1% plus climate change (peak rainfall intensity) event. The FRA appears to address this for the 'main workings' but this approach should also apply to the restoration phase (the FRA currently only assesses the 1% event) so that sufficient capacity/storage is available. We would expect your Floods and Water Management section, as the Lead Local Flood Authority (LLFA), to lead on the detailed surface water management aspects and those issues associated with any ordinary watercourses/ditches; both operational and post restoration, to inform potential risks and mitigation measures.

Flood Defence consent note: Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the Cound Brook, designated a 'Main River'. This would include any new outfall to the watercourse as proposed in the northern part of the site in the Working Sequence drawings.

- v. Biodiversity / Ecology The restoration master plan for Gonsal Quarry will ultimately enhance the biodiversity of the area. We support the restoration provided that the following principles are included within the scheme: Site habitat is restored as per the restoration plans to provide acid grassland, scrub, trees, pools for Great Crested Newts and a Sand Martin/ bee face. The restoration and habitat creation should follow the latest available guidance at the time of completion and the statutory authority must be consulted prior to the restoration work commencing. Natural regeneration of the site, rather than seeding is preferable and as well as pools for newts, permanent deep pools could be created with a rocky bed and banks to serve as Ark sites for white clawed crayfish. Adequate maintenance is provided for the benefit of biodiversity. Minimal disturbance to the existing population of newts on the site occurs. This would be in accordance with the proposed newt fencing, the relocation of the quarry settlement lagoon, the retention of the existing settlement lagoon used by newts and the retention of scrub and wooded areas on the site. Surveys for newts, other reptiles and amphibians, badgers, nesting birds and bat roosts are undertaken by a trained and licensed Ecologist before work begins in each phase of the quarry. This is to ensure that legally protected species which could have moved into different areas of the quarry are considered, not

disturbed or harmed. No detrimental effect to the base flow of the Cound Brook occurs. Trout, salmon eels and native white clawed crayfish which are European protected species, as well as coarse fish are present in the Cound brook. These species must not be impacted by low flows and the general good ecological status of the river must be maintained to comply with the WFD. Monitoring of the groundwater in the area and flows in the Cound Brook are undertaken to ensure that any effects caused by the quarry operations to the hydrology can be detected and rectified by immediate changes to the activities on the site. The clean water settlement lagoons are of sufficient size to settle sediments from the site water before it is discharged to the Cound Brook. A reed bed could be incorporated within the design of the settlement lagoon to help clean the water prior to discharge.

- vi. Waste: The Mining Waste Directive brought in changes to the way Mining operations are regulated in England and Wales. If you manage extractive waste then this activity may be a mining waste operation, which is regulated under the Environmental Permitting Regulations (EPR). Extractive waste is defined as waste resulting from the prospecting, extraction, treatment and storage of mineral resources and the workings of quarries. In reality this means heaps / tips and ponds / lagoons used to contain and settle waste fines. Extractive Material Management Statements (EMMS) were developed to enable operators to demonstrate that they don't produce extractive waste. This may be because this waste will be used for agreed restoration purposes, without treatment. The Environment Agency has no record of an Environmental Permit or EMMS for this site. It appears from the proposal documentation that extractive waste may be produced and treated / retained in silt lagoons and used in restoration. The applicant may need to submit an Environmental Permit and / or EMMS to cover these activities. This aspect should be clarified and referenced in the ES. The ES should confirm whether the discharge volume will remain the same, which may be controlled under the MWD if required, or current/amended permit to discharge. The applicant should discuss the proposals relating to extractive waste further with the Environment Agency further to ensure they are compliant with the Mining Waste Directive. Please contact Samantha Turnock on 01562 534106 for further information.
- vii. Water Resources: There are a couple of additional abstraction licences which do not appear in the document and therefore may just lie on the 1.5m radius perimeter. For completeness these are:-
18/54/2/567 R & J Cartwright SJ 4914 0356 Borehole at Ryton Farm.
18/54/02/0441 G R & C M Cartwright and Son. Abstraction on the Cound Brook between SJ 4805 0368 and SJ 4782 0404.
- Whilst quarry de-watering is currently exempt from water resource licensing; this is likely to change in the near future. DEFRA recently confirmed this amendment to the Water Act is likely to come into force in October 2013 i.e. Mineral operators abstracting more than 20m³ per day of groundwater for dewatering purposes will be required to apply for a transfer licence. If the discharge from dewatering is put to any "intervening use" (e.g. dust suppression/washing etc.) the operator must also apply for full abstraction licence for that proportion of the abstraction. Water is available for licensing but is restricted and would therefore be subject to a Hands off Flow (HoF) condition to protect low flows such that abstraction must stop when the river flow falls below a certain amount. Any abstraction from the Cound Brook is subject to a HoF of 46 Ml/d tied to the Boreton Bridge gauging station and would be time limited to 31 March 2027. Tributaries to the main river may be subject to different restrictions and quantities. Section 12.115, of the ES (p.255), mentions that the applicant may wish to vary an existing groundwater

abstraction licence from a clean water lagoon within the site, but no further detail is provided. Depending on the revised location of the abstraction the applicant may need to undertake a survey of sources and test pump to monitor the impact of the revised location on existing licensed abstractions and protected rights. A formal licence variation is likely to be required but this would need to be confirmed once we have received further information on the detail. I trust that the above clarifies our position at this time. We are happy to meet with you, the applicant/consultant to discuss the above further.

4.3 Shropshire Wildlife Trust – While we would agree that there is potential for biodiversity gains in relation to the restoration proposals, we have reservations on the robustness and deliverability of restoration proposals presented so far. As it appears that the existing restoration plan is being re-written there is an additional cause for ensuring a sufficiently robust scheme is in place to guarantee the authority's biodiversity duties and planning guidance are met. An indicative master plan for restoration proposals should be supported by at least the principles of a restoration plan. We would like to see greater clarity on:

- Landownership and the acceptability of the restoration scheme to these owners
- Practicality and deliverability of restoration scheme proposals
- Responsibilities for delivery
- Resources/funds to enable delivery
- Monitoring requirements (during operation and restoration phases)

Clearly there must be a degree of flexibility to allow for future circumstances but it is clear that for many applications long term planning commitments are either not honoured, fail to deliver the hoped for results or are re-negotiated. The apparent lack of clarity on restoration for this development jeopardises the desired nature conservation outcomes. As a final point we note that the application mentions liaison with the Wildlife Trust. There have been no detailed discussions relating to this site for many years.

4.4 Natural England – No comments received.

Internal Comments

4.5 Public Protection - No objection in principle to the proposals subject to recommended noise conditions being attached to any permission granted in order to protect the amenities of occupants of nearby properties (these are included in Appendix 1).

4.6. Highways Development Control – The site is located on the Condover to Ryton road and has been in existence for many years. It has always been a sensitive site locally as HGV traffic is routed through the village of Condover and past the school site to gain access to and from the A49. Historically the site has produced in the order to 200,000 tonnes per year and based upon the current planning consents most of the material has now been removed. The current proposals would result in the extraction of a further some 400,000 Tonnes of material over a period of 8 to 10 years at a rate of around 50,000 tonnes per year. In term of HGV movements at 20 tonne payloads this would result in approximately 9-10 HGV loads or 18-20 HGV movements per day (based upon a 5.5 day week). Notwithstanding the issue surrounding the continued routing of HGV's from the quarry site through Condover, I am minded to consider the principle of maintenance

funding towards the route based upon a rate per tonne of material extracted. We have used this methodology elsewhere in the County.

- 4.7i. Natural Environment (Ecology) No comments received.
- 4.8 Archaeology (Historic Environment) No objection. The archaeological section (Section 7, Part 2) of the Environmental Statement, which is based on work by Wessex Archaeology, meets the requirements of Paragraph 128 of the NPPF. It demonstrates that the archaeological potential of area of the proposed southern quarry extension is low, and it is therefore recommended that no further assessment of this particular area is required (it is, however, noted that there is an area of moderate archaeological potential to the north-west of the existing quarry site, although this lies outside current application area). I therefore have no further comments to make on this application with respect to archaeological matters.
- 4.11 SC Conservation – No objection.
- 4.12 Countryside Access – No objection. There are no legally recorded public rights of way at any status which abut or cross the site identified.
- 4.13 SC Arboriculture - No objection. Having read the application and environmental statement no areas of existing hedgerow or woodland are to be removed as a consequence. An area of unworked woodland in the NW of the site is now to be retained. Existing hedgerows will be enhanced and standoffs between hedgerows and the edge of working areas to be retained and strengthened. The application does not appear to have a negative impact on the tree scape and areas of adjacent ancient woodland will not be impacted upon.
- 4.14 SC Drainage – Please provide details how the cv value for the Modified Rational surface water calculations were derived for the restored sites. As a minimum, the greenfield run-off should be restricted a minimum of 5 l/s to prevent blockages. Restricting the flow below this will increase the risk of the outfall pipe becoming blocked. Calculations for the restored south site should be checked as the attenuation volumes for the 1 in 2 year and 1 in 100 year greenfield run-off rates are similar. Please show the route of the Cound Brook and any tributaries through the site for the various phases of the development. Please confirm that the finished water lagoons will have sufficient capacity above the expected normal water levels to retain the 1 in 100 year plus climate change storm event and the effect on the Cound Brook both upstream and downstream. If non permeable surfacing is used on the access road and the access slopes toward the highway, the applicant should submit for approval a drainage system. Please provide drainage details of the widened Grange Lane.
- 4.15 Councillor Barker (Condover) has been informed of the application and has referred the application to be determined by the Committee.

Public Comments

- 4.16 The application has been advertised in the press and by site notice and 85 residential properties have been individually notified including those nearest to the site and properties fronting the quarry access route leading to the A49 at Bayston Hill. The application has attracted representations from 4 individuals, including one repeat

representation, in response to this publicity. These concerns are summarised below and are listed fully in Appendix 2:

- i. Traffic: Road is unsuitable for lorries, HGV's passing residential properties. How will the suggested traffic controls be enforced? HVG's through
- ii. Public safety: Condover conservation area has narrow roads and learning establishments for up to 500 young visitors;
- iii. Policy: The SAMDEV states that no further extraction would be allowed unless a relief road to the A49 is constructed;
- iv. Dust and noise impact: General concern and effect on a holiday cottage.
- v. Restoration: Specific commitments for restoration timescales are needed – not clear exactly how long quarrying would last for;
- vi. Excessive working hours: vehicles pass through village at 5.30am and park up in readiness for quarry opening. HGV's should be banned at certain times;
- vii. No public access: Why is it OK for machines to destroy habitats and countryside but not OK for walkers to walk the new tracks?

4.17 One resident has written in support of the proposals for a nature conservation afteruse, provided ragwort is controlled and unauthorised access is prevented to avoid shooting and scrambling.

4.18 A local farmer who is a tenant for land adjacent to the proposed extension has expressed concerns that the current proposals should not impact adversely on local water supplies which are required for the farming operations. Hydrology is discussed further in section 6.

5.0 THE MAIN ISSUES

- i. The justification for the development;
- ii. The timing of the proposals / prematurity;
- iii. Effects on residential and general amenities (traffic, noise, dust, working hours);
- iv. Other environmental effects (restoration and afteruse, ecology, hydrology, agriculture)
- v. Public access;

6.0 OFFICER APPRAISAL

Justification for the development

6.1 Need for mineral: The principle of quarrying at Gonsal was established in 1977 by planning permission SC/MS1977/0755/SY and workings were subsequently extended in 1994 under the current operational consent reference SC/MS1988/1170/SY. Mineral working throughout this time has proceeded at a rate of up to 200,000 tonnes per annum until recently when the main permitted mineral reserves within the site were exhausted. The current application seeks to extend workings into part of a field to the immediate south of the existing quarry plant site to work 100,000 tonnes of sand. It is also intended to work a further 150,000 tonnes of sand beneath part of the existing quarry plant site. This would yield a total of 250,000 tonnes which would be worked over 5-7 years at a proposed rate of up to 50,000 tonnes per annum.

- 6.2 Production of aggregates such as sand and gravel is controlled in the UK under the Managed Aggregate Supply System ('MASS') to ensure that sufficient supplies are available to meet national and local needs. Paragraph 145 of the NPPF requires Mineral Planning Authorities (MPA's) such as Shropshire to plan actively for the future supply of sand and gravel by ensuring amongst other matters that sufficient permitted reserves exist for at least 7 years of sand and gravel, regard to relevant national and sub-national advice. MPA's also have a duty to cooperate with neighbouring MPA's to ensure adequate provision within the sub-region.
- 6.3 Shropshire is a member of the West Midlands Regional Aggregates Working Party (WMRAWP) which comprises a group of all mineral producing authorities in the West Midlands region. The WMRAWP identifies agreed annual production targets ('sub-regional apportionments') for each local authority area. Sufficient sand and gravel must then be made available in each area to meet the sub-regional apportionment target and to provide reserves sufficient to meet the 7 year rolling landbank of permitted reserves required by the NPPF. Shropshire must therefore identify sites in its minerals policy documents with sufficient capacity to meet this production target.
- 6.4 Mineral policy in Shropshire is currently in a transitional stage. The period for the Shropshire Minerals Local Plan expired in 2006. A number of policies have however been saved pending adoption of the emerging Site Management and Allocation of Development document ("SAMDEV"), which is anticipated in 2014. Strategic mineral policy is provided by Core Strategy Policy CS20, which amongst other matters reaffirms Shropshire's commitment to make continued provision for sand and gravel production at the appropriate apportionment level. It also establishes a preference for extending existing quarries rather than establishing new 'greenfield' sites. Future detailed minerals policy, including identification of new areas of working is being progressed under the SAMDEV which will allocate additional sand and gravel sites to cover the period to 2025.
- 6.5 The main allocated sand and gravel sites in the Minerals Local Plan have now been developed, with the exception of two greenfield sites. Existing permitted reserves at individual sites are being depleted and have been worked out at Gonsal. Currently production of sand and gravel in Shropshire has fallen below the identified sub-regional apportionment level. The current proposals are included in a larger area which has been put forward for inclusion as one of the draft SAMDEV allocations. A range of proposed sites were evaluated by consultants as part of the SAMDEV evidence base and the current site scored highly relative to other potential sites as part of this assessment.
- 6.6 In terms of mineral resource, the sand and gravel in the proposed extension has been proven by boreholes and would be capable of supplying the quarry's existing established markets focusing mainly on Telford, and Shrewsbury. The required quarrying infrastructure is already in place. In these circumstances it is considered that the current proposals would be capable of contributing to the county's required annual production levels with a high degree of certainty. (Core Strategy Policy CS20, Minerals Local Plan Policy M2)
- 6.7 Need for revised restoration scheme: The proposals involve a revision to the previously approved restoration scheme for the worked out quarry area which involved a mix of agriculture, woodland, grassland and a lake. This amendment has become necessary

due to the presence of a significant population of Great Crested Newts in the worked out area of the quarry. The currently approved scheme is not deliverable due to the statutory requirement to protect this species and its habitat under the Habitat Regulations. Hence, restoration has been deferred pending consideration of the current application. The revised restoration scheme now proposed has been designed specifically to optimise and expand the habitat available to GCN and the overall biodiversity potential of the site. This is taking account of advice from relevant Ecological organisations, including Natural England, who would need to issue a European Protected Species Licence before any restoration works can take place. Ecological and habitat management issues are considered further in succeeding sections. It is considered that the revised restoration proposals represent a practical solution to restoration of the quarry which has appropriate regard in principle to the Habitat Regulations and Core Strategy Policy 17.

