



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

Date: Wednesday, 5 April 2017

Committee:
Central Planning Committee

Date: Thursday, 13 April 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 - 4)

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

Contact Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 p.m. on Monday 10th April 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 Land At Oteley Road, Shrewsbury - 16/03786/VAR106 (Pages 5 - 70)

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

6 Greenhous Meadow, Oteley Road, Shrewsbury - 16/04201/VAR (Pages 71 - 100)

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

7 Land At Oteley Road, Shrewsbury - 16/00181/FUL (Pages 101 - 152)

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

8 Proposed Fishermans Cabin, Buildwas - 16/05379/FUL (Pages 153 - 174)

Erection of detached building to provide two separate cabins of accommodation for overnight use by fishermen.

9 Land East Of 62 Middlegate, Shrewsbury - 17/00878/FUL (Pages 175 - 182)

Erection of a dwelling.

10 Schedule of Appeals and Appeal Decisions (Pages 183 - 222)

11 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, 25th May 2017 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

13th April 2017

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 16 March 2017

2.00 - 2.52 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, Amy Liebich, Pamela Moseley, Kevin Pardy, David Roberts and Tim Barker (substitute for Peter Nutting)

106 **Apologies for absence**

Apologies for absence were received from Councillors Peter Nutting (Substitute: Tim Barker), Miles Kenny and Tudor Bebb.

107 **Minutes**

It was noted by a Member that Minute 102 and Minute 103 do not include any reference to the discussion that took place regarding the recommendation to delegate the decision to Officers.

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 16th February 2017 be approved as a correct record and signed by the Chairman subject to the following amendment to the final paragraph of Minute 102 and Minute 103:

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

108 **Public Question Time**

There were no public questions or petitions received.

109 Disclosable Pecuniary Interests

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

With reference to planning application 16/04594/EIA Foxholes Farm, Little Ness, Shrewsbury - Councillor David Roberts stated that due to a perception of bias and as he was the local Ward Councillor he would make a statement and then leave the room, take no part in the consideration of, or voting on, this item.

110 Foxholes Farm, Little Ness, Shrewsbury - 16/04594/EIA

The Technical Specialist Planning Officer introduced the application for the 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) 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 an amendment to Condition 10 to restrict the number of HGV movements taking place during the night-time and read out a representation from an objector that had been received that morning (copy attached to the signed minutes).

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor David Roberts addressed the Committee in support of the application, as the local ward Councillor and then left the room, took no part in the debate and did not vote on this item.

Councillor David Roberts left the meeting at this point.

In response to concerns regarding night-time HGV movements and the potential loss of woodland, the Technical Specialist Planning Officer clarified the amendment to Condition 10 and suggested that if Members were minded to approve the application, Condition 8 be reworded to ensure the existing woodland was retained.

Having considered the submitted plans for the proposal, the majority of Members expressed their support for the Officer's recommendation subject to the amendment to Condition 10 and the rewording of Condition 8.

RESOLVED:

That delegated powers be given to the Planning Services Manager as per the Officer's recommendation to grant planning permission subject to:

- The conditions as set out in Appendix 2, and any amendments considered necessary;
- The amendment to Condition 10 as set out on the Schedule of Additional Letters;
- The rewording of Condition 8 to ensure that the existing landscaping was retained; and
- The completion of a variation to the existing Section 106 legal agreement to secure HGV routing controls.

111 **Shropshire Sand and Gravel, Gonsal Quarry, Condover - 13/00336/EIA**

The Principal Planning Officer introduced the application for the phased extension to Gonsal Quarry and restoration for nature conservation benefits together with the retention of existing plant, silt lagoons and haul route. The Principal Planning Officer explained that the application was reported to the Committee on 17th June 2013 when Members resolved to approve the application subject to a legal agreement which included the requirement for provision of a permissive footpath within the restored quarry area. However, the applicant had been unable to reach an agreement with the landowner in relation the footpath and therefore it was recommended that the provision of a permissive footpath as set out in the minutes of the Committee meeting of 17th June 2013 be removed from the planning legal agreement.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Tim Barker addressed the Committee, as the local ward Councillor and then left the room, took no part in the debate and did not vote on this item. He requested that it be noted that discussion had taken place between the Parish Council and the applicant in relation to alternative voluntary provisions as detailed at paragraph 2 of the Officers' report, but stressed that this matter was not relevant to the Members' decision and separate to the planning legal agreement.

The Solicitor advised the Committee that the voluntary provisions referred to were not necessary to make the planning application acceptable in planning terms and as such were not relevant to the decision whether to approve the application and so Members should give no weight to them in their consideration of this matter.

Councillor Tim Barker left the meeting at this point.

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 and legal obligations as set out in Appendix 1 of the report subject to the removal of the original requirement for provision of a permissive footpath in the restored quarry area.

112 Schedule of Appeals and Appeal Decisions

RESOLVED:

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

113 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, 13th April 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:



Committee and date

Central Planning Committee

13 April 2017

Item

5

Public

Development Management Report

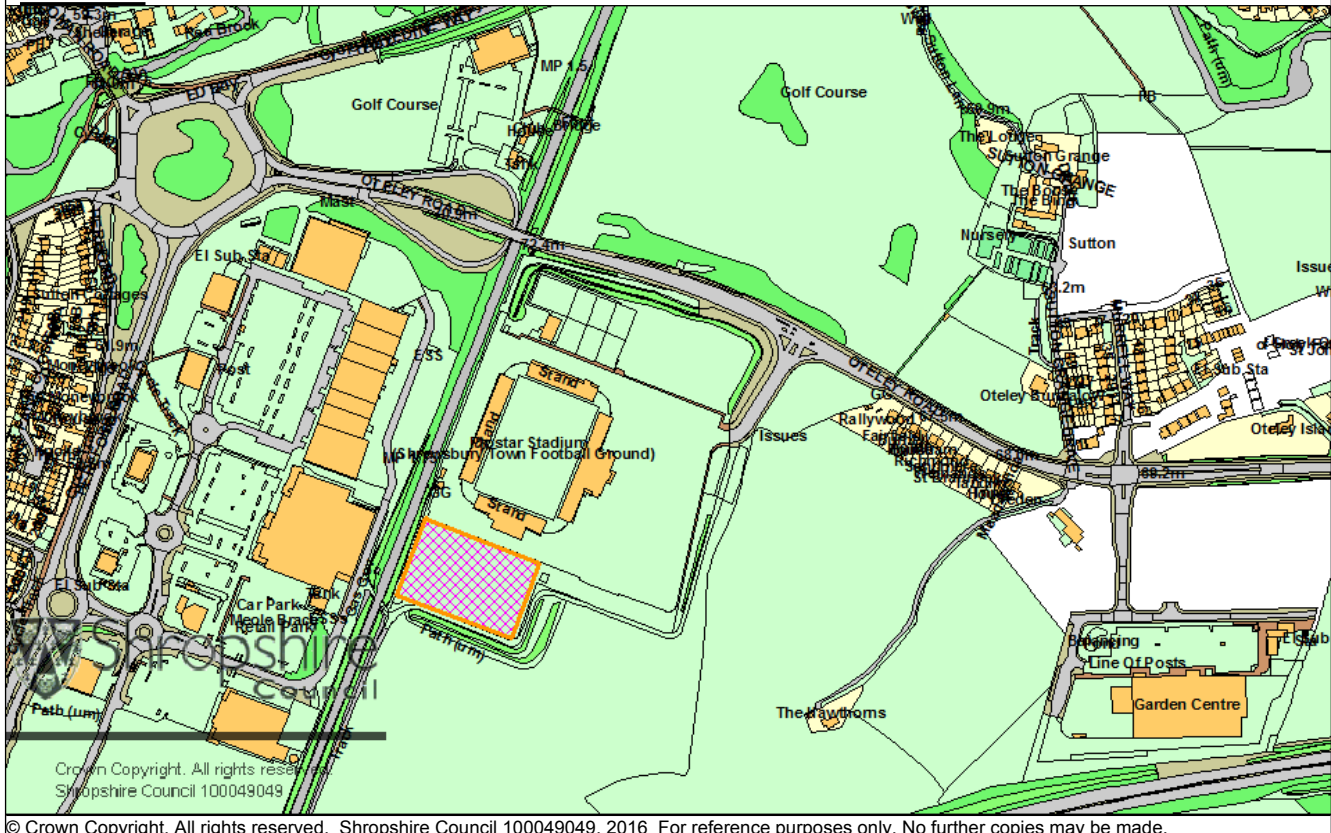
Responsible Officer: Tim Rogers

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

Summary of Application

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

Grid Ref: 349590 - 310458



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Recommendation:- Grant delegated powers to the Area Planning Manager to draw up a new legal agreement in consultation with the Head of Legal and Democratic Services to vary the previous agreement in regard to the position of the training pitch and community pitch and also to provide additional facilities at the new community pitch and a financial contribution of £65,000.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal to vary the S106 agreement which is attached to the planning permission for the football stadium was previously considered by the Central Planning Committee at its meetings on the 24th November 2016 and 16th February 2017. Members deferred the determination of the application in February to allow Sport England an opportunity to comment on the additional information provided by the agent and also for a report to be provided back to members regarding the terms of the Section 106 legal agreement. Members' concern was about the net loss of a sports pitch when considered against paragraph 74 of the National Planning Policy Framework (NPPF). The November and January reports are attached in full for information.
- 1.2 This report provides the detail of additional information submitted by the agent following the February meeting, consultation comments received to date and details of the draft heads of terms for the new S106 agreement.
- 1.3 For clarity the issue is the net loss of sports pitch. Who uses which piece of land for what is not relevant to the matter of loss of a pitch. In NPPF paragraph 74 terms all land which is used for sport is considered to be sport pitches, regardless of who uses it. The descriptions in the previous reports focused on use rather than location, as such this report will from here on consider the three pitches which are involved in the applications as:
- "front pitch": the existing community pitch at the front of the Oteley Road site and the site of the proposed Lidl store;
 - "rear pitch": the existing training pitch at the rear of the Oteley Road site which is to become the community pitch; and
 - "off-site pitch": the pitch(es) at Sundorne Road
- This should hopefully help members define the three pitches by location and as three pitches rather than by existing or proposed use and hopefully make discussing the matter easier.
- 1.4 Members will need to make a decision on each of the applications. This report relates to the application to vary the S106 agreement attached to the planning permission for the construction of the football stadium and associated developments. The S106 agreement defines the location of the community pitch and what facilities are to be provided. As both are to be amended the S106 will need to be varied.

2.0 ADDITIONAL INFORMATION FROM APPLICANT – February

- 2.1 Following the November committee meeting the agent submitted a statement detailing the existing pitches at the club site which are the stadium pitch, the training pitch, 6 x five-a-side pitches and 1 x seven-a-side pitch (Powerleague

facilities). The statement also detailed the work carried out at the off-site pitch (drainage and ground works) to enable it to be used all year round; details of Shrewsbury Town in The Community (STinC), their charitable trust status, the management of STinC, the work they have been doing and their aims. The details of the information submitted in February is provided in full in the report at appendix 2.

3.0 **CONSULTATION RESPONSES – February**

The following comments have been received since the publication of the February committee meeting which are in response to the information received in February.

- 3.1 **Sport England** – I have received consultations for additional information relating to the ground conditions at Sundorne Castle Training Ground submitted in support of the above applications. I have not raised any objections to these applications. I hope that this additional information (together with some sort of planning statement) will be submitted by the applicant as part of planning application ref. 16/00181/FUL. Sport England have an outstanding statutory planning objection to this application ref. 16/00181/FUL and it is my understanding that the additional information will form part of the applicant's justification and mitigation for the loss of playing field at Oteley Road.

The additional information consists of a technical report outlining works that David Saltman has recommended are undertaken at Shrewsbury Town FC's Sundorne Training Ground and a soil analysis of the Sundorne Training Ground. The information submitted does not outline that these recommended works have been undertaken and it is not clear how this information supports this application. Furthermore Sport England has not raised an objection to these variations of condition applications.

It is my understanding that further information will be submitted which will clearly outline the proposed mitigation for the loss of the playing field to locate the proposed Lidl supermarket and also to move the community use from that area of playing field to the first team training pitch. Until that time I have no further comments to make and Sport England's objection to application ref. 16/00181/FUL remains.

- 3.2 **Shropshire Playing Fields Association** – Thanks for the up-date reference this application, I have read the additional report included (22nd February 2017) but can-not see the relevance to the application being tabled.