- 6.8 Timing of the proposals: It is not considered that the proposals would be premature in advance of adoption of the SAMDEV. As noted above, Gonsal Quarry has until recently been an important sand and gravel producing site. The proposals would allow a resumption / continuation of production, although at a reduced rate relative to previous levels. The mineral in the proposed extension has been taken account of as part of the assumed future aggregate production figures in the SAMDEV. Policy CS20 of the Core Strategy recognises that quarrying proposals may come forward in advance of formal plan adoption and specifies the criteria for assessing such proposals. This includes a requirement not to prejudice other allocations and to comply with other relevant plan policies. If the proposals were not to progress, sand and gravel production in Shropshire would remain below the required annual production level in conflict with NPPF s145 and Policy CS20.
- 6.9 It is also not considered that approval of the current proposals would prejudice the ability of other proposed SAMDEV mineral allocations to come forward in a timely way. The current proposals serve an established market and would not be expected to impact materially on the markets of other sites which may potentially be allocated. These are generally also extensions to existing sites which have their own separate established markets. Nor is it considered that releasing the mineral at this stage would lead to an oversupply of sand and gravel locally, given that the proposals would directly replace established production at Gonsal. It is concluded that the timing of the current proposals does not conflict with emerging planning policy and can be supported in principle, provided other relevant policies are also capable of being complied with.

Environment and amenity

- 6.10 The NPPF advises (s143, 144) that 'Mineral Planning Authorities (MPA's) should ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment or human health, and should take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality'. MPA's should also ensure amongst other matters that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties.
- 6.11 Noise: The NPPF requires Mineral Planning Authorities to have regard to the need to protect local residents living near mineral sites from quarry related noise. The technical guide to the NPPF provides further guidance on the levels of noise which are acceptable

(s30). Subject to a maximum of 55dB(A)LAeq, 1h, MPA's should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dB(A) LAeq, 1h. Increased daytime limits of up to 70dB(A)Leq 1h are also allowed for short-term operations up to 8 weeks per year where this would generate benefits such as improved screening (NPF Guide s31).

- 6.12 The Environmental Statement includes a noise report which predicts noise levels at the nearest sensitive properties in accordance with methodology set out in national guidance (BS 8233, BS4142, WHO guidelines and NPPF). The report concludes that calculated noise levels from the proposed development do not exceed relevant criteria and are unlikely to generate noise complaints from any of the locations assessed. Public Protection has not objected to the proposals. There is no history of noise complaints at the site and the proposed workings would be 170m from the nearest residential properties and set down relative to these properties. A condition controlling noise has been recommended in Appendix 1. Subject to this it is considered that noise is capable of being controlled acceptably at the site.
- 6.12 Dust / Air Quality: The Environmental Statement has considered the potential for different activities to generate dust and methods of controlling dust have been identified in accordance with a Dust Action Plan. A source of water for dust suppression would be retained permanently on site. The nearest privately owned properties are separated by distance and existing topography and workings would be set down relative to these properties. The ES concludes that the proposed measures would ensure that dust continues to be controlled within acceptable levels. These conclusions are generally supported by experience of the existing workings where there has been a general absence of previous dust related complaints. An appropriate condition covering dust control has been recommended.
- 6.13 Visual Impact: A landscape appraisal notes that operations would have a slight adverse impact during the working phase and slight beneficial impacts following final restoration. Visually the existing site and the proposed extension are well contained, being set down relative to surrounding areas and surrounded by mature vegetation from most potential viewpoints. The assessment concludes that the landscape can accommodate the proposals would not give rise to any significant adverse impact. The proposed amended restoration scheme is required in order to secure restoration of the site. The originally approved scheme would not be deliverable given the presence of Great Crested Newts within the site. It is considered that the design of the proposals and the well contained nature of the site should ensure acceptability in relation to landscape and visual impacts. (Core Strategy Policy CS6, CS20; Minerals Local Plan Policy M4i.)
- 6.14 Agriculture: The NPPF advises (para. 112) that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The extension area comprises 2.45 hectares of arable land which is not of best and most versatile quality. The restoration proposals would involve the provision of a small lake surrounded by acid grassland slopes. The

lake would link by a stream to a larger lake to the north in the main quarry void. The arable potential of the extension area would be lost but half the area would remain available for grazing use.

- 6.15 The former Ministry of Agriculture Food and Fisheries did not object to previous mineral working at Gonsal as the land was not of best and most versatile quality. This was provided soils were replaced to facilitate some agricultural use on restoration of the site. In this respect, the restoration proposals for the main quarry void involve provision of 3.3 hectares of agricultural land in a contained area at the northern end of the site. Larger areas of acid grassland would occupy slopes surrounding the proposed water bodies and these would be amenable to a low intensity grazing use. It is not considered that an objection can be sustained on the basis of loss of agricultural land on this basis and given the overriding need in this case to achieve a restoration which complies with the requirements of the Habitats Regulations. Appropriate detailed agricultural conditions have been recommended in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to relevant development plan policies and guidance covering agricultural land including NPF paragraph 113 and Core Strategy Policy CS20.
- 6.16 Archaeology: An assessment of the Quarry extension area and land to the north concludes that the extension area has a low to moderate potential for significant archaeological remains. Accordingly, no further archaeological evaluation is required. Historic Environment have accepted this conclusion.
- 6.17 Traffic: The Environmental Statement includes a traffic assessment which notes that the proposals would result in a decrease of up to 75% in the historic rate of extraction. Consequently there would be a positive effect on the centre of Condover where a school is located, relative to when the quarry was in full production. The report notes that traffic speeds are limited by the narrow geometry of the existing roads. The Parish Council and a local resident have pointed out that the emerging SAMDEV states that there should be no further extension to Gonsal Quarry unless a separate access directly to the A49 has been constructed. It should be noted however that the SAMDEV is not yet adopted policy and the current proposals relate to a much smaller mineral resource and output rate than that envisaged in the proposed SAMDEV allocation (which involves larger extensions to the north and south of the quarry).
- 6.18 Highway officers have not objected to the proposals in view of the significantly reduced level of traffic proposed relative to historic norms and the ability to impose additional measures to control the despatch of HGV's from the site. This includes controlling despatch times to avoid school opening and closing times. It is noted however noted that the proposals would result in a continuation of HGV traffic, albeit at a reduced level, for up to 7 more years. Conversely, if the proposals did not proceed then the level and duration of mineral traffic would be significantly reduced due to the limited amount of permitted mineral remaining within the site.
- 6.19 The proposed quarry traffic would result in additional wear and tear on the approach route from the quarry through Condover to the A49. It is likely that this would be greatest at a number of areas of informal widening along the route where larger vehicles need to move towards the verge in order to pass other traffic. Additional maintenance is likely to be required on these areas to ensure that the access route remains at an acceptable standard for the anticipated duration of the proposed operations. Officers have quantified the estimated cost of undertaking this additional maintenance work and the applicant has

agreed to pay 9 pence for every tonne of mineral extracted throughout the duration of the current proposals. This will ensure that sufficient funding is in place to carry out the required highway maintenance works. This matter is capable of being addressed as part of a legal obligation.

- 6.20 An existing routing agreement directs quarry traffic to turn left out of the site access and approach the site from the direction of Condover, except where local access is required. It is recommended that this requirement is also re-applied if the current application is approved. Highways (Development Control) have not objected to the proposals on this basis and it is considered that the proposals can be accepted in relation to relevant policies covering traffic and highway matters (NPPF para. 32; Minerals Local Plan M11; Core Strategy CS7, CS20).
- 6.21 Ecology: An ecological assessment accompanying the EIA advises that the application does not directly affect any designated Site of Special Scientific Interest or Site of Nature Conservation Importance. Two populations of Great Crested Newts within the existing site are of national significance. Other habitats of local value adjacent to or within the site include semi-natural broadleaved woodland adjacent to the Cound Brook, unimproved acid grassland, open standing water, open running water, species-rich hedgerow along the southern side of Grange Lane, invertebrate assemblages associated with acid grassland, wetland, bare ground and ephemeral/short perennial habitats, breeding dunnock, bat foraging and badger - setts and foraging. There are, or may be, legal obligations with regard to white-clawed crayfish, great crested newt, nesting wild birds (active nests) and badger (active setts).
- 6.22 The proposed works and restoration scheme have been specifically designed to avoid or minimise adverse impacts on wildlife habitats and to retain them in-situ where feasible. The ecology report predicts no adverse residual impacts on features of nature conservation value, provided hedgerow translocation is successful. Positive impacts are predicted for most habitats which may increase in value as they mature. Works affecting Great Crested Newts would be undertaken in accordance with a Protected Species License issued by Natural England which has been consulted on the design of the current proposals.
- 6.23 The main quarry void has been worked out and is spatially separated from the proposed areas for the extension and retained quarry plant. The restoration works within the existing void are therefore capable of being managed separately to ensure that they are not affected by ongoing quarrying and mineral processing activity elsewhere within the site.
- 6.24 Ecology – Habitats Regulations: The Conservation of Habitats and Species Regulations 2010 (usually referred to as the 2010 Habitats Regulations) implement Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) into national legislation. Article 12 of the Habitats Directive contains a range of prohibitions seeking to protect certain species (European Protected Species). Those prohibitions include deliberate capture or killing and deliberate disturbance. Article 16 provides for a number of circumstances in which a Member State may derogate from the obligations in Article 12. The Habitats Regulations (Regulation 41) make a breach of the Article 12 provisions a criminal offence. The derogations contained in Article 16 are implemented by way of a licensing regime (Regulation 53) which can make an activity that would otherwise be an offence, lawful if carried out in accordance with a

licence. Regulation 9(5) provides that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. A Planning Authority is a competent authority for the purposes of these Regulations and is exercising a function in deciding whether or not to grant planning permission. If therefore the Planning Authority concludes that the carrying out of the development for which permission has been applied for even if it were to be conditioned, would be likely to offend Article 12(1), by say causing the disturbance of a species with which that Article is concerned, then it must consider the likelihood of a licence being granted. The licencing authority is Natural England.

6.25 Natural England advises that three tests should be applied by Planning Authorities in assessing the potential impact on protected species. These are assessed as follows with respect to the Great Crested Newt population at Gonsal Quarry:

1. Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

Officer response: Implementing the originally approved restoration scheme would not have been possible as it would have resulted in adverse impact on GCN and their habitat. The amended restoration proposals have been designed specifically to protect and enhance the habitat of GCN within the site and have been formulated with the input from ecological stakeholders including Natural England. With respect to the proposed southern extension area, this is spatially separate from the identified GCN habitat area in the worked out quarry void and is capable of being isolated and managed separately during the on-going quarrying operations. As existing intensively farmed agricultural land located some distance from the main water bodies containing GCN the extension area would reasonably be expected to have limited value as a GCN terrestrial foraging habitat. Much better foraging habitats exist nearer to the GCN water bodies, including to the west of the site adjacent to the Cound Brook. The intended working area beneath part of the plant site already has the benefit of planning permission for mineral working. Planning officers are satisfied in principle therefore that the further mineral extraction proposals should not impact adversely on GCN habitats elsewhere within the site and that the restoration proposals have the potential to significantly enhance the GCN habitat. Additional detailed safeguards with respect to GCN would be agreed as part of a Protected Species Licence issued by Natural England. The first test is therefore met.

2. Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

Officer response: The currently approved restoration scheme is incapable of being implemented due to the presence of GCN within the restored area. The amended restoration proposals would prevent further delay in restoring the worked out areas of the mineral site to a productive afteruse as a wildlife reserve. This justification is of primary importance to the environment. Further mineral working is capable of being undertaken in principle without impacting adversely on ecological interests within the area of restoration, given that the proposed areas for continued operation

and restoration are spatially separate within the site. The second test is therefore met.

3. Is there 'no satisfactory alternative'?

Officer response: The proposed amended restoration scheme represents the only solution which would allow satisfactory restoration of the site whilst safeguarding and enhancing protected species interests. The alternative of leaving the worked out areas of the site unrestored would not be acceptable from an amenity perspective and would be likely to result in a lesser overall ecological benefit to GCN. The applicant's ecological report supports the conclusion that the proposal to work additional mineral in a separate area of the site would impact adversely on GCN interests. Therefore, there is no requirement to consider alternative proposals for mineral working. The third test is therefore met.

6.26 It is concluded that the proposals are capable of being accepted in relation to relevant policies and guidance covering ecology, including Core Strategy Policy CS17. This is provided robust mechanisms are put in place to ensure that the potential habitat benefits referred to in the ecology report are delivered in practice. Appropriate ecological conditions are recommended in Appendix 1 with this objective in mind. Aftercare management of the site is considered in the succeeding section.

6.27 Aftercare Management: The NPPF (s144) requires Mineral Planning Authorities such as Shropshire to put in place policies to ensure worked land is reclaimed at the earliest opportunity. High quality restoration and aftercare of mineral sites should take place, 'including for agriculture, geodiversity, biodiversity, native woodland, the historic environment and recreation'. Policies M27 of the Minerals Local Plan and CS20 of the Core Strategy support this requirement. In commenting on the current application, as submitted, the Shropshire Wildlife Trust has advised of the need for an integrated strategy for managing restored areas. In response to this, the applicant has agreed to prepare a habitat management plan setting out detailed measures for future management of restored areas within the site. The following management measures which would form part of a legal obligation have also been agreed by the applicant:

- 1) Extended aftercare period of 10 years for all habitat areas within the quarry site.
- 2) To convene and support an aftercare management steering group which shall meet no less than annually to review aftercare management actions from the preceding year and will agree the detailed actions for the forthcoming year;
- 3) To provide sufficient resources each year to facilitate the reasonable objectives of the aftercare management plan as agreed with the Steering Group;
- 4) To use all reasonable endeavours to maintain control of the necessary land in order to facilitate the objectives of the aftercare management plan;
- 5) To facilitate provision of a permissive footpath within the restored site (see 'public access' below);
- 6) To use appropriate endeavours to protect the longer-term habitat and amenity value within the quarry site.

(Note: highway routing and maintenance payment provisions are also included)

6.28 The applicants' willingness to apply a significantly longer aftercare period than the standard 5 years is to be welcomed as a way of ensuring stated habitat objectives are delivered. A key task within the extended aftercare period would be to increase levels of overall biodiversity to a level of habitat value equivalent to that of a designated Wildlife

Site. The formation of a management steering group to oversee management actions and agree future works adds additional confidence that this objective can be met. It is considered that the applicants' aftercare management proposals for the wider quarry site meet and exceed the requirements of the section 144 of the NPPF, Policy 27 of the Minerals Local Plan and CS20 of the Core Strategy. They also have the potential to deliver significant interconnected habitat areas within the restored site in accordance Core Strategy Policy CS17.