At the planning meeting last week I made a request for an independent quality assessment to be made of the community pitch being considered for development and a quality assessment of the current training ground site being offered as a replacement at the Oteley Road Site, so that members could form an opinion as to whether the new playing field being offered was equivalent or better than the current playing field. (Particularly in light of the comment made by Councillor Moseley regard the poor condition of the pitch being offered as a replacement pitch for community use.) I believe her comments relate to the STFC online newsletter of 1 December 2016:

"Pleasingly, we can report that the pitches are draining well, as is the stadium pitch. Unfortunately, the same cannot be said of our training pitch behind the south stand,

which started to resemble a duck pond on Monday. The squad battled with the elements for a good while, before calling it a day."

The Sundorne Castle playing field, as my understanding has it, will in the future have exclusive use for meeting the needs of the teams playing at the football club with no community usage being offered, so clearly has no relevance to this application or indeed the request I made at the meeting.

There would to my mind seem to be one or two solutions or options to this issue which are not being tabled, but which I would be happy to discuss further with any party who wishes to listen.

4.0 ADDITIONAL INFORMATION FROM AGENT – April

- 4.1 Since the February meeting the agent has been in discussion with the football club, Lidl, Sport England and officers of the Council. A revised supporting statement has recently been submitted which will be attached to all three applications (the two for the football club 16/04201/VAR & 16/03786/VAR106 and the Lidl application 16/00181/FUL). The statement is appended to this report so that members have all of the information before them.
- 4.2 The statement includes technical reports on all three pitches and the mitigation proposals from the applicant. The technical reports advise on the ground conditions of all three pitches and what works are required, or in the case of the off-site pitch were required. The front pitch is to be lost for the development of the Lidl food store.
- 4.3 The rear pitch already has a drainage system but the applicant accepts that a secondary drainage system would improve the surface water run-off, a matter raised by Councillor Moseley at the February meeting, and has agreed to provide the secondary drainage at the end of this football season. The applicant has also agreed to provide changing facilities adjacent to the rear pitch, either within the existing stadium building converting existing office space into two 15sqm changing areas with 3 showers and a toilet each and a referees room with shower and toilet, or within a new modular building adjacent to the STinC building. Both the drainage upgrades and the changing facilities can be required as part of the S106.
- 4.4 The off-site pitch has been upgraded in accordance with the recommendations of the ground conditions report. The works include installing drainage, improvements to the surfacing, provision of car parking and construction of a building providing changing facilities, kitchen, dining room, gym, physiotherapy room, laundry room, boot room and staff offices. All of these works have been carried out.
- 4.5 SPFA have commented that the off-site pitch is not available for the community and therefore is not relevant. However, this is confusing user with pitch provision. The issue is the loss of a sports pitch. At no time, and the agent has confirmed in the latest statement, has anyone proposed the removal of the community pitch use from the S106. The application relates to three pitches one of which is to be lost and the improvements to the other two are being put forward as mitigation. The rear pitch will become the new community pitch and the most recent statement has confirmed that this will be available for hire by the community for 57 hours a week in the evenings and at weekends. The statement also advises that the rear pitch is

larger than the front pitch and as such is big enough to be subdivided into three pitches and therefore could be used by three different users at any one time.

- 4.6 In addition to physical improvements to the rear pitch and off-site pitch the applicant has now also offered a financial contribution of £65,000 to be paid to the Council to be spent on sport and recreation within the local area. The figure has been proposed by the club as a figure which was raised by Sport England early in the application process as the estimated cost of replacing a pitch.

5.0 OFFICER APPRAISAL

5.1 Loss of pitch

- 5.1.1 The policies within paragraph 74 of the NPPF and CS6 of the Core Strategy were detailed in the February report but are repeated here for ease of reference.

Paragraph 74 of the NPPF states:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

- 5.1.2 Policy CS6 of the Shropshire Core Strategy requires all development to contribute to the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Proposals resulting in the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility is not viable over the long term. Paragraph 4.58 of the explanatory text advises that the standards are set out in the Shropshire Open Space, Sport and Recreation study.

- 5.1.3 The construction of a Lidl food store on the front pitch will result in the loss of sports pitch. Both national and local policies allow for the loss of sports pitches. Shropshire Playing Fields Association have commented that there has not been an assessment to show the land is surplus to requirement, however this is not a requirement unless “surplus to requirements” is the case being put forward by the applicant. With regard to the Lidl store and the two applications by the football club the case being put forward is for “replacement provision”. The replacement is not in the form of a new sports pitch but in the form of improvements to existing pitches.

5.2 Improvement proposals

- 5.2.1 It is acknowledged that the proposals put forward by the agent are not for any new pitches to be provided to replace the pitch to be lost to development. Their proposals relate to enhancements proposed to the rear pitch and the off-site pitch and also, since the January meeting, the proposal now includes the offer of a financial contribution to be paid to the Council to be made available for enhancement to other sports pitches in the area.

- 5.2.2 The enhancement works are detailed above in section 4 of this report. At the time

of writing this report the supporting statement has been sent to Sport England and SPFA for comment, any responses received before the meeting will be provided to members either in writing or verbally.

- 5.2.3 Notwithstanding any comments which may be received it is officer's opinion that the additional enhancements and the financial contribution now proposed by the applicant provide improvements to the rear pitch, off-site pitch and opportunities to improve other sports facilities in the area to be considered as equivalent or better provision in terms of quantity and quality in a suitable location to the front pitch which is to be lost for the construction of the Lidl food store. With regard to the financial contribution offered officers can confirm that this is the figure quoted by Sport England in their comment of the 19th April 2016 on the Lidl application as the cost of replacing the natural turf pitch, excluding the cost of the land. It is a definable figure with clear linkage to the loss of the pitch, as such it is considered to be a reasonable and appropriate figure which is reasonably related to the development. The overall package now proposed and clearly set out in the new supporting statement is considered by officers to mitigate the loss of the pitch and therefore meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 5.2.4 Members may wish to defer making a decision on these applications again until consultation comments are received. This is a decision which only members can make. However, the applications have been delayed twice already and the latest offer from Lidl and the football club has been increased to include all of the information and improvements suggested by Sport England and to include a financial contribution towards other sports facilities.
- 5.2.5 It is therefore officer's opinion that a decision now needs to be made on this application. There is a risk that Sport England and SPFA may still object, there is still a loss of a sports pitch, however the final decision rests with the Council. Sport England and SPFA are consultees, members are free to make a decision on the planning application based on the overall planning merits and consideration of the improvements and financial contribution.
- 5.3 **Section 106 heads of terms**
- 5.3.1 A S106 agreement is a planning obligation sought to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
- 5.3.2 It is officers' opinion that the provision of the additional facilities and the financial contribution detailed in section 5.2 above would meet the tests of the CIL Regulations. Without additional facilities at the rear pitch and off-site pitch and the financial contribution the loss of the front pitch is not mitigated by better provision and therefore fails to comply with adopted policies. The provision of facilities is clearly directly related to the proposal and officers consider it is fairly and reasonably related in scale and kind.