- 6.29 Hydrology and water resources: A hydrological assessment concludes that any potential risks to groundwater and flows within the Cound Brook can be adequately controlled using established good practice measures. There have been no incidences of silt pollution or flooding attributed to quarrying operations previously and the proposed extension would occupy a limited area within the overall quarry site. The proposed extension area is located outside of the flood plain, although parts of the proposed SAMDEV allocation are within the floodplain. The restoration proposals involve provision of a series of ponds where levels will be controlled by natural soakaway effect. A one in 100 year flood event would equate to an average increase in the depth of water across the restored area of 60 mm. Sufficient storm water storage would also be provided within the operational site to deal with a 1 in 100-year event, with provision for temporary discharges to the Cound Brook under an existing Environment Agency discharge consent.
- 6.30 A local farmer has objected to the proposals on the basis that further quarrying could adversely affect a local water supply which has previously been used for agriculture. The applicant advises that this is not currently a reliable supply, and has provided a supplementary consultant's report assessing this matter. The report confirms that water levels at boreholes in the vicinity of the proposed extension have not been affected by drawdown as a result of the existing workings and that the water supply in question is beyond the zone of influence of any likely drawdown effect associated with the proposed extension. The Environment Agency has sought further detailed clarification to justify the above conclusion. In response to this the applicant's agent has emphasised that the hydrological modelling undertaken is based on a 'worst case' scenario and relates to a much larger area of mineral extraction than is currently proposed, having been prepared initially in support of work on the proposed SAMDEV allocation. As such, the agent advises that the risk of the current proposals affecting any water supply is further reduced. An updated statement from the consultants confirming this has been received.
- 6.31 The Environment Agency has also advised that some of the baseline hydrological data should be updated. The applicant has agreed to provide updated data, but has requested that this is done by imposing a planning condition on any permission. The groundwater data submitted in support of the application shows a relatively stable situation with limited variation seasonally and from year to year. It is considered in these circumstances that it is reasonable for the additional hydrological data to be required by condition, rather than prior to determination, in order to avoid further significant delay in determining the current application. The Council's Land Drainage section has also requested additional information to confirm amongst other matters that site surface water can be attenuated to greenfield run-off rates and that the finished water lagoons will have sufficient capacity above the expected normal water levels to retain the 1 in 100 year plus climate change storm event.

6.32 The existing hydrological information submitted in support of the application supports the conclusion that there are no fundamental hydrological / drainage issues which would prevent the proposed development from proceeding. This conclusion is further strengthened by recent supplementary information on hydrology submitted by the applicant. It is concluded that the detailed drainage / design issues referred to above are capable of being satisfactorily addressed by suitably worded planning conditions. Amongst other matters this would require:

- Further groundwater monitoring around the extraction area at specified intervals during the extraction phase, with identification of a trigger level for action in the event, contrary to the submitted information, any unexpected significant change in groundwater is encountered.
- Submission of a detailed site drainage scheme for operational and afteruse phases supported by appropriate balancing calculations.

Appropriate conditions have been recommended in Appendix 1. Subject to this it is concluded that the proposals can be accepted in relation to development plan policies and guidance covering hydrology. This includes Core Strategy policy CS18, paragraphs 99-103 of the NPPF and the flooding section of the NPPF technical guide.

Other issues

6.33 Socio-economic: The existing Quarry contributes, in financial terms, to the economy, much of which is spent locally on goods and services, including salaries, business rates, service contracting, hire of equipment and capital expenditure. The Quarry supports a total of approximately 5 jobs on site and further indirect employment, including for owner-drivers of quarry vehicles. Much of the employment generated is of a skilled and semi-skilled manual nature under-represented in the local economy. These effects would be maintained.

6.34 Public access: Condover Parish Council objected that the proposals as submitted did not include any provision for public access to the restored site. Relevant mineral policies and guidance do not require public access to be provided as a precondition of permission. Core Strategy policy CS20 (Strategic planning for Minerals) states amongst other matters that priority will be given to environmentally acceptable proposals which can deliver targeted environmental or community benefits consistent with Policies CS8 and CS17. Nor is this a requirement of relevant national policy as set out for example in NPPF paragraph 144. Saved Minerals Local Plan Policy M27 also requires restoration to be to a 'beneficial afteruse' but does not explicitly require local community benefits to be delivered. In this particular case the applicant is justifying the restoration proposals primarily on the basis of ecological benefits. The presence of Great Crested Newts has necessitated an amendment to the originally approved restoration scheme (which itself did not make provision for public access). For the site to be restored it is essential to take appropriate account of this protected species interest.

6.35 Notwithstanding this officers have discussed potential public access options with the applicant who has agreed to this in principle. A proposed permissive footpath would be created on the eastern side of the site, passing north from the site access through a woodland corridor adjacent to the Ruyton road and forming a loop in a fenced grassland area overlooking the restored site. A parking area would be established to the south of the access road, with a safe crossing point over the quarry access road. It is anticipated

that this would be delivered within 3 years of any permission being granted. The applicant is willing to consider extending the area to provide a larger circular route in the future, subject to confirmation from ecological stakeholders that this would be compatible with wildlife interests (there is a concern for example about potential disturbance to ground-nesting birds caused by domestic dogs). It is also confirmed that the SAMDEV proposals which relate to a larger area would offer the potential for introduction of some formalised public access, given that the extension areas are capable of linking with the existing right of way network.

- 6.36 The above permissive footpath proposals do not fully meet the request of Condover Parish Council that full formalised public access should be established to the entire site. The applicant has however emphasised that parts of the quarry would remain operational and that there is a need to ensure that health and safety and security interests are appropriately safeguarded. There is a concern that introducing access nearer to the plant site would bring members of the public closer to potentially dangerous structures such as the quarry silt lagoons. This would also have significant insurance implications for the applicant. Countryside Access officers have verbally indicated their support for this provision during initial discussions with planning officers and an appropriate clause has been included in the proposed Legal Obligation (Appendix 1). The proposals have been supported in principle by the Council's Countryside Access team in initial discussions. It is considered that they strike an appropriate balance between amenity, ecology, safety and security considerations in the circumstances of the current application, and that they meet and exceed relevant policy expectations for restored mineral sites. (Minerals Local Plan Policy M27, Core Strategy Policy CS20).
- 6.37 Infrastructure Contribution: Condover Parish Council has referred to Core Strategy Policy CS9 which requires developers to pay an infrastructure contribution. This relates primarily to housing schemes and there is currently no requirement for applicants to make a CIL payment in relation to mineral operations in Shropshire. Nor are officers are not aware of this being required for mineral operations elsewhere in the country. Working of aggregates is already subject to a tax by the Government (the Aggregates Levy). Notwithstanding this, the applicant has agreed to pay a sum towards maintenance of the public highway for the duration of any mineral extraction operation under the current application, based on a pence-per-tonne figure which has been agreed with the applicant.
- 6.38 Slope stability: The proposed restored gradient, stand-offs and tree planting measures will protect the integrity of the reinstated landform. The sand and gravel strata which would remain in-situ adjacent to excavation area are freely draining and there is no history of stability issues on steeper excavated banks associated with the existing workings. Notwithstanding this, it is considered that a condition should be imposed requiring submission of a scheme to ensure slope stability. This should include appropriate slope drainage measures, visual inspection and planting / seeding measures. Subject to this it is concluded that the proposals can be accepted in relation to relevant guidance covering slope stability including paragraph 143 of the NPPF.
- 6.39 Interactions and cumulative effects: The Environmental Statement contains an assessment of interactions between different types of impact. It concludes that the restoration proposals would not involve any negative interactions as agricultural and ecological uses and landscape continuity would be maintained. The proposed

management measures for the restored site should assist in ensuring positive interactions between different aftercare land uses.

7. CONCLUSION

7.1 In conclusion, the proposals would secure production at Gonsal Quarry for up to 7 further years at the anticipated production rate. The mineral is a proven resource with an established local market and would contribute towards the county's agreed proportion of sand and gravel production in the West Midlands region. This is in accordance with paragraph 145 of the NPPF and Core Strategy Policy CS20. The proposals would also facilitate a revised and comprehensive restoration and management for the whole quarry. This takes account of protected species interests and would achieve significant habitat creation benefits in accordance with Core Strategy Policy CS17.

7.2 The applicant has provided further information and commitments in response to the planning consultation process on issues including restoration management, hydrology, traffic and public access. The information now available is sufficient to properly define the identified impacts and allow appropriate mitigation measures to be identified. No issues have been identified which would be likely to give rise to unacceptable impacts on the local environment or amenities which would justify refusal. This is having regard to the inbuilt safeguards in the design of the scheme and the recommended planning conditions. The proposals also have the potential to significantly enhance the habitat potential of the restored site. It is concluded that proposals are sustainable and can be accepted in relation to relevant development plan policies and guidance and other material planning considerations.

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

9. BACKGROUND

Relevant Guidance and Planning Policies

9.1 National Planning Policy Framework: Summary of relevant minerals guidance:

9.1.1. 142: Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.

143: Local planning authorities should undertake a range of policy measures to safeguard mineral supply and avoid sterilisation whilst minimising environmental impacts and facilitation restoration of worked sites.

144. When determining planning applications, local planning authorities should amongst other matters:

- give great weight to the benefits of the mineral extraction, including to the economy;
- ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;
- ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source,³¹ and establish appropriate noise limits for extraction in proximity to noise sensitive properties;
- provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;

145. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

- preparing an annual Local Aggregate Assessment, participating in the operation of an Aggregate Working Party,
- making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans,
- taking account of published National and Sub National Guidelines on future provision,
- using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply,
- making provision for the maintenance of landbanks of at least 7 years for sand and gravel, ensuring that large landbanks bound up in very few sites do not stifle competition; and
- calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.

9.1.2 Other relevant sections of the NPPF include:

- Achieving sustainable development
- Building a strong, competitive economy
- Supporting a prosperous rural economy
- Promoting sustainable transport
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment.

9.1.3 A technical companion guide to the NPPF includes minerals guidance on dust / air quality and noise and general guidance on drainage. This has been taken into account in assessing the application.

The Development Plan

9.2 Section 38 (6) of the Planning and Compensation Act 2004 Act states that "if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". The NPPF confirms that "there is a presumption in favour of sustainable development at the heart of the planning system, which should be central to the approach taken to both plan-making and decision-taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible. Local planning authorities should:

- Prepare local plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes;
- Approve development proposals that accord with statutory plans without delay and Grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date
- All of these policies should apply unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policy objectives in the National Planning Policy Framework taken as a whole.

9.3.i. The Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt) – allowing for development on appropriate sites within the countryside that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: required community uses and infrastructure which cannot be accommodated within settlements;
 - Policy CS6 (Sustainable Design and Development Principles) – requiring designs of a high quality to respect and enhance local distinctiveness, mitigating and adapting to climate change
 - Policy CS8 (Facilities, Services and Infrastructure Provision) – seeking the development of sustainable places by preserving and improving facilities and services; facilitating the timely provision of additional facilities, services and infrastructure to meet identified needs in locations that are appropriate and accessible; positively encouraging infrastructure where this has no significant adverse impact on recognised environmental assets
 - Policy CS9 (Infrastructure Contribution);
 - Policy CS16 (Tourism, Culture and Leisure);
 - Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets;
 - Policy CS18 (Sustainable Water Management) – to reduce flood risk; to avoid an adverse impact on water quality and quantity
- ii. Policy CS20 (Strategic planning for Minerals) Shropshire’s important and finite mineral resources will be safeguarded to avoid unnecessary sterilisation and there will be a sustainable approach to mineral working which balances environmental considerations against the need to maintain an adequate and steady supply of minerals to meet the justifiable needs of the economy and society. This will be achieved by:
- Protecting the Mineral Safeguarding Areas (MSA’s) and rail freight facilities which could contribute to the sustainable transport of minerals. Non-mineral development in these areas or near protected railfreight sites will be expected to avoid sterilising or unduly restricting the working of proven mineral resources, or the operation of mineral transport facilities, consistent with the requirements of national and regional policy.
 - Encouraging greater resource efficiency by supporting the development and retention of waste recycling facilities which will improve the availability and quality of secondary and recycled aggregates in appropriate locations as set out in CS 19;
 - Maintaining landbanks of permitted reserves for aggregates consistent with the requirements of national and regional policy guidance. ‘Broad locations’ for the future working of sand and gravel are identified. Sites capable of helping to deliver the sub-regional target for sand and gravel will be allocated within these areas in the Site Allocations and Management of Development DPD;
 - Only supporting proposals for sand and gravel working outside these broad locations and existing permitted reserves, where this would prevent the sterilisation of resources, or where significant environmental benefits would be obtained, or where the proposed site would be significantly more acceptable overall than the allocated sites;
 - Supporting environmentally acceptable development which facilitates the production of other mineral resources such as crushed rock, clay and building stone to meet

both local needs, including locally distinctive materials, and to help meet cross boundary requirements.

- Environmentally acceptable proposals for the exploration, appraisal and production of hydrocarbon resources, including coalbed methane, will be supported as a contribution to meeting the requirements of national energy policy;
- Requiring development applications for mineral working to include proposals for the restoration and aftercare of the site.
- Priority will be given to environmentally acceptable proposals which can deliver targeted environmental or community benefits consistent with Policies CS8 and CS17. More detailed policies against which applications for mineral development can be assessed will be provided in the Site Allocations and Management of Development DPD.

Note: Bridgwalton Quarry is within an area identified as a broad location for future mineral working in the plan accompanying policy CS20.

- 9.4 The Shropshire and Telford & Wrekin Joint Structure Plan 1996-2011 was adopted in November 2002. Many of the policies in this Plan have now been superseded by the Shropshire Core Strategy. Saved Policy 16 safeguarding air quality remains relevant.
- 9.5 The Shrewsbury & Atcham Borough Local Plan The site is not affected by any specific designations in this plan. Previously relevant policies have now been superseded by policies in the Core Strategy.
- 9.6.i. The Shropshire, Telford and Wrekin Minerals Local Plan seeks to promote sustainable mineral operations which minimise the impact on people and the environment. The following saved policies are relevant:
- Policy M2 (The Need for Minerals). In the context of a sustainable approach to mineral development (Policy M1), where proposals for mineral working give rise to material planning objections which are not outweighed by other planning benefits, or when an Environmental Statement is necessary, the applicant will be required to demonstrate that there is a need for the mineral.
 - Policy M4 (Operational Considerations). In determining applications relating to mineral development, regard will be paid to the following operational considerations:
 - i. the measures to protect people and the environment from any unacceptably adverse effects, including visual, noise, dust, or traffic impacts; effects on surface waters or groundwaters and from the risk of flooding;
 - ii. the method, phasing and management of the working proposals;
 - iii. ancillary development (expanded in Policy M10);
 - iv. site access and traffic movements (Policy M11); and,
 - v. the method, phasing and management of the reclamation and afteruse proposals (Policy M27).
- ii. Applicants will need to demonstrate that they have had regard to the detailed guidance contained in the 'Development Control Guidelines' (Appendix 4).
- Policy M27 (Reclamation and Afteruse). Planning permission for mineral development will only be granted where the application incorporates a satisfactory scheme for the reclamation of the site, progressively wherever possible, to an agreed

after-use or to a state capable of beneficial after-use. Where the proposed after-use includes agriculture, woodland, amenity (including nature conservation) or other uses, a satisfactory scheme will need to include the following:

- i. provision for a 5 year period of aftercare;
 - ii. a Reclamation Plan;
 - iii. a Management Plan which should address the management requirements during each phase of the proposed development and where appropriate a planning obligation will be sought in order to secure the after-use, long term management and maintenance of the site;
 - iv. proposals which take account of the site, its surroundings, and any development plan policies relevant to the area; and,
 - v. evidence to show that the scheme incorporates best practice advice and is practical and achievable.
- Policy M30 (Comprehensive Working of Resources). Planning permission will only be granted where an applicant can demonstrate that the proposed development has taken account of the opportunity to work or to safeguard any economic minerals present within the site, provided that such working is consistent with the policies in the Minerals Local Plan.