- 5.3.3 Officers also consider that the legal agreement should also include a financial contribution as a fall-back position if the applicant does not provide the improvements to the rear pitch proposed. Such a contribution would need to be equivalent to the cost of providing the additional facilities on site and would allow the Council to provide other sports facilities elsewhere in the town should the applicant not provide the on-site facilities within an appropriate time period or to an agreed standard.
- 5.3.4 The existing section 106 agreement will be amended so that it will secure:
- Financial contribution of £65,000 payable to the Council to be used to provide either new sports facilities or enhance existing sports facilities within the area
 - The provision of 2no 15sqm changing rooms each with 3 showers and a toilet and the provision of a referee room with a shower and toilet all to Sport England specification
 - The provision of the secondary drainage as recommended in the Summary Report on STFC training pitch by Dave Saltman dated 15th March 2017
 - Maintenance of pitches and marking out by the club
 - Community use of the rear pitch as detailed in the April 2017 supporting statement on behalf of the applicant.
 - In addition, main stadium to be available for community matches such as Shropshire Schools finals, Shropshire FA Senior Cup final and Amateur Cup finals.
- 5.3.5 It will also, as the previous S106 did, require the community sports facilities to be available for the Shropshire Football Association and adults and children in the community at rates comparable to the Council rates. The community facilities will become:
- the 6 five-a-side pitches and 1 seven-a-side pitch (as existing);
 - the new community pitch (the rear pitch);
 - the existing changing facilities at the Prostar facilities and the new changing facilities as detailed above;
 - space indoor for activities such as table tennis or aerobics (which the club have confirmed is available within the stadium building);
 - car parking using the existing car park except when there is a first team match or major event, such as a music event in the stadium;
 - refreshment facilities within the stadium and data connection.
- As now, the community facilities will be closed when a first team football match is playing.
- 5.3.6 The ongoing maintenance including cleaning, security and insurances of all the community facilities will be the responsibility of the football club. It is proposed to rent the land to STinC on a long term lease and for STinC to manage the pitch and bookings. However, the club have confirmed they will maintain the pitch and will be responsible for marking it out as pitches, managing the drainage of the site and correcting any damage. Ultimately the club will be the party entering into the legal agreement and are the land owner and it would be the club that the Council would seek to take enforcement action against.
- 5.3.7 Members have previously raised concerns that the Council have not sought to take

enforcement action against the club to require them to provide the community pitch on the front pitch. An argument could be made that the pitch was provided, there is a grassed area of land, but not necessary made available for use. To prevent this from happening again and to give the Council more detail to enforce over it is also recommended that the new S106 agreement includes details of the on-going maintenance. This will need to include maintaining the ground and the marking out of pitches to a useable condition. This listed in the heads of terms above.

- 5.3.8 As noted above officers are also recommending that the new S106 agreement includes a financial penalty should the new changing facilities and drainage improvements not be provided to a suitable standard at the rear pitch. This would set a standard within the S106 agreement which the applicant would need to meet and give the Council a point where the non-compliance with such a condition could be clearly understood and therefore enforced.
- 5.3.9 Subject to these matters being dealt with in the S106 agreement, the precise wording of which will be drafted by the Council Solicitor, it is officers view that the new S106 agreement would secure the community pitch, enhancement, financial contribution and on-going maintenance.

6.0 CONCLUSION

- 6.1 The additional enhancements carried out and proposed to the existing pitches to be retained, the pitch at the rear of the Oteley Road site and the pitch at Sundorne Road, and the financial contribution of £65,000 now proposed by the applicant provide improvements to existing sports pitches and opportunities to improve other sports facilities in the area. This is considered to mitigate for the loss of the pitch at the front of the Oteley Road site and is considered to be better provision in terms of quality to the front pitch which is to be lost for the construction of the Lidl food store. As such it is officer's opinion that the proposals meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 6.2 Therefore, this current application for variation of the S106 agreement to allow the relocation of the community pitch is acceptable to enable the continued provision of community facilities within the club site and the proposal accords with National and Local policies, the Shropshire Core Strategy and SAMDev in providing sports facilities to the community.

10. Background

Relevant planning history:

16/03786/VAR106 Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F PCO
16/00181/FUL Proposed erection of retail store, associated car parking and servicing facilities, site access and associated works PCO

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

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

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

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

11. Additional Information

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

Local Member Cllr Jon Tandy Cllr Ted Clarke Cllr Jane Mackenzie
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Appendices APPENDIX 1 – Committee report 16 th February 2017 APPENDIX 2 – Committee report 24 th November 2016 APPENDIX 3 – Shrewsbury Town Football Club – Supporting Statement. (Also relevant to Agenda Items 6 & 7)

APPENDIX 1 – REPORT 16th February 2017**1.0 THE PROPOSAL**

- 1.1 The proposal to vary the S106 agreement which is attached to the planning permission for the football stadium was previously considered by the Central Planning Committee at its meeting on the 24th November 2016. Members deferred the determination of the proposal as they were concerned about the net loss of a sports pitch when considered against paragraph 74 of the National Planning Policy Framework (NPPF). The November report is attached in full for information, however the only issue for consideration is the matter of the loss of sports provision.
- 1.2 This report provides more information regarding paragraph 74, the applicant's additional information submitted following the November meeting and any consultation comments received as a result of the additional information.

2.0 POLICY

- 2.1 Paragraph 74 of the NPPF states:
“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
 - *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
 - *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*
- 2.2 Policy CS6 of the Shropshire Core Strategy requires all development to contribute to the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Proposals resulting in the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility is not viable over the long term. Paragraph 4.58 of the explanatory text advises that the standards are set out in the Shropshire Open Space, Sport and Recreation study.
- 3.0 ADDITIONAL INFORMATION FROM APPLICANT**
- 3.1 Following the November committee meeting the agent submitted a statement detailing the existing pitches at the club site which are the stadium pitch, the training pitch, 6 x five-a-side pitches and 1 x seven-a-side pitch (Powerleague facilities). The land proposed for the new food store was designated as a community pitch but the agent has commented that it is not flat, has no drainage and is not of a standard suitable for matches. The statement also advises that for the last 3 years the community has been allowed to use the main stadium pitch and provides full details of the matches.
- 3.2 The main purpose of the submitted statement is to provide detail of the work carried out to the sports facilities on Newport Road, near Sundorne. The club has owned this land since 1996 and it has been used solely by STFC for pre-season training as the ground is not suitable for use in the winter months.

- 3.3 Since May 2016 the club has invested in the land installing drainage, reconstructing the pitches, working sand into the ground and levelling the land and the additional information details the monies spent on undertaking this work. The intention of the information submitted is to show that the land is now improved and can be used all year round as the training pitch for Shrewsbury Football Club.
- 3.4 In addition to information relating to the pitches on Oteley Road and the works undertaken to the pitches at Newport Road the statement submitted also provides more detailed information on Shrewsbury Town in The Community (STinC), their charitable trust status, the management of STinC, the work they have been doing and their aim. The information provides a list of groups and organisations that STinC work with in providing sports, not just football.
- 3.5 The statement also comments that the proposed community pitch (relocated to the existing training pitch) would provide for 4 local teams to play football and for other sports to be provided for in the summer months in close proximity to the STinC hub building. STinC could also seek funding for upgrading the pitch to a 4G pitch and for providing changing facilities adjacent to the pitch. The statement provides quotes of support from the Premier League, Nic Laurens (Councillor for Meole), Shrewsbury Town Supporters Parliament, Shropshire FA, Shropshire Schools & Colleges FA, STinC.

4.0 CONSULTATION RESPONSES

The following comments have been received following the receipt of additional information:

- 4.1 **Sport England** – Sport England objected to planning application (ref. 16/00181/FUL) as insufficient information has been provided in relation to the mitigation for the loss of playing field. Despite this statutory objection, Shropshire Council's Planning Committee resolved to approve the application subject to a legal agreement relating to community use of Shrewsbury Town's training pitch. This resolution has, in effect, approved the principle of the loss of the existing community pitch subject to the approval of a legal agreement.

The FA has provided further comments:

1. The site where Lidl is planned for was used as a community pitch as recently as 2007, reasons for no more recent use are down to the fact that it has not been maintained for this type of use.
 - a. Use of the main pitch being classed as community is subjective – the school finals take place once a year with an average of 5 games (max of 10 games as per the lease agreement) for Shropshire CFA Cup finals – it is agreed that this is a great offer but it does not afford regular community use of the pitch which is the key debate here.
 - b. The FA'S Pitch Improvement Programme could have suggested ways to improve the pitch without the need for expensive drainage.
2. The new Shrewsbury Town FC training ground is existing playing field land that has been improved. There is no net gain in playing field area or any community use from.
3. There is no such surface as 4G, so I presume they mean 3G rubber crumb

4. We would need to see the full detailed business plan from Shrewsbury Town in the Community to assess the long term sustainability of the pitch.
 - a. Changing rooms would be essential to permit full use of the adult football pitch, grass or 3G.

5. The Usage plan is very generic and only indicates available slots with no potential club or community users noted.
 - a. Community use noted between the hours of 9am and 5pm is unlikely to materialise based on other Football Foundation funded facilities that are not on an education site.
 - b. 100 hours of use is ambitious – through the Football Foundation and with a facility based on a school site we push for 85 hours of which 36 are for community use outside of school hours and this is not always achieved.

6. Premier league support is based on seeing more detail.

7. There is a 3G facility on site which is a commercial 5 a-side facility, it has 6 x 5v5 pens and 1 x 7v7 pen which is not big enough for affiliated match play due to no run-off areas – is there an upgrade project here to support along with the grass pitch being transferred for the community department to run? Obviously discussions would be needed here to see if viable and if the current tenant would be open to this in some capacity.

Sport England maintain their objection to this application as we are still unable to assess the suitability of the proposed mitigation from the information submitted. If a 3G pitch is being proposed as mitigation, evidence is required to support the need/demand in this location in order to ensure that the facility is sustainable; the submitted Usage Plan does not provide the necessary detail (see FA comments above) and I am not aware of this specific location for a 3G pitch being supported by any relevant strategy. Furthermore it is not clear how the 3G pitch will be funded in its entirety; the level of funding from the applicant and other sources is not clear. If the Section 106 does not cover the entire cost of the 3G pitch how will the shortfall in funding be met? The absence of a clear strategic need for a 3G pitch in this location will restrict potential funding from Sport England. Changing facilities will also be required and it is not clear how these will be funded.

Without the type of information listed above Sport England are unable to assess whether or not the 3G pitch is sustainable and deliverable or whether the applicant's financial contribution is an acceptable form of mitigation for the loss of playing field. In order to make an assessment against Policy Exception E4 I need to weigh up the benefits to sport of the proposed mitigation (in this case the partial or full provision of a 3G pitch) against the loss of playing field. As there is insufficient information in relation to the proposed mitigation I am unable to make that assessment.

Sport England did not object to the two variation of condition applications as these applications in themselves did not permit the loss of playing field land. The applications seek to transfer the community use from one area of playing field to another. In this case the community use transferred from the training pitch which is a better quality pitch than the existing community pitch.

It is my understanding that Shrewsbury Town FC's training ground is located on a former sports ground which was purchased by the Chairman of STFC 20 years ago. The supporting information submitted by the applicant indicates that investment was made into the site in 2016 to improve pitch quality as drainage of the pitches was poor. From historic aerial photos it appears that the site was laid out for training use in 2010 (see image below). Although improvements to pitch quality may have been made since this time, new playing field has not been created.



From the 2010 image it appears that the site was laid out with pitches suitable for training purposes. It is not entirely clear whether the improvements works were necessary to resolve issues created by lack of maintenance or fundamental issues with the site. The additional capacity of the playing field resulting in the improvements works is also not known. Given this missing information an assessment against Policy Exception E4 cannot be made, although clearly no new playing field has been created.