Emerging policy guidance:

- 9.7 Site Allocations and Management of Development Document (SAMDEV) This document currently under preparation will include specific site allocations, including for future mineral working. A study undertaken by independent consultants (Amec) to inform the identification of future mineral allocations identified a larger area incorporating the current application site as potentially suitable for mineral working.

Other relevant guidance:

- 9.8 National and regional guidelines for aggregates provision in England 2005-2020
The government has prepared guidelines for use in the preparation and revision of minerals local development frameworks. The objective of the guidelines was to inform the provision of aggregates through the planning system in the English regions and for individual mineral planning authorities. A new system for forecasting aggregate demand and apportioning production targets will be progressed linked to the Localism Bill.

10. RELEVANT PLANNING HISTORY:

- 10.1 SC/MS1977/0755/SY extraction of sand and gravel at Gonsal Quarry, Condover. Granted 1977.
SC/MS1988/1170/SY extension of sand and gravel workings at Gonsal Quarry. Granted 1994.

11. ADDITIONAL INFORMATION

List of Background Papers: Planning application reference 12/04824/EIA and the related

Environmental Impact Assessment, plans and supplementary reports as listed fully in condition 3 of Appendix 1 attached.

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member Cllr. T.Barker

Appendices: APPENDIX 1 - Legal obligation heads of terms and recommended conditions

APPENDIX 1**Legal Agreement Clauses**

- 1) To agree to an extended period of aftercare for all habitat areas within the total quarry site (including areas worked and restored under previous permissions) which will apply to all identified habitat areas within the Site for a period of 10 years from completion of restoration.
- 2) To agree to manage the aftercare habitat areas within the total quarry site in accordance with the principles set out in the restoration management plan required under Condition 54 set out below.
- 3) To convene and support an aftercare management steering group throughout the extended aftercare period which shall meet no less than annually and shall comprise representatives from the company, Shropshire Council, the Company and other relevant stakeholders where appropriate. The Steering Group shall review aftercare management actions from the preceding year and will agree the detailed actions for the forthcoming year;
- 4) To provide sufficient resources each year to facilitate the reasonable objectives of the aftercare management plan as agreed with the Steering Group;
- 5) To agree to use all reasonable endeavours to maintain appropriate control of the necessary land in order to facilitate the objectives of clauses 1 and 2 above;
- 6) To use appropriate endeavours to protect the longer-term habitat value within the total quarry site prior to the expiry of the extended restoration period specified in Clause 1. This shall include consideration in association with the Steering Group of the potential to apply for designated wildlife site status for relevant habitat areas.
- 8) To continue the existing heavy vehicle routing agreement to ensure quarry traffic turns left towards Condover and approaches the site from the north, except in case of emergencies or where local access is required.
- 9) To make an agreed payment to the Council per tonne of mineral exported from the site for the duration of mineral working under the terms of this permission, for use in maintaining the quarry access route on the public highway through Condover to the A49.

Conditions

COMMENCEMENT OF DEVELOPMENT

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission. For the avoidance of doubt development is defined as the commencement of soil stripping within the extension area to the south of the quarry plant site. The commencement of development within the Site is hereafter referred to as the "Commencement Date".

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

DEFINITION OF THE SITE AND PERMISSION

2. This permission shall relate to the land edged red on Drawing No. M05108(d)_08 hereinafter referred to as "the Site" and comprising the "existing quarry" and the "extension area" to the south of the existing quarry plant site

Reason: To define the Permission.

DEFINITION OF THE PERMISSION

3. Except as otherwise provided by the conditions attached to this permission the development hereby permitted shall be carried out strictly in accordance with:-
- i. The submitted details as contained in the application form dated 20th November 2012.
 - ii. The following documents supporting the application:
 - The planning statement dated December 2012;
 - The Environmental Statement dated November 2012 comprising the following sections:

Section 1 - Introduction

Section 2 - Site Description

Section 3 - Proposed Development

Section 4 - Assessment of Environmental Effects and Alternatives

Section 5 - Agriculture

Section 6 - Air Quality (Dust and Noise)

Section 7 - Archaeology

Section 8 - Ecology

Section 9 - Socio Economic

Section 10 - Transport

Section 11- Visual

Section 12- Water

Section 13 - Conclusions and Residual Impacts

Section 14 - Non Technical Summary

APPENDICES

Appendix 5.1 - Published Agricultural Information;

Appendix 5.2 - Soils Report (1994);

Appendix 6.1 - Annual Windrose for Shawbury;

Appendix 6.2 - Noise Monitoring Points;

Appendix 6.3 - Ambient Noise Levels;

Appendix 6.4 - Table of Noise Estimates;

Appendix 6.5 - Noise Contour Plan;

Appendix 6.6 – Glossary;

Appendix 7.1 - Gazetteer of sites and findspots within the study area;

Appendix 8.1 - Protected Species Surveys, Thomson Ecology, 09/2008;

Appendix 8.2 - Great Crested Newt and Reptile Surveys - Thomson Ecology, June 2008;

Appendix 8.3 - Additional Protected Species Survey - Eco Tech, June 2010;

Appendix 8.4 - Great Crested Newt Survey - Eco Tech, April-June 2010;
 Appendix 8.5 - Species lists - Eco Tech, April-June 2010;
 Appendix 11.1 - Landscape And Visual Assessment Methodology;
 Appendix 11.2 - Landscape And Visual Assessment Plans;
 Appendix 11.3 - Photographs;
 Appendix 12.1 - Environment Agency correspondence;
 Appendix 12.2 - Hydrographs
 Appendix 12.3 - WHS flow calculations
 Appendix 12.4 - Geological data (Figure EI — Estimated base of deposit)
 Appendix 12.5 - Groundwater level data
 Appendix 12.6 - Licensed abstraction data
 Appendix 12.7 - Consent to discharge
 Appendix 12.8 - Groundwater ingress calculation and assumptions
 Appendix 12.9 - Flood Risk Assessment

iii. The submitted drawings accompanying the Environmental Statement, namely:

M05108(d)_01 - Current situation and block phasing (Rev A);
 M05108(d)_02A - Working Sequence 1 (Rev C1);
 M05108(d)_03C - Working Sequence 2 (Rev C1);
 M05108(d)_04C - Working Sequence 3 (Rev C1);
 M05108(d)_05C - Working Sequence 4 (Rev C1);
 M05108(d)_06C – Final Restoration (Rev C1);
 M05108(d)_07 – Restoration Sections A-F;
 M05108(d)_08 – Planning Boundary.

iv. The supplementary information submitted in support of the application, namely:

- Letter and attachments from Hafren Water to Mr R.Parton dated 5th March 2013.

Reason: To define the permission.

TIME LIMITS

- 4a. The extraction of sand and gravel from the Site under the terms of this permission shall cease within 8 years of the Commencement Date as defined in Condition 1 above.
- b. The date when extraction of sand and gravel has been completed within the Site under the terms of this permission shall be notified in writing to the Local Planning Authority.

Reason: To define the completion date for mineral extraction operations under the terms of the permission in accordance with the approved details.

5. The Site shall be fully restored within 18 months of the completion of mineral extraction under the terms of this permission and in accordance with scheme required to be approved under Condition 50 below.

Reason: To ensure the full and proper restoration of the Site within acceptable timescales.

6. The Local Planning Authority shall be notified in writing of the following events:-

- i. the commencement of topsoil stripping and mineral extraction in the extension area;
- ii. the commencement and anticipated completion of restoration in in each successive phase within the Site.

Reason: To ensure satisfactory monitoring following the Commencement Date for the various specified operations with the Site.

GPDO RIGHTS

8. Notwithstanding the provisions of Part 19 of the Second Schedule of the Town and County Planning (General Permitted Development) Order 1995 or any Order revoking or re-enacting that Order, the erection of any additional plant or machinery or structures or erections of the nature of plant or machinery shall not take place within the Site without the prior written approval of the Local Planning Authority. The only exception to this shall be for structures not exceeding 6 metres in height which are located within the existing Processing Plant area identified on the approved plans.

Reason: To enable the control of any further development within the Site, given its location in the corridor of the Mor Brook.

PLANTING AND SCREENING OPERATIONS AND OTHER PRELIMINARY OR ASSOCIATED WORKS

- 9a. All trees, hedgerows and bushes within the Site but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works by fencing or other means.
- b. A scheme detailing measures to ensure continued protection of the existing mature hedgerows and woodland within and on the margins of the Site shall be submitted to and approved in writing the Local Planning Authority within 2 months of the date of this permission.

Reason: To preserve and protect existing vegetation within the Site.

10. No soil storage shall take place other than in accordance with the details shown on the approved working plans as referred to in condition 3 above.

Reason: To ensure that satisfactory preservation of soils for restoration of the Site.

HOURS OF WORKING AND GENERAL CONTROL OVER OPERATIONS

- 11a. Unless otherwise approved in writing by the Local Planning Authority, or except in the case of emergency, records of which shall be retained for inspection by the Local Planning Authority, the quarrying and associated processing operations and uses hereby permitted shall not take place outside the following hours:-

Mondays to Fridays 07.30 - 17.00 hours

Saturdays 07.30 - 16.30 hours (Maintenance Work only)

No operations shall take place on Sundays, Bank Holidays or other National Holidays.

- b. Access gates located at the entrance to the Site from Telegraph Lane shall be locked or managed to ensure that no heavy goods vehicles enter the Site before 07.15 hours.

Reason: To safeguard the amenities of the area.

12. Measures shall be implemented to avoid the possibility of vehicles waiting outside the site prior to the permitted opening hours as specified in condition 11a above.

Reason: In the interests of highway safety.

- 13a. The total amount of mineral processed and dispatched from the Site under the terms of this permission shall not exceed 50,000 tonnes per year. For the purposes of this condition a year shall comprise a calendar year commencing on 1st January and ending on 31st December of each successive year.

- b. Written records of the tonnage of mineral produced from the Site shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: To ensure that the production and dispatch of minerals is controlled at a level which is designed to protect the amenities of the local area.

- 14a. The total amount of minerals processed and dispatched from the Site as restricted under the provisions of Condition 13a above shall include no more than 15,000 tonnes per year of other aggregates for use in the processing plant or for blending.

- b. Any minerals imported to the Site shall only use the access to Telegraph Lane as shown on the approved plans. Written records of the tonnage of minerals imported to the Site shall be provided to the Local Planning Authority within one month of the end of each calendar year.

Reason: To ensure that the import and export of materials is controlled at a level which is designed to protect the amenities of the local area.

15. There shall be no vehicular access or egress for vehicles engaged in the supply of sand and gravel extracted from the Site or the associated processing plant area other than by way of the existing quarry entrance onto the Class 3 Condover road.

Reason: To ensure that mineral vehicles travelling to and from the Site only use the approved Accesses to the Site.

- 16a. No quarry waste or other bulk or waste materials shall be imported to the Site under the terms of this permission.

- b. No soils or soil making materials shall be brought on to the Site unless the prior written approval of the Local Planning Authority has been obtained.

Reason: To ensure that satisfactory control is maintained over the operations at the Site.

SITE DRAINAGE, POLLUTION CONTROL AND HYDROGEOLOGY

- 17a. A scheme providing for additional groundwater monitoring within the Site adjacent to the extension area at an agreed frequency shall be submitted to the Local Planning Authority for

approval within 2 months of the Commencement Date. The scheme shall specify the proposed monitoring provisions throughout the period of mineral working hereby approved. Results of groundwater monitoring shall be provided to the Local Planning Authority upon prior request. The scheme shall be implemented in accordance with the approved details.

- b. The scheme required by condition 17a shall identify an appropriate trigger level at which further investigation shall be undertaken by the applicant in the event that any fall in groundwater levels is encountered which may be attributable to the quarrying operations hereby approved and which could have the potential to affect local water supplies. In the event that the approved trigger level is exceeded the Local Planning Authority shall be notified within one working week of the company becoming aware of this situation.
- c. A consultants report investigating the reason why the trigger level referred to in condition 7b above was exceeded and making appropriate recommendations for mitigation measures shall be submitted for the approval in writing of the Local Planning Authority within one month of the Authority receiving notification of the exceedence. The agreed mitigation measures shall be implemented in accordance with the approved scheme.

Reason: To allow groundwater levels to be monitored throughout the duration of the permitted development in order to provide appropriate notice of any changes to groundwater levels which may be attributable to the permitted development and allow appropriate remedial action to be taken if necessary.

18. Within 2 months of the Commencement Date a scheme providing supplementary information on hydrology within the Site shall be submitted for the approval in writing of the Local Planning Authority. The submitted scheme shall provide the following information:
- i. A scheme detailing drainage works prior to discharge from the site to confirm there will be no increase in in flood risk and no deterioration in water quality, including calculations for the proposed extraction area to confirm the attenuation volumes for the 1 in 2 year and 1 in 100 year greenfield run-off rates.
 - ii. Confirmation that the finished water lagoons will have sufficient capacity above the expected normal water levels to retain the 1 in 100 year plus climate change storm event and the effect on the Cound Brook both upstream and downstream.
 - iii. A scheme confirming measures to intercept and deal with run-off from working areas including measures to manage drainage from any non-permeable surfaces.

Reason: In the interests of flood prevention and to protect local surface and protection of ground and surface water resources.

19. There shall be no siting of structures or storage of materials and existing ground levels shall not be raised within 8 metres of top of the bank of all watercourses within or fringing the Site.

Reason: To ensure that flood water storage capacity is maintained and access to watercourses is maintained.

20. Throughout the period of working, restoration and aftercare the operator shall take steps to ensure that drainage from areas adjoining the Site is not impaired or rendered less efficient by the permitted operations.

Reason: To ensure the continuing satisfactory drainage of the Site.

21. No domestic sewage disposal shall take place unless the means of such domestic sewage disposal has first been approved in writing by the Local Planning Authority.

Reason: To minimise the risk of pollution.