4.2 **Shropshire Playing Fields Association** – Shropshire Playing Fields Association do not believe the correspondence received since the matter was deferred at the planning meeting in November has made any attempt to resolve the key issue related to the proposed loss of one community sports pitch.

Rather their attempts to demonstrate the role of the Shrewsbury Town community sports trust in this matter only heightens the need to retain all three sports pitches discussed in their correspondence and for them to make all three pitches accessible for community use, this need is supported by Shropshire Councils 'Playing Pitch' Assessment which identifies Meole Brace as having a shortage of playing fields in the ward.

Shropshire Playing Fields Association are still very disturbed and dismayed at the comment made on page 21 of the planning and retail statement which states; 'It is the case that the application site has never been marked out or used as a sport or recreational facility and its use as such is only implied through a legal agreement that the council has previously advised will not be enforced'.

Despite our request at the planning meeting that this site should be marked out immediately and community allowed access to it immediately this has not happened. This poses the question that if the application to vary the community pitch agreement is supported, what assurances are there that anything more will be done given the lack of enforcement suggested in the applicant's statement requiring them to do so, and lack of any such positive actions to-date.

Reading through the additional correspondence provided on the 15th December 2016 a lot of rhetoric is given to the activity of the Shrewsbury Town Community Trust which is to be commended, however it should be noted that none of this activity took place on any one of the three sports pitches being discussed as part of this application, therefore their activity is we believe not relevant to this application.

Shropshire Playing Fields Association believe NPPF paragraphs 73 and 74 clearly provide the solution to this application and should be strictly adhered to; The policy clearly states an open space needs assessment is necessary in order to guide on the need for such pitches; As part of any such assessment the 'quality' of the pitch, is a critical issues that we feel should be subjected to an independent technical quality assessment, it is clear to the casual eye that some of the comments made in the additional correspondence are at least misleading where it states: 'The land earmarked for community use has no drainage, isn't flat and isn't of a standard to play matches and is therefore dangerous'. Shropshire Playing Fields Association believe that some of these claims are incorrect and should be substantiated by an independent pitch assessor, perhaps at the direction of Sport England. This process would provide the necessary evidence to ensure an equivalent or better facility has been provided if the application were ever to be agreed. We also believe the elements concerning 'accessibility' and 'availability' are critical factors, both of which would have been dealt with as part of an open space needs assessment.

For this application to move forward Shropshire Playing Fields Association believe there needs to be a change of approach from the applicant and suggest that one way forward is a long term lease be agreed on the alternate proposed site between

STFC and STCT plus a large cash settlement as mitigation for the loss of a playing field. That would ensure sufficient funds were available to enable the community trust to proceed developing the current training pitch with the purchase of a floodlit 4G all-weather pitch with appropriate changing rooms and social area, with arrangements put in place to enable them to become responsible for its management and maintenance.

At present it is not clear how the 4G pitch will be funded in its entirety; indeed at present there is no indication the football club would contribute anything towards the cost of any such pitch or its running costs. Without such a contribution it is unlikely a 4G pitch would be feasible, sustainable or deliverable, and therefore we believe until such a business case is put forward should not be a consideration when determining this application.

We recommend that the applicant provides further information relating to their proposed financial contribution and the proposed demand/usage plans/business case showing sustainability for any such proposed 4G pitch as outlined in the applicants correspondence submitted.

Shropshire Playing Fields position on this proposal is to maintain our objection.

5.0 OFFICER APPRAISAL

5.1 Loss of pitch

- 5.1.1 The policies within paragraph 74 of the NPPF and CS6 of the Core Strategy are detailed in section 2 above. Members deferred the consideration of this proposal, and the associated application to vary the approved plans on the approved football club permission, on the basis of a concern over loss of sports pitch. Both national and local policies allow for the loss of sports pitch, providing that there is either an assessment to show the land is surplus to requirements; there is replacement provision; or the development is for alternative sports use.
- 5.1.2 The construction of a Lidl food store on the existing community pitch and the associated relocation of the community pitch and training pitch will result in the loss of sports pitch. Officers do not agree with Sport England's comment that the granting of consent for the Lidl store has allowed the loss of the pitch. The Lidl application site is subject to a S106 agreement and this runs with the land, as such unless the S106 agreement is varied the land is still required to be a community pitch regardless of whether there is consent for other development on it. This report deals with the proposal to vary the existing S106 agreement to enable the construction of the Lidl food store on the land currently identified in the S106 as community pitch. Officers advise that the existing S106 agreement should only be varied if replacement facilities meet the requirements of adopted policy.
- 5.1.3 The agent initially put forward an argument that the replacement community pitch and the subsequent replacement training pitch are better than the existing pitches in both cases. Following the objection from Sport England the agent has also confirmed that the club are also willing to enter into a S106 agreement to secure the provision of changing facilities at the new community pitch. Whether this is therefore acceptable to justify the loss of a sports pitch is considered in the following sections of the report and will take into account the comments from Sport England and Shropshire Playing Fields Association (SPFA).

5.1.4 SPFA has also commented that the information provided actually shows a need for more pitches rather than less. However, as noted in the previous report the S106 requirement is for the provision of one community pitch. The Council cannot require the football club to provide more pitches because of increased demand, the increased demand will have to be provided for by other developments.

5.2 Replacement pitch proposals

5.2.1 The proposals put forward by the agent are not for any new pitches to be provided to replace the pitch to be lost to development. Their proposals relate to enhancements proposed to the existing training pitch, to be used as the new community pitch, and also to the new training pitch.

5.2.2 The submitted detail suggests how the new community pitch will be used and that funding could be sought to change the pitch to a 3G pitch. The most recent information from the agent also confirms that the club is willing to ensure the provision of changing facilities at the new community pitch. The suggestion is that the proposal could allow for increased use by the community assisted by the management of the new community pitch by STinC.

5.2.3 Within the Sport England objection detailed above the FA has provided comments. These include concerns over the business plan from STinC and that the suggested level of community use is ambitious. The response comments that on a school site they seek 36 hours of community use which is not always achieved.

5.2.4 Sport England has questioned the need for the pitch to be upgraded to 3G or who will fund the upgrade. They have commented that the potential of Sport England funding would be restricted without a strategic need for a 3G pitch. The FA also advised that the use of the community pitch would require changing rooms.

5.2.5 Following receipt of the Sport England objection the agent has provided further comment which advises that STinC have had initial meetings with the Football Foundation and Shropshire FA and have identified possible local partners and users. The new community pitch would not be used exclusively by STinC with community partners having access at peak times. The agent has also confirmed that funding has been ring-fenced from charitable reserves for the construction of an extension to the existing STinC Hub building to provide changing rooms and that the existing changing rooms at the Power League could be utilised if needed. The agent has confirmed that the club are willing to have the provision of changing facilities included into a new S106 agreement.

5.2.6 A S106 agreement is a planning obligation sought to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.

5.2.7 It is officer's opinion that the provision of additional facilities, to include changing

rooms, but could also include other facilities, would meet the tests of the CIL Regulations. Without additional facilities at the new community pitch the loss of the existing community pitch is not mitigated by better provision and therefore fails to comply with adopted policies. The provision of facilities is clearly directly related to the proposal to relocate the community pitch and training pitch and officers consider it is fairly and reasonably related in scale and kind.

- 5.2.8 The detail of what will be provided will need to be secured through a new S106 legal agreement. Officers also consider that the legal agreement should include a financial contribution as a fall-back position. Such a contribution would need to be equivalent to the cost of providing the additional facilities on site and would allow the Council to provide other sports facilities elsewhere in the town should the applicant not provide the on-site facilities within an appropriate time period or to an agreed standard. The finer details of the legal agreement would need to be worked up between the Council's Solicitors and the applicant's Solicitor.
- 5.2.9 Sport England has commented, as too have SPFA, on a potential financial contribution. There is currently no proposal of a financial contribution. The agent's latest comments advise that the source of funding for any upgrade is of no relevance to the planning issues and is a matter for the club. However, it is officer's opinion that Sport England and SPFA were seeking a financial contribution and other works to mitigate the loss of the sports pitch which results from the approval of the Lidl store. This can be ensured through the financial contribution fall-back suggested above.
- 5.2.10 This latest information received from the agent does not clearly overcome the objections from Sport England and as such further information and assurances are required. The agent has confirmed that the club would be willing to enter into a new legal agreement to secure the provision of changing facilities at the new community pitch. The detail of the S106 has not been drawn up, furthermore Sport England, SPFA and other interested parties will need to be reconsulted on the receipt of the additional information. As such the recommendation reflects this and seeks delegated powers to approve the proposed variation of the existing legal agreement to deal with the repositioning of the pitches and also to enable the additional enhancements required to mitigate the loss of the sports pitch for the construction of the Lidl food store. It would be on the basis of further information (see the report relating to the variation of the approved plans), and the commitment to provide changing facilities at the new community pitch that the Council could reasonably conclude that the pitch lost for the construction of the Lidl food store would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location and therefore meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 5.3 **Other matters**
- 5.3.1 SPFA have also commented on the lack of enforcement of the community pitch and questioned why the pitch has not been marked out since the November committee meeting as they requested. The matter of enforcing the requirements of the S106 on the football club is a matter for the Council. At this time officers consider it would be unreasonable to enforce this part of the S106 and require the existing community pitch to be marked out on the basis that there are current planning applications seeking to remove this use from the land. Until such time as these

current applications are determined any enforcement is on hold. Should members refuse the current proposal the Council will reconsider enforcement proceedings.

6.0 CONCLUSION

- 6.1 The conclusion of the previous report to members advised that, in officer's opinion, the variation of the S106 agreement to allow for the relocation of the community pitch within the football club site was acceptable as the proposal would enable the continued provision of sports facilities. However, following additional information and comments from Sport England and Shropshire Playing Fields Association officers' view of the proposal has altered.
- 6.2 The variation of the agreement would result in the loss of sports land which is not, at present, mitigated by replacement land of an equivalent or better provision in terms of quantity and quality in a suitable location. Without further information and a commitment to provide additional facilities at the new community pitch the proposal would not comply with the adopted policies or national planning policy framework.
- 6.3 As such, as noted at the beginning of this report the recommendation has changed to request delegated powers to the Area Planning Manager to draw up a new legal agreement to vary the previous agreement in regard to the position of the training pitch and community pitch and also to provide additional facilities at the new community pitch, subject to no further objections being received from Sport England.

APPENDIX 2 – COMMITTEE REPORT 24th NOVEMBER 2016**1.0 THE PROPOSAL**

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

2.0 SITE LOCATION/DESCRIPTION

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

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

4.1.1 **Shrewsbury Town Council** – Members recalled the reasoning for covenants attached to this area to allow for recreational public use; these related to the agreement to remove similar covenants at the old Gay Meadow site which were placed on the site as part of the Gay family bequest of the land. Members noted that since the football ground has been at this location, there has never been any active promotion of the greenspace at the front of the site, which has never been laid out as a football pitch with goals.

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

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

4.2 **Public Comments**

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

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

5.0 **THE MAIN ISSUES**

- Background & Principle of Development
- Affordable Housing Contribution

6.0 **OFFICER APPRAISAL**

6.1 **Policy & Principle of Development**

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

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

6.1.3 A statement has been provided with the request to vary the S106 which advises that the required facilities have all been provided. The five-a-side pitches are known as the Power League facility and the changing block and indoor sports provision is adjacent to these pitches. The children's pitch and full sized pitch are

the subject of this application. Car parking is provided within the club site on the main car park as required.

6.1.4 The proposal is to relocate the community pitch and to transfer the management of the pitch to Shrewsbury Town in the Community (STC). The current five-a-side pitches and other facilities are managed by STC and the proposal to include the community pitch in their control will improve their facilities and also enable more control over use and management.

6.1.5 To ensure the continued availability of the community pitch (five-a-side pitches and other facilities) the applicant will need to enter into a deed of variation to vary the S106. A draft agreement has been drawn up by the Council Solicitor and agreed by the applicant's solicitor. The agreement requires the new community pitch to be provided within 3 months of the date of the decision or prior to commencement of the construction of the Lidl food store, whichever is the sooner.

6.3.6 The deed of variation does not vary the requirement to provide the six five-a-side pitches, the indoor facilities, changing block or car parking. It continues to require the provision of a community pitch and to make it available for the community but also allows the club to make the main stadium available for the community. As such the deed of variation seeks to amend the position of the community pitch but continues to require it to be provided. It is therefore considered by officers that, subject to the applicants entering into the deed of variation, that this will secure the community facility for the long term and does not diminish the community facilities required in the original planning consent and as such officers are recommending that the deed of variation is allowed.