22. No oil, fuel or chemicals shall be stored within the Site without the prior written approval of the Local Planning Authority. Any storage within bunded areas shall take place in properly constructed facilities consisting of an impervious base and impervious bund walls. The size of the bunded compound shall be equivalent to 110% of the capacity of the stored liquids and all filling points, vents and sight glasses shall be located within the compound.

Reason: To prevent pollution of groundwater and surface water resources.

23. Prior to cessation of mineral extraction under the terms of this permission a scheme detailing measures for the final drainage of the Site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable standard of final drainage for the Site.

NOISE, DUST AND LIGHTING

- 24a. Noise attributable to the development hereby approved shall not exceed the following levels at the nearby noise sensitive locations during normal operations:

- i. Grove Farm and Ryton Lodge - 48dB(A) LAeq 1h (free field).
- ii. Grange Cottage and Radmore Cottage - 51dB(A) LAeq 1h (free field).

- b. Noise levels shall not exceed 70dB(A) LAeq 1h (free field) at the nearby noise sensitive locations of Grove Farm, Ryton Lodge, Grange Cottage and Radmore Cottage during temporary operations (no more than a total of 8 weeks in any one year) such as bund formation soil stripping.
- c. A noise monitoring scheme in respect of on-going compliance with the set noise limits shall be submitted to the Local Planning Authority for written approval within 2 months of the granting of planning permission, and shall thereafter be implemented in accordance with the approved details.

Reason: To protect the amenities of occupants of nearby properties from the adverse impact of noise emissions

- 25a. Before any extraction of minerals takes place within the Site a scheme incorporating details of the type of reversing alarms to be fitted to vehicles operating within the Site shall be submitted for the approval in writing of the Local Planning Authority.

- b. All plant and machinery used within the Site shall incorporate silencers fitted in accordance with the manufacturers' specifications and those silencers shall be maintained in full working order.

Reason: To protect any noise sensitive properties from noise disturbances.

- 26a. With the exception of the temporary period of the construction of screening mounds and soil storage areas around the edges of the Site, operations shall be controlled so that there shall be no fugitive dust from the Site when viewed at the Site boundaries. In particular internal haul routes within the Site shall be graded and whenever necessary sprayed with water so as to minimise dust emissions from the Site.
- b. A scheme setting out measures for the monitoring, control and mitigation of dust in the Site shall be submitted to the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall incorporate details of availability of water for dust suppression, provision for minimising drop heights and a procedure for dealing with any dust related complaints which may be received. Following its approval the scheme required by this condition shall be implemented in accordance with the approved details.

Reason: To protect the amenities of the area from any dust generated by operations within the Site.

27. A water bowser of a type and size appropriate to control dust generated from the haul roads and other working areas within the Site shall be employed on the Site when weather conditions require the suppression of dust.

Reason: To ensure suitable dust suppression measures are employed on the Site particularly during dry and/or windy weather conditions.

28. The processing plant within the Site shall incorporate dust suppression measures including water sprays and such measures shall be maintained in effective working order throughout the duration of the mineral processing operations under the terms of this permission.

Reason: To protect the amenities of the area from dust generated by mineral processing operations at the Site.

29. No new fixed lighting shall be installed at the Site unless the details of such lighting have first been submitted to and approved in writing by the Local Planning Authority. All fixed lighting employed at the Site shall be designed so as to minimize the potential for light spillage and associated visual impact.

Reason: To protect the visual amenities of the area and to reduce the potential for disturbance to local wildlife.

INTERNAL SITE ROADS AND WHEEL CLEANING MEASURES

30. The haul road serving the processing plant shall be regularly maintained and swept to provide a clean and even running surface, free from potholes.

Reason: To protect the amenities of the area to minimise the risk of silt pollution and to ensure a satisfactory access to the Site over the period of mineral extraction.

31. A wheel cleaning system shall be deployed at the site for the duration of the mineral extraction operations hereby approved. All heavy goods vehicles exporting mineral from the

Site shall be directed through the wheel wash system before joining the public highway.

Reason: To ensure that wheel cleaning measures are satisfactory over the life of the Site.

CONTROLS OVER METHOD OF OPERATIONS

- 32a. A scheme providing exact details of new fencing and / or boundary treatments for the Site during each phase of the minerals development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of mineral extraction under the terms of this permission. The proposed fencing and / or boundary treatments shall be implemented in accordance with the details of the approved scheme.
- b. All the existing perimeter hedges and fences shall be maintained, made stockproof where necessary and protected from damage by the operator until the restoration is completed. Where the Site boundary does not coincide with an existing hedge or fence, the operator shall provide and maintain appropriate fencing until the restoration of the Site is completed. Undisturbed hedgerows within or bounding the Site shall be properly maintained, throughout the period of working and restoration.

Reason: To ensure the Site is enclosed to an acceptable standard and that hedgerows are maintained.

33. The extraction of sand shall not take place other than in accordance with the approved scheme of phased working shown on drawings listed in Condition 3 above. In particular, operations shall be carried out so as to minimize the amount of operational area which is subject to disturbance at any one time.

Reason: To ensure that working of the Site takes place in accordance with the Permitted Scheme.

34. No new buildings or mineral stockpiles shall be constructed at the Site unless further details of any such structures have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any proposals to construct new temporary buildings or mineral stockpiles at the Site are subject to appropriate planning controls in the interest of visual and general amenity.

35. Unless otherwise first approved in writing by the Local Planning Authority mineral shall not be stockpiled other than in the approved stocking area adjacent to the quarry plant site as shown on the approved block phasing plan accompanying the application (Drawing No. M05108(d)_01).

- b. At no time throughout the duration of the operations hereby permitted shall the height of stockpiles exceed 10 metres.

Reason: In the interests of general and visual amenity.

SLOPE STABILITY

36. A scheme setting out measures for reviewing and ensuring slope stability shall be submitted

for the approval of the Local Planning Authority within 6 months of the Commencement Date. The scheme shall incorporate the following measures:

- i. Confirmation of measures for draining areas above excavated slopes throughout the operational and aftercare phases of the Site;
- ii. A regular visual inspection regime to assess slope stability with a mechanism to report any identified problems to the Local Planning Authority, including Investigation / recording of any water marks, evidence of surface movement or surface erosion features encountered in excavated slopes which could impact on slope stability;
- iii. A commitment to obtain specialist geotechnical advice on slope stability if necessary where a slope stability issue has been identified;
- iv. Confirmation of detailed gradients for excavation and final restoration batters within the Site;
- v. Confirmation of appropriate stand-offs to site boundaries with measures for physical demarcation of these stand-offs;
- vi. Confirmation of detailed planting seeding measures and timescales to assist in stabilizing excavated slopes as soon as practicable after mineral extraction has ceased in a given phase.

Reason: To preserve slope stability within the Site having regard to the proximity of Telegraph Lane and Bridgwalton House to the excavations.

SOIL STRIPPING, MOVEMENT AND STORAGE

37. A scheme setting out detailed provisions for construction of new soil bunds within the Site shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall include details of locations, heights, gradients, seeding timescales and the timetable for bund formation. Following approval of the scheme required by this condition the construction and management of soil bunds shall take place in accordance with the details of the approved scheme.

Reason: To ensure the satisfactory handling and storage of soil resources within the Site.

38. A detailed soil handling strategy shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this permission. The submitted scheme shall include confirmation of controls on soil handling and storage and confirmation of measures to maximise the use of soil seedbanks.

Reason: To ensure the satisfactory handling and storage of soil resources within the Site.

39. No movement of soil shall take place except when the full depth of soil to be stripped or otherwise transported is in a suitable dry soil moisture condition. Conditions shall be sufficiently dry for the topsoil to be stripped and separated from the subsoil without difficulty. Soils should be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils.

Reason: To ensure the satisfactory handling of soil resources within the Extension Site.

40. Before any part of the Site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or is built upon or used for the stacking of subsoil, soil making material or overburden, or for the construction of a

road, all available topsoil shall be stripped from that part using dump trucks, front end loading shovels and/or conveyors.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

41. All soil types within the Site as approved by the Local Planning Authority shall be stripped and stored separately and within those soil types, the top and subsoils shall be stripped and stored separately. Any overlap of soil types in a storage mound shall be kept to the minimum necessary for the effective formation of that mound and the interface shall be suitably defined on site and on a record plan provided to the Local Planning Authority so that soil types can be easily located at mound removal stage.

Reason: To ensure that soils are stored in a satisfactory condition for future restoration uses.

- 42a. Subsoils shall be stripped from the extraction area to a minimum 75cm in depth and shall be stored for the subsequent restoration of this part of the Site.

Reason: To ensure that sufficient subsoils are reserved for future restoration uses.

43. Within the Site, deeper pockets of soil making material shall be recovered wherever practicable for use in the restoration of the Site.

Reason: To ensure that materials within the Site which will be suitable for restoration works are saved for this use.

44. Mounds of topsoil, subsoil and soil making materials shall be constructed with only the minimum of compaction necessary to ensure stability. They shall be graded and seeded with a suitable grass seeds mixture, and the sward shall be managed throughout the period of storage including the removal of any weeds at an early stage of growth.

Reason: To ensure the satisfactory preservation of soils for restoration of the Site.

45. Following topsoil and subsoil stripping in each stage or part of the defined stage of the Site, no mineral extraction shall commence until a written statement has been received from the Local Planning Authority confirming that the relevant stage or the relevant part of it has been inspected and that all soils or soil-making materials have been stripped to the satisfaction of the Local Planning Authority, for use in the restoration of the Site.

Reason: To ensure that sufficient soils are reserved for restoration purposes.

46. Whenever possible, in accordance with the progressive working and restoration of the Site, soils stripped from a stage or sub-stage of extraction shall be immediately used for the restoration of a previously worked stage or sub-stage of the Site. Soils shall be replaced in the correct order with sub-soils and soil making materials placed in advance of topsoil.

Reason: To ensure that sufficient soils are reserved for restoration purposes.

- 47a. Stripping, movement, storage and subsequent replacement of soils shall only be undertaken using a back-actor, front end loading shovels, dump trucks and/or conveyors.

Reason: To minimise possible damage to soils for use in future restoration.

- b. Stocking of soils in mounds shall be to a maximum height of 5 metres and such mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability.
- c. Run-off from soil storage areas shall be contained within the Site or intercepted via peripheral drains and settled out through on-site treatment facilities prior to any discharge from the Site.

Reason: To ensure the satisfactory conservation of soils, the proper construction of soil storage areas and to prevent the pollution of the Mor Brook or other surface waters.

- 48. No turf, topsoil or subsoil shall be removed from the Site.

Reason: To ensure that sufficient soils are retained for the comprehensive restoration of the Site.

- 49. Within 3 months of the formation of any soil storage mound in accordance with the approved plans the quantities shall be measured and supplied on an appropriate plan to the Local Planning Authority.

Reason: To ensure that sufficient soils are retained for the comprehensive restoration of the Site.

LANDSCAPING AND RESTORATION

- 50a. The Site shall be restored progressively in accordance with the general principles of restoration as shown on the Concept Restoration Plan (Drawing No. M05108(d)_06C).
- b. Within 2 months of the date of this permission a detailed scheme of restoration and landscaping shall be submitted to the Local Planning Authority for approval in writing and these works shall be carried out as approved. The submitted scheme shall include:
 - i. Planting plans, including wildlife habitat and features (e.g. sand banks, hibernacula, bat and bird boxes, species-rich grasslands) showing location and number of each;
 - Tree and shrub species lists for mixed native hedgerow and woodland creation; (Woodland to be of NVC community types appropriate to the area and specific site conditions);
 - Numbers and planting patterns / mixes of trees and shrubs for hedge and woodland creation;
 - Means of ground preparation and planting pit specification where relevant;
 - Measures for tree protection and support (eg rabbit spirals and bamboo canes, or stakes and ties, or tree guards / shrub shelters);
 - Early years maintenance schedule (eg mulching and / or weeding, straightening and eventual removal of stakes and ties);
 - Replacement of losses as appropriate to achieve 90% survival rates after 5 years;
 - Timing of commencement and completion of the various phases of the scheme;
 - scale plans of the proposed planting sites;
 - ii. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
 - iii. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;

- iv. Native species used to be of local provenance (Shropshire or surrounding counties);
- v. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- vi. A scheme for the formation and treatment of all lakes to be established as part of the restoration of the Site including depths of the lakes, gradient of banks, provision of safe and shallow shorelines, treatment of lake margins to promote the growth of appropriate vegetation and establishment of habitats and a timetable for the implementation of these works;
- vii. A scheme for the restoration of the plant and stocks area and silt lagoons area;
- viii. Implementation timetables.

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

51. A detailed habitat management plan shall be submitted to and approved by the Local Planning Authority within 3 months of the Commencement Date and shall include:

- i. Description and evaluation of the features to be managed;
- ii. Ecological trends and constraints on site that may influence management;
- iii. Aims and objectives of management;
- iv. Appropriate management options for achieving aims and objectives;
- v. Prescriptions for management actions;
- vi. Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
- vii. Personnel responsible for implementation of the plan.
- viii. Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance and maintain created habitat.

52a. All trees, hedgerows and shrubs within the Site boundary but outside the limits of extraction shall be retained and managed and, where appropriate, protected during excavation and restoration works to the reasonable satisfaction of the Local Planning Authority.

- b. No disturbance shall take place to any established trees or shrubs within or surrounding the Site until after the end of the bird nesting season (March - June inclusive), unless a supplementary ecological survey has been submitted to and approved in writing by the Local Planning Authority which shows that the affected vegetation is not being used by any nesting birds.

Reason: To preserve and protect existing vegetation within the Site which is not allocated for removal and to safeguard any nesting bird species.

53a. All buildings, plant and machinery within the Site which have been installed in connection with the operations authorised under this permission or any previous permission relating to the Site, shall be demolished, and removed from the Site within twelve months of completion of mineral extraction and the sites of such buildings, plant and machinery shall be restored in accordance with the provisions of the scheme referred to in Condition 50 above.

- b. All access and haul roads which have not previously been approved for retention by the

Local Planning Authority in connection with the approved restoration and aftercare schemes shall be removed in accordance with the provisions of the scheme required by condition 50 above.

Reason: To assist in securing the full and proper restoration of the Site within an acceptable timescale.

RESTORATION OF AGRICULTURAL AREAS

- 54a. Restoration of the Site involving soil replacement shall be carried out in dry ground and weather conditions. Soil shall be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils. All subsequent cultivation treatments shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise soil damage and to maximise the effects of the subsoiling and rooting operations.
- b. Movement of soils shall be carried out using low ground pressure equipment and in particular earth scrapers shall not be used for restoring best and most versatile agricultural land. Soils from areas scheduled for restoration to best and most versatile agricultural land shall be restored using the dump truck/loose tipping method in narrow strips of approximately 10 metres width. In particular dump trucks shall not travel on the replaced soils and any machinery travelling over the soils shall be kept to the minimum necessary to spread the soil and achieve a satisfactory restoration.
- c. During the replacement of soils and other materials the restoration of the Site shall be carried out in a sequence which shall prevent the mixing of topsoil, subsoil making material and overburden.

Reason: To ensure the satisfactory handling and spreading of soils for restoration.

- 55a. Following the cessation of mineral extraction and before the replacement of subsoil, the upper layers of the sandpit base shall be subsoiled (rooted) with a heavy duty subsoiler. Such treatment shall ensure that there is:-
- i. no material injurious to plant life
 - ii. no rock, stone, boulder or other material capable of preventing or impeding normal agricultural or land drainage operations including subsoiling.
 - iii. no wire rope, cable or other foreign objects.
 - iv. a reasonably level, but uncompacted, surface to receive subsoil.
- b. Stones with a diameter in excess of 10 cm and other deleterious materials shall be removed from the Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

- 56a. A minimum of 90 cm of subsoil shall be re-spread evenly over those areas approved to receive such subsoil. The subsoil shall be treated in accordance with the general

requirements of Condition 59 above. Except where soils are being loose tipped no layer of replaced soil shall exceed 300mm thickness before it is subsoiled (rooted) and the subsoiling operation must penetrate at least 150mm into the underlying layer to relieve compaction at the interface. Subsoil upon which other soils have been stored shall also be subsoiled (rooted) in the same manner.

- b. Stones with a diameter in excess of 10cm or other deleterious materials shall be removed from Site or buried on the Site in a location and depth notified to the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

- 57a. After satisfactory replacement and treatment of the subsoil, a 30 cm layer of topsoil shall be re-spread evenly over those areas approved to receive such topsoil. The topsoil shall be subsoiled (rooted) and cultivated and topsoil upon which other topsoil has been stored shall be subsoiled (rooted) and cultivated in the same manner.

- b. All operations involving soil replacement and cultivation treatments shall only be carried out when the full volume of soils involved is in a suitable dry soil moisture condition.

Reason: To ensure the satisfactory restoration of the Site.

- 58. Stones with a diameter in excess of 10cm and any other material in the restored soil profile which is deleterious to the establishment of the proposed afteruses shall be removed from the Site or buried at considerable depth in a manner to be the subject of the prior approval of the Local Planning Authority.

Reason: To ensure the satisfactory restoration of the Site.

- 59. Prior to cultivation of the replaced soils in each stage of restoration a formal inspection shall take place with the Local Planning Authority to ensure that the restoration levels are in general accordance with the levels set out in the approved Restoration Plan and that the contours are suitable for future reinstated agricultural operations.

Reason: To ensure this satisfactory restoration of the Site.

- 60a. On the completion of restoration all fixed equipment, machinery and buildings shall and areas of the site haul roads which are not required in association with the approved afteruse shall be removed from the Site.

- b. Field water supplies shall be provided in those parts of the Site which are returned to agricultural uses.

Reason: To ensure the satisfactory restoration of the Site.

- 61. Where each progressive stage of restoration within the Site incorporates the planting of hedgerows and trees, such planting shall be implemented in accordance with a detailed specification supplied to and approved in writing by the Local Planning Authority and the work shall be carried out within the first planting season following restoration.

Reason: To ensure the satisfactory restoration of the Extension Site.

AFTERCARE

- 62a. All agricultural areas shall undergo aftercare management for a 5 year period, commencing on the date at which the restoration is completed to the satisfaction of the Local Planning Authority.
- b. All areas of habitat based restoration incorporating lakes, grassland and woodland shall undergo aftercare management in accordance with the provisions of the legal obligation accompanying this permission from the date when restoration has been completed under the terms of this permission until the expiry of 5 years following the completion of mineral working under the terms of this permission.

Reason: To bring the land to the required standard for agricultural use and wildlife habitats.

63. Detailed aftercare schemes for agricultural areas shall be submitted for each restored section of the Site as soon as restoration has been completed to the satisfaction of the Local Planning Authority. The submitted schemes shall provide for the taking of such steps as may be necessary to bring the land to the required standard for agriculture, including as appropriate:
- i. minor regrading works as necessary to alleviate the effects of settlement and surface ponding;
 - ii. measures to reduce the effects of compaction;
 - iii. fertiliser and lime application;
 - iv. cultivation works;
 - v. reseeded where necessary of any parts of the area sown which do not provide a satisfactory plant growth in the first year;
 - vi. grass cutting or grazing;
 - vii. replacement of hedge and tree failures;
 - viii. weed and pest control;
 - ix. drainage including the construction/maintenance of ditches and soakaways;
 - x. field water supplies
 - xi. under drainage
 - xii. vegetation management proposals including as necessary firming, re-staking, fertiliser application, thinning and replacement of failures within the aftercare period;
 - xiii. habitat management proposals within the aftercare period;
 - xv. track maintenance within the Site;
 - xvi. repair to erosion damage;

Reason: To ensure the establishment of a productive afteruse for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

REVIEW OF SITE OPERATIONS

64. The Site shall be subject to a formal annual review of operations throughout the period of working, restoration and aftercare hereby approved. The annual review shall cover issues including:
- i. noise and dust mitigation;
 - ii. extraction and processing;
 - iii. progressive restoration;

- iv. aftercare, including to agriculture and nature conservation;
- v. a review of any complaints received and action taken.

Reason: To provide a suitable mechanism for the ongoing review of Site operations.

RETENTION OF DOCUMENTS AND PLANS AT THE SITE

65. A copy of all documents and plans comprising the permitted scheme as referred to in Condition 3 above shall be held at the Site for inspection and reference for the duration of the permitted development.

Reason: To ensure the availability of the details of the permitted development to on-site personnel.

APPENDIX 2

FULL TEXT OF REPRESENTATIONS FROM INDIVIDUAL RESIDENTS

- i. Hackett (Objects) We live close to this existing quarry and experience large numbers of lorries and other vehicles that pass our house on a road that is single track and unsuitable for lorries. We have lost large parts of our garden as this traffic is eroding our garden and we have lost a large section of our boundary hedge which can only get worse. Lorries use our drive as a passing place as there are limited places for vehicles to pass. As part of the existing planning permission lorries should not be passing our house but they do in large numbers. By expanding the quarry south of the existing site we will experience large amounts of dust and noise which is unacceptable. We also have a holiday cottage close to the boundary of the land owned by the quarry and this will make this business unworkable due to noise and dust. This is a business that we have built up over a number of years, supporting tourism to Shropshire and for which we pay council tax for. In the application the timescale of the proposed work is more than a little vague. The applicant needs to be specific in detailing what will happen and when. If permission were to be granted I would want to know when the restoration work would be completed. Another local quarry (Dorrington Sand and Gravel) is required to carry out restoration work as part of its planning permissions and this work has not been carried out. The working hours of the quarry are I believe excessive and the volume of traffic quoted for the

existing quarry does not appear realistic based on my experience of traffic past our house. As part of the restoration work there is no public access - why not? This is a large site and although wildlife should be encouraged so should public access.

- ii. Lean-Williams: (Objects) - My objections to this proposal come initially from the wording of the summary of the planning application. We are directly affected by the "Access/Traffic" created by the quarry and in particular I raise objection to the statement that working hours start at 0700 every day of the week, I can assure you that HGV vehicles start passing through the village at 0530 daily as they wake me up at that time in the morning daily...I have a five month old who doesn't wake me up as often as these lorries do!! I would like to know why on earth they need to begin arriving at the quarry at this time if it doesn't open til 0700!!? By speaking to various people it seems that the lorries come and park up in readiness at this time...I believe this to be an unnecessary disruption to the village and would suggest that maybe a ban on HGVs through the village between certain times would be a good concession for the quarry traffic to uphold. Most other towns and villages implement this so why not here where it is a real issue, Bayston Hill is a good example of this practice. My second objection is to the somewhat vague notion of time-scale for which we are allowing the quarry to remain in operation...is it 8 or is it 10 years? Two years is quite a long period of time to be vague about! Might it be more sensible to impose maybe a 5 year allowance to continue quarrying for it to then be reviewed for an additional period, many things can change in 5 years. I believe when continuation of quarrying first was proposed, the time period was much shorter and there was also an alternative route for the traffic being discussed, as these things have since changed, I think some concessions would be a small price to pay.
- iv. Hargreaves: (Support) Being very close neighbours to the proposed development, we support the proposed extension to the quarry and restoration for nature conservation benefits. We would however like to ensure that Ragwort is professionally controlled across the entire existing and proposed development, and in addition that security preventing unauthorised access for shooting or scrambling is strengthened.
- v.(a) Betton: (Objection): Within this planning application to expand the working face of Gonsal open-cast pit mine there is no confirmation that the general public will be allowed to walk through the re-landscaped old workings of Gonsal open-cast pit mine, I also read about the of Conservation of protected species. So, this item really does need to be clarified, for decade upon decade the general public, local and traveling though have had to deal with noise, noise and pollution, HGV's traveling through the local villages, et cetera, but it would appear that the public will not be allowed to walk the new landscaped area when the restoration is completed. This means that for decade after decade, a heavy industrial open-cast pit mining operation that was allowed to destroy wildlife habitats with massive items of polluting machinery and when they have removed all the material that they can and sell it for profit, we the general public are not allowed to WALK through the newly landscaped area because it will be a conservation area, how strange and very odd, all of a sudden the planners now are of the opinion that the land must not be walked on but it appears that they support this next expansion plan that will start the cycle of wildlife habitat destruction again, and again by allowing very heavy machines to roam the site. I would like someone from the planning department to explain to everyone, why is it okay to destroy wildlife habitat and countryside with heavy machines weighing many, many tonnes, but not okay for walkers to walk the new tracks? I have seen a reference to one house that the expansion will cause problems for but this is not a true statement as

HGV's traveling through two villages, one of which is a conservation area encompasses very many more homes.

- (b) Apparently the planning applicant has proposed a range of traffic controls to avoid the school opening and closing times, as described below, "The applicant is proposing a range of traffic control measures, including a commitment not to receive or despatch quarry traffic during school opening and closing times". As already mentioned, in Condover we have three very different types of learning establishments that probably use different times for opening and closing and daily excursions. How will the suggested traffic controls be enforced? Reading the comments attached to planning application 13/00336/EIA, it would appear that mineral HGV's are and have been travelling through Condover outside of the current agreed times that was agreed from previous planning applications. The proposals made to suggest a way of controlling mineral HGV's would be extremely difficult to control, if not impossible.
- (c) With reference to the statements within the SAMDev document, which states no further mineral extraction would be allowed unless a relief road is constructed taking Mineral HGV's directly to the A49 via a new relief road and the fact that the main reason for this can only be because of the health and safety risks associated with HGV's travelling through narrow roads of a Village in a conservation area, which has two existing learning establishments and one new adventure holiday complex, which was not there when the above statement was made and can now cater for an additional 500 young visitors passing along the same road as mineral HGV's. Very recently, it appears that the front garden wall of a house on one of the very same routes that mineral HGV's use (Between the entrance of Gonsal open-cast pit mine and the A49 via Condover Village) has been demolished by a vehicle of some kind. I do not know what type of vehicle caused the damage or who was the driver, the house is just on the edge of Condover village at the bottom of a downhill stretch of the route on the right just before the Cound Bridge. This very recent event, about three weeks ago, together with other incidents including vehicles leaving the road, turning upside down and partly destroying another front entrance wall in Condover village over the years should be considered. My message to all those members of the Shropshire Planning Committee who will decide on the fate of planning application 13/00336/EIA that does not include the new relief road is, we must all sincerely hope that the final decision will not have an impact on residents lives especially in the area of road traffic accidents and the safety of local residents and the general public.
- vi. Daley: (Objection): Here we go again! Gonsal Quarry applying for yet more while its lorries trundle endlessly through what used to be a quiet village, causing holdups, kerbside damage, noise and diesel. At the same time we have the same old mantra about the Great Crested Newts, bats, water voles etc. only those working at Gonsal ever see (if indeed they exist) and if they do, they're no reason for spoiling the village. I don't believe there will be any benefit from this proposal other than to the owners of Gonsal who, yet again will indulge in promises never fulfilled, to a Council who are clearly an easy "prey". Had to get that across, with no confidence it'll have any effect. My house is still being shaken by lorries, my peace disturbed and my outside needing re-pointing due to fallen cement caused by heavy traffic.

Development Management Report

Responsible Officer: Tim Rogers

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

LPA reference	16/04922/ENF
Appeal against	Operational Development
Appellant	Mr Stelios Georgiou
Nature of Breach	Breach of planning condition no. 4 of planning permission SA/81/0939/360/81. Various extensions being erected.
Location	The Village Fish Bar Main Road Pontesbury Shrewsbury
Date of application	09.05.2016
Officer recommendation	
Committee decision (delegated)	Enforcement Notice Served
Date of decision	
Date of appeal	24.01.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	16/03991/FUL
Appeal against	Appeal Against Refusal
Appellant	The Village Fish Bar
Proposal	Erection of single storey rear and side extension to provide additional store area, external servery counter, seating area to existing restaurant/takeaway, and provision of bedsit accommodation to allow the primary worker/owner to live on site
Location	Village Fish Bar School Green Pontesbury Shrewsbury
Date of application	05.09.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	16.12.2016
Date of appeal	24.01.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/02239/OUT
Appeal against	Appeal Against Refusal
Appellant	Galliers Homes Limited
Proposal	Outline application for residential development to include means of access (amended description)
Location	Land East Of Bicton Lane Bicton Shrewsbury
Date of application	20.05.2014
Officer recommendation	Grant Permission
Committee decision (delegated)	Committee
Date of decision	21.09.2015
Date of appeal	04.12.2015
Appeal method	Hearing
Date site visit	05.04.2016
Date of appeal decision	21.02.2017
Determination time (weeks)	
Appeal decision	DISMISSED – AWAITING COSTS DECISION
Details	

LPA reference	15/04035/FUL
Appeal against	Appeal Against Refusal
Appellant	Galliers Homes
Proposal	Erection of 15 No. dwellings, new access road, link footpath and landscaped public open space
Location	Land East Of Bicton Lane Bicton Shrewsbury
Date of application	17.09.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	17.12.2015
Date of appeal	06.01.2016
Appeal method	Hearing
Date site visit	05.04.2016
Date of appeal decision	21.02.2017
Determination time (weeks)	
Appeal decision	DISMISSED – AWAITING COSTS DECISION
Details	

LPA reference	15/04910/OUT
Appeal against	Appeal Against Refusal
Appellant	Newriver Property Unit Trust No. 4
Proposal	Outline Application for the erection of 4 No residential units (to include access)
Location	Land South Of Calverton Way Shrewsbury
Date of application	13.11.2015
Officer recommendation	Grant Permission
Committee decision (delegated)	Committee
Date of decision	04.07.2016
Date of appeal	26.10.2016
Appeal method	Written Representations
Date site visit	11.01.2017
Date of appeal decision	13.02.2017
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS REFUSED
Details	

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Appeal Decisions

Hearing held on 5 April 2016

Site visit made on 5 April 2016

by M C J Nunn BA BPL LLB LLM BCL MRTPI

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

Decision date: 21 February 2017

Appeal A Ref: APP/L3245/W/15/3139973

Land off Bicton Lane, Bicton, Shrewsbury, Shropshire

- 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 Galliers Homes Ltd against the decision of Shropshire Council.
 - The application Ref: 14/02239/OUT, dated 16 May 2014, was refused by notice dated 21 September 2015.
 - The development proposed is described as 'residential development comprising 25 dwellings, estate roads and public open space'.
-

Appeal B Ref: APP/L3245/W/16/3141878

Land off Bicton Lane, Bicton, Shrewsbury, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Galliers Homes Ltd against the decision of Shropshire Council.
 - The application Ref: 15/04035/FUL, dated 16 September 2015, was refused by notice dated 17 December 2015.
 - The development proposed is described as 'erection of 15 dwellings, new access road, link footpath and landscaped public open space'.
-

Decisions

1. Appeals A and B are both dismissed.

Procedural Matters

2. Appeal A was made in outline with all matters reserved for subsequent determination. As originally submitted, the appeal site comprised a larger area, and the planning application was for 25 dwellings, as recorded in the header above. However, during the determination process the appeal site was reduced in size with an illustrative layout showing 15 houses. The Council considered the proposal on the revised basis of 15 dwellings and so have I. Appeal B was made as full application for 15 dwellings, and I have assessed it accordingly.
 3. An application for costs has been made by Galliers Homes Ltd against Shropshire Council in respect of both Appeals A and B. These are subject of separate decisions.
-

4. Two completed legal agreements were submitted at the Hearing, relating to Appeals A and B. I deal with these in the body of the text.
5. After the hearing, the appellant submitted a Heritage Impact Assessment. The comments of the Council were sought on this document, although none were received. I have taken its findings into consideration in reaching my decisions.
6. The appellant, after the hearing, drew my attention to an appeal decision at Teal Drive, Ellesmere, Shropshire, dated 16th May 2016¹ ('The Teal Drive decision'), allowing a proposal for 68 dwellings. Interested parties were asked for their comments on this decision. However, it was subsequently quashed by the High Court on 2nd November 2016². I deal with this matter in the body of my decision.
7. Extensive post hearing correspondence was received relating to the Teal Drive appeal decision from the appellant and Council. Documents were also provided by the parties relating to the subsequent High Court challenge. Also provided after the Hearing were, amongst other things, the Council's Fully Objectively Assessed Housing Need Report ('FOAHN Report') (dated 4th July 2016), the appellant's response, and the Council's Five Year Housing Land Supply Statement (dated 26th August 2016). I have taken all this post hearing correspondence into consideration in my decisions.

Main Issues

8. The main issues in both appeals are:
 - i. whether the development would comply with national and local policies relating to development within the countryside, including the Council's strategic approach to the location of new development;
 - ii. the effect of the proposals on the character and appearance of the area, including the landscape;
 - iii. whether a five year supply of housing can be demonstrated; and,
 - iv. whether, overall, the proposals would represent a sustainable form of development.

Reasons

Development within the Countryside and the Council's Strategy

9. The relevant legislation³ requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the Shropshire Core Strategy, adopted in March 2011 ('the Core Strategy') and the Shropshire Site Allocations and Management of Development Plan, adopted on 17th December 2015 ('the SamDev'). The policies most relevant to these appeals are CS1, CS4, CS5, and CS6 of the Core Strategy, and Policies MD1, MD3, MD7a and S16.2(vi) of the SamDev.

¹ APP/L3245/W/15/3067596

² Shropshire Council v SSCLG & BDW Trading Ltd (David Wilson Homes) and others [2016] EWHC 2733

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004

10. Policy CS1 of the Core Strategy sets out a 'Strategic Approach' for the period up to 2026. It identifies a target of 27,500 dwellings for Shropshire between 2006 and 2026. It requires that around 25% of new residential development be accommodated in Shrewsbury, and around 40% in Market Towns and other Key Centres. Around 35% will be accommodated in rural areas, located predominantly in Community Hubs and Community Clusters. Outside these settlements, the Policy confirms that development will be primarily for economic diversification and to meet the needs of local communities for affordable housing.
11. Policy CS4, amongst other things, focuses private and public investment in the rural areas into Community Hubs and Community Clusters, and does not allow development outside these settlements unless it meets Policy CS5. The supporting text⁴ to Policy CS4 explains that, within Community Hubs or Clusters, so as to prevent fragmented development, new development must be within the villages, or on land specifically allocated for development, and that windfall development adjoining the villages is not acceptable, unless it is an exception site for affordable housing or for development allowed under Policy CS5.
12. Policy CS5 states that new development will be strictly controlled in accordance with national planning policies protecting the countryside, but permits development proposals on appropriate sites which maintain and enhance countryside vitality and character, and which improves the sustainability of rural communities by bringing local economic and community benefits. The policy lists types of development that may be allowed. This includes, amongst other things, small scale economic development diversifying the rural economy, dwellings for agricultural or countryside workers, affordable housing to meet a local need, conversion of buildings, agricultural related development, tourism and recreation proposals. Although the list is not exhaustive, general market housing, other than the conversion of buildings, is not identified as permitted within the countryside.
13. Policy CS6 refers to sustainable design and development principles. It requires high quality development that, amongst other things protects, restores, conserves and enhances the natural, built and historic environment, and is appropriate in scale, density, pattern and design taking into account the local context and character.
14. The SamDev sets out various policies to guide future development in order to help deliver the Vision and Objectives of the Core Strategy for the period up to 2026. Policy MD1 of the SamDev reinforces the scale and distribution of Development already established in the Core Strategy, directing it to Shrewsbury, the Market Towns and Key Centres, and within rural areas to Community Hubs and Community Clusters. The Policy identifies Bicton and Four Crosses as a Community Cluster.
15. Policy MD3 supports sustainable housing development on sites not allocated for development, having regard to other relevant plan policies, including CS4 and CS5, MD1 and MD7a. Policy MD3 confirms that the housing guideline figures for settlements are a significant policy consideration, and states that where a

⁴ Paragraph 4.69 Core Strategy

- settlement guideline figure appears unlikely to be met, additional sites outside the settlement boundaries may be acceptable subject to various criteria set out at Paragraph 2. Policy MD7a re-iterates that new market housing will be strictly controlled outside Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.
16. Policy S16.2 (vi) of the SamDev confirms that Bicton and the Four Crosses area is defined as a Community Cluster where development by infilling, conversion of buildings and small groups of houses may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with a housing guideline figure of around 15 additional dwellings over the period to 2026.
 17. The National Planning Policy Framework ('the Framework') sets out the Government's up-to-date planning policies and is a material consideration in planning decisions. The Framework does not change the statutory status of the development plan for decision making. Importantly, however, the Framework advises at Paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.
 18. The SamDev was adopted only recently, in December 2015, having been found sound at examination by an Inspector and so, considering my conclusions set out below in relation to housing land supply, its policies carry significant weight. I acknowledge that the Core Strategy predates the Framework, with its more flexible and balanced approach to sustainable development within the countryside. That said, I do not find that the overall approach of Policies CS1, CS4, and CS5, setting out a strategy to achieve sustainable patterns of development within the plan area, directing development towards to existing urban areas, and in rural areas predominantly within identified Community Hubs and Clusters, to be at odds with the aims of the Framework. Nor do these policies impose a 'blanket ban' on development outside settlement boundaries. Therefore, and having regard to the housing land supply situation, I consider they should afforded significant weight in these appeals.
 19. The appeal site, although adjoining the settlement boundary of Bicton Village along one side, is a green field site falling outside it. Whilst a small proportion of the development would be affordable units (2 dwellings), both appeal schemes comprise predominantly open market units. As such, the schemes are not the type of development envisaged by either Policy CS5 or MD7a. The schemes would also run counter to CS4 because they constitute development of a type not listed in Policy CS5 and would be located outside the defined Community Cluster of Bicton and Four Crosses.
 20. The Council has provided details of development that has either taken place or has outstanding permission in the Bicton and Four Crosses area, totalling 15 units. The appellant disputes that figure on the basis it includes sites outside the development boundaries of the Bicton and Four Crosses Community Cluster. Nonetheless, given the Plan period runs to 2026, even if the Council's figure of 15 above is discounted, there is no compelling evidence to suppose that the guideline figure will not be met.
 21. All that said, I accept that the settlement guideline figure, although significant, cannot be regarded as a ceiling or maximum. Indeed, the SamDev Plan

Inspector endorsed reliance on windfall sites to achieve the housing requirements of the area, notwithstanding that they do not provide the same level of certainty as planned or allocated sites. She noted that windfall sites have historically been a major component of housing and required a modification to the SamDev to ensure that housing guidelines are considered flexibly to ensure consistency with the Core Strategy and the Framework⁵.

22. In these circumstances, I acknowledge that the guideline figures may have to be exceeded and windfall sites developed in the countryside. This is because Policy CS1 requires 35% of housing to be in rural areas, equating to around 10,000 dwellings in the rural area, whereas the amount of development within the settlement boundaries of the Community Hubs and Clusters identified within SamDev allow for less than half that amount. Further, given that the development boundaries are relatively tightly drawn with limited opportunities for infill, the delivery of additional housing may need to occur outside defined boundaries. I accept, therefore, that in certain appropriate circumstances, market housing could take place outside settlement boundaries, subject to other planning considerations.

Character and Appearance

23. The appeal site forms part of an open area of gently undulating fields and is currently agricultural grazing land. The eastern edge abuts the properties of Brookside, a relatively modern Close of residential properties. To the west is Bicton Lane, which in the section nearest to the appeal site, comprises a narrow single carriageway with a strongly rural appearance, bounded by mature trees and hedgerows. At some distance to the south, beyond the boundary of the appeal site, is Holy Trinity Parish Church, an attractive Grade II church built between 1885-7. There are other designated and non-designated heritage assets in the locality. Immediately to the north and beyond is attractive rural countryside.
24. The Council's approach in terms of the effect of the proposals on the character and appearance of the locality lacks clarity. On the one hand the Council has stated that the development 'would not have a significant visual impact that would affect the rural setting of the settlement'. On the other, it states that the development 'would result in a suburban built-form of development that would change the character and appearance of the site from that of open pasture to a cul-de-sac of modern houses altering the open landscape and rural character of the area' and that 'the intrinsic character of this part of the countryside would therefore be lost'. Local residents and Bicton Parish Council are, however, clear in their serious concerns about development's effect on the character and appearance of the locality.
25. From my own observations during my site inspections, I consider the site and its wider surroundings form part of an attractive and undulating landscape, with a gently rolling topography. The locality is composed of pastoral fields, punctuated and peppered by intermittent deciduous tree cover and hedgerow boundaries. This creates an intimate and pleasing character. The local landscape remains intact and unspoilt, and its elements are in good condition. Indeed, the predominant impression, when walking along Bicton Lane where

⁵ Inspector's Report into SamDev Plan, October 2015, Paragraphs 25 & 45

- the new access road is proposed, is of being within an attractive and clearly rural area, with the urban edge of Bicton, and specifically the properties in Brookside, playing a relatively minimal role.
26. The appeal site is promoted on the basis that it should be regarded as essentially an area adjacent to, and read in the context of the built development of Bicton, and especially the houses in Brookside. However, in my judgement, the appeal site cannot be realistically regarded as self-contained, or substantially enclosed from wider views. Rather, from my observations, it comprises fields that merge with the wider sweep of rural land beyond the built-up confines of Bicton. The appeal site forms an important and pleasant part of the rural landscape and its loss would be harmful to it.
 27. In order to reach the proposed area of new housing, the new access road would effectively 'cut across' the open and undeveloped landscape. The western section of the road, isolated within the countryside, would protrude incongruously into the landscape and result in a highly visible and intrusive feature. The access road would also result in the removal of a significant section of hedgerow along Bicton Lane.
 28. The housing itself would encroach markedly into the countryside, and would have a common boundary with the existing urban edge of Bicton along only one side – namely the gardens of the Brookside properties. The other three sides would abut open countryside resulting in a promontory of development jutting into the landscape. The existing open, rural character of the site would be destroyed. I do not consider the proposal would mark a natural rounding off of the existing settlement, nor would it be adequately assimilated with it. Rather it would result in a significant harmful intrusion into a currently open and undeveloped area, with serious adverse effects for the wider landscape.
 29. I acknowledge that additional structural planting and landscaping is proposed to supplement existing vegetation and trees in order to minimise the impact of the new housing. However, I am not convinced that this, even once it has become fully established over time, would be fully effective in altering the perception of urban development, including the new access road, behind the vegetative screening. Indeed, in the winter months when deciduous trees lose their leaves and vegetation dies down, the houses will inevitably be more obvious.
 30. Overall, I conclude that the encroachment of new development on to this undeveloped area of open land would have very significant and adverse effects for the rural landscape. The development would cause a serious incursion into the open countryside and materially harm the locality of the area. As such, the scheme would be contrary to Policy CS6 of the Core Strategy which requires that all development, amongst other things, protects, restores, conserves and enhances the natural, built and historic environment, and is appropriate in scale, density, pattern and design taking into account the local context and character.

Housing Land Supply

31. At the Hearing, it was common ground between the parties that the Council was able to demonstrate a five year supply of housing sites⁶. As a consequence, this matter was not canvassed or discussed in detail at the event. It was only after the close of the Hearing that the appellant drew my attention to the Inspector's conclusions in the Teal Drive decision.
32. In that case, the Inspector concluded that the Council's housing requirement figure of 27,500 over the Plan period could not be considered robust, and that it did not reflect the Full Objectively Assessed Housing Need (FOAHN) of the District. The Inspector found that the Council could not have a five year supply of housing, and that therefore, in accordance with Paragraph 49 of the Framework, the Council's Development Plan Policies relevant to the supply of housing could not be considered up-to date. This, in turn, had implications for how proposals should be determined because Paragraph 14 of the Framework states that where relevant policies are out of date, planning permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits.
33. The appellant, after this Hearing was concluded, sought to argue the same point based on the reasoning above. However, and importantly, the Teal Drive decision has been quashed by the High Court and it cannot be accorded weight in these appeals. The Council produced an updated FOAHN Report in July 2016. This provided a general endorsement of the adopted housing requirement identified within the Core Strategy. The appellant has made various criticisms of the July FOAHN Report in that it is based on demographic projections only, that it does not adequately take into account market signals, and it does not make adjustments for employment trends. It is argued that it cannot be considered in accordance with the advice within Framework and the Planning Practice Guidance (PPG).
34. However, the PPG advises that establishing future housing need is not an exact science and there is no single methodological approach that will provide a definitive assessment⁷. It may be that criticisms can be made about aspects of the FOAHN report and it may be imperfect in certain respects. As noted above, detailed matters relating to housing land supply were not discussed in depth at this Hearing given that it was accepted by the parties the Council could demonstrate a five year supply of housing sites. There is no compelling evidence before me in these appeals that the Council's FOAHN Report is fundamentally flawed, or conflicts with the general approach of the Framework or PPG, or undermines the overall housing requirement within the Core Strategy.
35. The Council's latest Five Year Housing Land Statement, published 26th August 2016 demonstrates that the Council has 5.97 years' supply of deliverable land, based on the housing requirement identified in Policy CS1 of the Core Strategy. I understand that the methodology is consistent with that endorsed by the SamDev Plan Inspector. On the evidence before me, it appears to be robust and I have no reason to doubt that the Council has a housing land supply in

⁶ Statement of Common Ground, Paragraph 12

⁷ Paragraph: 014 Reference ID: 2a-014-20140306

excess of five years. Consequently, I am satisfied that the Council's policies relevant to the supply of housing should be considered up to date in terms of Paragraph 49 of the Framework.

Whether Sustainable Development

36. Turning to sustainability, the Framework identifies different dimensions to sustainable development, including economic, social, and environmental. These dimensions give rise to the need for the planning system to perform a number of roles. The additional housing would be a benefit for the area, by introducing much needed private housing for local people. A small element of affordable housing would also be provided. It would boost the supply of housing in accordance with the Framework. It would create additional housing choice and competition in the housing market. It would create investment in the locality and increase spending in local shops. It would create jobs and investment during the construction phase, albeit for a temporary period. The new homes bonus would bring additional resources to the Council. Community Infrastructure Levy contributions would predominantly be spent on local projects in Bicton. I also accept that the scheme is not merely speculative, but deliverable.
37. There are a range of services and facilities in the village, with a regular, albeit limited, bus service running between Shrewsbury and Owestry. I understand that the nearest railway station is some distance away in Shrewsbury. It seems to me that the site is not especially accessible by public transport, and so it is likely that future residents may be largely dependent on the private car. That said, the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. There is a Primary School, Pre-School, a village hall, convenience store, amongst other facilities. Overall, I accept that the scheme would generally comply with the economic and social dimensions of sustainability.
38. However, I have serious concerns in respect of the environmental dimension, specifically the very significant and adverse effects for the rural landscape, identified above. I appreciate that it is proposed to create an area of public open space, adjacent to the existing woodland area. I acknowledge that a new pedestrian route would be created between Brookside and Bicton Lane, improving pedestrian accessibility. I accept that that it is intended that the dwellings would be high quality, and energy efficient. However, these environmental benefits do not outweigh the serious overall harm that would result to the landscape character of the area. As such, I am not satisfied that the site complies with the environmental dimension of sustainability.

Planning Obligations

39. The appellant has completed two planning obligations, each dated 1st April 2016, for these appeals. The obligations secure the provision of affordable housing at a rate of 15%. I am satisfied that the provisions of the obligations are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in

scale and kind to the development, thereby meeting the relevant tests in the Framework⁸ and the Community Infrastructure Levy Regulations⁹.

Other Matters

40. Local residents and the Parish Council have raised concerns about the highway implications of the scheme, especially because of the narrow width of Bicton Lane, and its ability to accommodate additional traffic. However, the Highway Authority has noted that traffic speeds along this section of Bicton Lane are relatively slow and, subject to some localised carriageway widening opposite the site access to allow vehicles to pass, has raised no objections. Although I note the concerns of the Parish Council and local residents, I have no reason to doubt the Highway Authority's conclusions. Hence, I do not consider the proposals should fail on highway grounds.
41. The Council did not raise objections regarding the effect of the proposals on designated heritage assets in the locality. After the Hearing, the appellant commissioned a Heritage Impact Assessment which identified various designated and non-designated heritage assets in the locality. Designated assets include the Holy Trinity Parish Church, a Grade II listed building, south of the appeal site; Bicton Grove Farmhouse, a Grade II* listed building to the east of the appeal site; and Bicton Grove Stables, a Grade II listed building, also to the east of the appeal site. To the north, at greater distance, are the Red House and White House, both Grade II listed, and the remains of the old Church of the Holy Trinity, Grade II listed. Non designated assets identified include Bicton Hall, the walled garden to the east of Bicton Hall and The Vicarage.
42. All the listed buildings are at sufficient distance from the appeal site not to be adversely affected by the proposals. I am satisfied therefore, paying special regard to the desirability of preserving the setting of listed buildings, as set out in the relevant legislation¹⁰, that the proposals would preserve the setting of these listed buildings. Similarly, the non-designated assets are sufficiently far away from the appeal site not to be adversely affected. There would be no conflict with Policy CS6 of the Core Strategy, or MD2 and MD13 of the SamDev, in terms of the effect on designated and non-designated heritage assets.

Overall Conclusions and Planning Balance

43. The Framework states that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by the economic, social, and environmental dimensions and the interrelated roles they perform. In this case, the contribution of the site to both market and affordable housing requirements of the district is a matter carrying significant weight. The schemes would generate certain economic and social benefits. Furthermore, I am satisfied that the settings of designated and non-designated heritage assets would be preserved, and that highway arrangements would be satisfactory.

⁸ Paragraph 204

⁹ Regulation 122

¹⁰ S66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

44. However, I consider the proposals would have very serious and harmful consequences in terms of the environmental dimension of sustainability with regards to the impact on the landscape character of the area. As such, taken as a whole, I do not consider that either of the appeal schemes can be regarded as a sustainable form of development. I find that there is little justification for the development of this green field site in the open countryside, beyond the settlement boundary of the Bicton and Four Crosses Community Cluster.
45. Overall, I conclude that the schemes, located outside the settlement boundary of the defined Community Cluster of Bicton and Four Crosses, would conflict with Policies CS1, CS4, CS5, CS6 of the Core Strategy, and Policies MD1, MD3, MD7a and S16.2(vi) of SamDev. They would contravene the Council's overall strategic approach to the location of new development. There are no material considerations that would warrant a decision other than in accordance with the development plan. Accordingly, and having regard to the various appeal decisions and court cases brought to my attention by both parties, I conclude that both appeals should be dismissed.

Matthew C J Nunn

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Helen Howie	Berrys
Thea Osmund-Smith	No 5 Chambers
Nigel Clarke	Galliers Homes

FOR THE COUNCIL:

Jane Raymond	Senior Planning Officer, Shropshire Council
Edward West	Principal Planning Officer, Shropshire Council
Anne Gerzon	Legal Services

INTERESTED PERSONS

Richard Brett	Chairman, Bickton Parish Council
Roderic Warren	
Margaret Ratcliffe	
Colin Ames	
J Brett	
R Carlyle	
W Leighton	

DOCUMENTS SUBMITTED AT THE HEARING

1. Section 106 Agreement (Appeal A), dated 1st April 2016
2. Section 106 Agreement (Appeal B), dated 1st April 2016
3. Adopted Policies Map Extract– ‘Inset 2’ showing Bicton
4. Recent planning permissions in Bicton referred to in Council’s Statement
5. Wychavon District Council v SSCLG & Crown House Developments Ltd [2016] EWHC 592 (Admin)
6. Anita Colman v SSCLG & North Devon District Council & RWE NPower Renewables Ltd [2013] EWHC 1138 (Admin)
7. Suffolk Coastal District Council v Hopkins Homes Ltd & SSCLG; Richborough Estates Partnership LLP v Cheshire East Council & SSCLG [2016] EWCA Civ 168
8. Further comments of the Council dated 31st March 2016 in respect of the *Wychavon* Judgment & *Richborough* Judgment
9. List of suggested conditions – Appeal A
10. List of suggested conditions – Appeal B
11. Appeal Decision APP/L3245/W/15/3049332, dated 5th April 2016
12. Statement of Mr Brett, Chairman Bicton Parish Council

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Heritage Impact Assessment of Proposed Development, Richard K Morriss & Associates
2. Appeal decision relating to Teal Drive, Ellesmere, Shropshire, APP/L3245/W/15/3067596
3. Bundle of post-hearing correspondence from the Council and appellant relating to Teal Drive appeal decision, including the High Court challenge, and including amongst other things the Council’s Fully Objectively Assessed Housing Need (FOAHN) Report (dated 4th July 2016), and the Council’s Five Year Housing Land Supply Statement (dated 26th August 2016).

Appeal Decision

Site visit made on 11 January 2017

by **Elizabeth Pleasant DipTP MRTPI**

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

Decision date: 13 February 2017

Appeal Ref: APP/L3245/W/16/3161843

Land adjacent to the Inn on the Green Public House, Bank Farm Road, Shrewsbury SY4 6DU

- 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 NewRiver Property Unit Trust No.4 against the decision of Shropshire Council.
 - The application Ref 15/04910/OUT, dated 11 November 2015, was refused by a notice dated 4 July 2016.
 - The development proposed is the erection of 4no residential units.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by NewRiver Property Unit Trust No.4 against Shropshire Council. This application is the subject of a separate decision.

Procedural Matters

3. The application is for outline planning permission with all matters except access being reserved for future consideration. A drawing showing an indicative site layout¹ was submitted with the application and I have had regard to this in determining the appeal.

Main Issue

4. The main issue in this case is the effect of the proposal on existing facilities and amenities which contribute to the quality of life of residents and visitors in the local area.

Reasons

5. The appeal site lies within Radbook Green Commercial Centre which supports the surrounding residential development. The Centre comprises a food store with ancillary shops, café and the post office, there is also a doctor's surgery, community centre, primary school and the Inn on the Green Public House. The surrounding area is characterised by residential development and areas of attractive open space.

¹ Sketch Site Layout, SK02 Revision D.

6. The appeal site lies in a prominent location, adjacent to the Inn on the Green and on the corner of Bank Farm Drive and Calverton Way. It is predominantly open in character and hard surfaced. There are some grassed areas and a number of trees/bushes around the site's perimeter edge. The site is partially laid out with tables and chairs which are used in connection with the Pub, and the remaining area is available for parking/servicing. The access to the Public House from Calverton Way would be retained and this would also serve the proposed residential units. The Council are concerned that the proposed development would diminish the quality of the amenities provided by the Public House to local residents and visitors to the area.
7. Policy CS8 of Shropshire Local Development Framework: Adopted Core Strategy, 2011 advises that the development of sustainable places in Shropshire with safe and healthy communities where residents enjoy a high quality of life will be assisted by, amongst other things, protecting and enhancing existing facilities, services and amenities that contribute to the quality of life of residents and visitors. The indicative site layout shows that the proposed residential units would be sited on an area of land currently used as a beer garden. It is clear from the number of third party representations received that the Inn on the Green is a cherished facility at the heart of the local community. It would appear to be not only a drinking establishment, but also a place for local sports teams to meet, a music venue and a place which hosts fundraising events. The spacious beer garden adds to the attraction of the Public House as it provides a place for outdoor drinking in the summer months, where children can be supervised and has been used to site bouncy castles for community events.
8. The appeal proposals indicate that a new beer garden/communal area would be provided immediately to the rear of the Public House and a small area also retained on its frontage adjacent to the function room. However, the replacement beer garden would be less than half the size of the existing facility and it would be shoe-horned into an area at the rear of the Public House, where the bins are currently located and servicing takes place. The entrance to the Public House from the adjoining parking area would also pass through this area. It is difficult to see how this area would provide an attractive area for patrons to sit or be large enough to provide an area for children to play.
9. I accept that the Public House as a drinking establishment would remain, and I have taken into consideration the Appellant's ascertain that the land which forms the application site is surplus to requirements. However, from what I have seen and the evidence provided, it would seem to me that the existing beer garden contributes to the vitality of the Inn on the Green. The replacement offer would be significantly less attractive or flexible for use than the existing provision, and consequently the existing facilities and amenities would not be protected or enhanced by the appeal proposal.
10. I recognise that the application is in outline, however to accommodate the amount of the development proposed, it is more than likely that the new residential units would be sited in the location shown on the indicative site layout which accompanied the application. The introduction of residential accommodation occupied by persons unconnected with the business, and in such close proximity to it, could raise potential issues of noise and disturbance from patrons inside and outside the facility and from amplified music, beyond a time when residents would reasonably expect a degree of quiet. While sound

proofing measures can be required by condition, such measures would not have a bearing on noise and disturbance from people congregating outside the premises in the communal areas or from coming and goings late at night. This would be particularly the case in the summer months when windows are open and would impact significantly on the use of the proposed outdoor amenity space for the residential development which is shown to be located immediately adjacent to the function room and proposed communal area. Whilst this could be controlled by a management regime, such measures are likely to impact on the flexibility with which the pub could operate. As such the proposal could have an adverse effect on the future availability of the facility.

11. I conclude that the appeal proposal would have a harmful effect on the existing facilities and amenities which contribute to the quality of life of residents and visitors to the local area. I therefore find conflict with the development plan and in particular Policy CS8 of the Shropshire Local Development Framework, Adopted Core Strategy which aims, amongst other things, to protect and enhance existing facilities, services and amenities that contribute to the quality of life of residents and visitors.

Other Matters

12. Whilst this consideration did not form a reason for refusal, I share the third party concerns regarding over the effect the proposal would have on the character and appearance of the area. In particular, given the sites proximity to a prominent road junction which currently provides an open setting for neighbouring commercial uses. In the event that I had found this proposal acceptable in principle, I would have required further information on the scale and appearance of the proposed residential units to be satisfied that the proposal would not cause harm to the character and appearance of the area.
13. I have taken into consideration the social and economic benefits which would be attributed to this development, in particular by adding to the supply of housing in the area. However, given the small number of market houses proposed those benefits would be limited and do not outweigh the harm I have identified to the quality of life of residents and visitors to the local area.
14. I recognise that the Appellant is frustrated with the manner in which the Council came to their decision; however this is not a matter for my consideration.

Conclusion

15. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR

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Costs Decision

Site visit made on 11 January 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 13 February 2017

Costs application in relation to Appeal Ref: APP/L3245/W/16/3161843 Land adjacent to the Inn on the Green Public House, Bank Farm Road, Shrewsbury SY4 6DU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by NewRiver Property Trust No.4 for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the erection of 4no residential units.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant submits that the Council has acted unreasonably in refusing the application which was clearly supported by an Officer recommendation and had been previously resolved to be approved by the Council. It is further claimed that the reason for refusal has not been supported by any substantive evidence. The refusal has therefore resulted in the delaying of a development which should have clearly been permitted and the appellant has consequently had to incur unnecessary and wasted expense by having to go through the appeal process.
4. Paragraph 049 of Planning Practice Guidance indicates that local planning authorities will be at risk of an award of costs being made against them if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and acting contrary to, or not following, well-established case law.
5. In this case I have noted the recommendation of the Council's Officer and understand the Appellant's frustration over the manner in which the application was considered. However, the Council's Members in this case were entitled not to accept the professional advice of Officers, so long as a case could be made by them for the contrary view.

6. The reason for refusal set out in the Decision Notice is complete, precise, specific and relevant to the application. It also clearly cites the policy contained within the Shropshire Adopted Core Strategy that the proposal would be in conflict with. The Council did further support their reason for refusal with a statement which clearly set out why they did not consider the proposal protected or enhanced the existing facilities or amenities provided by the Inn on the Green Public House.
7. It will be seen by my decision that I agreed with the Council's Decision, and I am satisfied, for the reasons set out above, that the Council has adequately substantiated its reason for refusal.
8. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and consequently an award of costs is not justified.

Elizabeth Pleasant

INSPECTOR