7.0 CONCLUSION

7.1 The approved development was for a new football club, community facilities and associated works which have all been provided as required. The requested deed of variation to the S106 relates to the position and management of the community pitch. The deed of variation will ensure the community pitch will continue to be available for community uses and as such does not significantly alter from the previous planning permission.

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

BERRYS

PROPERTY | BUSINESS | PLANNING

SUPPORTING STATEMENT

IN RELATION TO

PROPOSED AMENDMENT TO SECTION.106 AGREEMENT AND ASSOCIATED
PLANNING CONDITION

ON BEHALF OF

SHREWSBURY TOWN FOOTBALL CLUB



SUPPORTING STATEMENT

APPLICANT'S DETAILS

Shrewsbury Town Football Club
Greenhouse Meadow
Oteley Road
Shrewsbury
Shropshire
SY2 6ST

PROJECT

Proposed Variation of Section. 106
Agreement and Associated Planning
Condition

ISSUED BY

Stuart Thomas BA (Hons) MA MRTPI
Partner and Head of Planning

APPROVED BY



Stuart Thomas BA (Hons) MA MRTPI
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1 SUPPORTING STATEMENT

- 1.1 Planning permission was granted on 4th September 2003 for the erection of the new football stadium. The permission was subject to a number of planning conditions and an associated s106 planning obligation.
- 1.2 Condition 2 of the application approved the location of a community pitch for football use. This area is edged in blue on the attached plan in Appendix A. The s106 agreement associated with this permission stated that the club would provide a full sized grassed pitch for football. The pitch would need to be made available for local community leagues to stage important matches or cup competitions as well as be available for public use.
- 1.3 The area of land was that proposed for the new Lidl foodstore that was the subject to application 16/00181/FUL, which was considered by the Central Planning Committee on 24th November 2016. The committee resolved to approve this application subject to a s106 agreement to secure a financial contribution towards improving public transport on Oteley Road and the secure match day management of the car park.
- 1.4 In order for the foodstore to be built then both condition 2 and the s106 relating to the originally approved application need to be varied. These are the two applications still pending determination. It is important to stress that there are no other changes to the originally approved agreement for the football stadium.
- 1.5 It is accepted by the Council and the club that the land in question hasn't been used as a community pitch since 2007 when the stadium opened for the following reasons:
- The club have always enabled the main stadium pitch to be used for community matches such as Shropshire Schools Finals, Shropshire FA Senior Cup Final, Local Amateur Cup Finals and more.
 - The land earmarked for community use has no drainage, isn't flat and isn't of a standard to play matches on. A report on the quality of this land is provided in Appendix B

- 1.6 Instead the proposal is simply to move the designated area for community use to the existing 1st team training pitch which is located on the land edged in red on the attached plan in Appendix A. This land is already laid out and in use as a grassed football pitch. It is important to note that the training pitch was never identified as a community facility in the original planning permission so if the applications are approved there will be no loss of community facilities. Notwithstanding this point the club are willing to make a £65,000 s106 contribution to the Council. This money would be made available to spend on sports and recreation within the local community. The sum has been identified by Sport England as the estimated that the cost of replacing a pitch.
- 1.7 The area of land proposed is larger than the original designated area. It has existing drainage and maintenance programme and is of a standard for professional football use. The club are also offering to provide changing facilities as the new community pitch, details of which can be controlled via the amended s106 agreement. There is potential to renovate the existing office area opposite the pitch or build modular units. Either option will provide 2 15 square metre changing areas with 3 showers and a toilet. In addition, a referee's room with shower and toilet will be provided. All of the facilities will be carried out to Sport England specification.
- 1.8 A technical report on the condition of this pitch is provided in Appendix C. The secondary drainage system hasn't yet been completed. The club's intention is to complete this work at the end of the season. For the avoidance of doubt the club will be responsible for the ongoing maintenance of the pitch and associated facilities.
- 1.9 At present the pitch is intermittently used by the current 1st team, who are in the process of relocating to three pitches on land at Sundourne. Since May 2016 the club have made substantial qualitative improvements to these pitches including installing drainage, reconstructing the pitches and levelling the land. A specification of works is provided below. Incorporating the purchase of the land the total investment is close to £1 million. A technical summary of these works is provided in Appendix D to this report. The work was carried out by Maxwell Amenity Ltd who are one of the leading independent sports pitch contractors for professional football teams. The works carried out and associated costings are as follows:
- | | |
|--|----------------------------|
| - Piped primary drainage | £40,601 |
| - Pitch Reconstruction (with 300 tons of sand) | £41,352 |
| - Bore Hole | £12,938 |
| - Irrigation (Tank and main to feed to irrigators) | £29,180 |
| - Catchment tank with transfer pump | £14,400 |
| - 1200 tons of medium coarse sand spread and ameliorated into the top 100mm to supply and spread | £32,400 |
| - Sand Slitting
in April 2017 due to weather last summer) | £18,000 (to be carried out |
| - Fencing & Other Works | £40,400 |
| - Roadways, Car Parking | £38,520 |

- Buildings
- Purchase, haulage and installation of building circa 500 sqm and internal works (ongoing) to form the following rooms:
- Dressing Rooms x 2, Referees Room, Kitchen, Dining Room, Gym, Physiotherapy Room, Doping Control/Laundry Room, Boot Room
- Staff Offices

£330,000

Total Expenditure**£597,791**

- 1.10 Once these pitches are fully operational then it will “free up” the existing pitch to be run and managed by Shrewsbury Town in the Community (STIC). They are a registered charity and a separate organisation which works in partnership with the club. The club propose that a peppercorn long term lease would be given to the charity from the club. Appendix E to this document provides a background to STIC.
- 1.11 The proposed user matrix for the pitch would expect it to be available to the wider community for 57 hours per week with STIC using it for 43 hours per week. Importantly it will be available to the community between 7pm and 10pm every day of the week. When in use, it will be subdivided into three separate pitches with each area potentially having a different activity. The pitch will be used by 4 local football teams together with use by other sports such as rounder’s and fitness camps. The club also make the internal rooms in the stadium available for indoor activities such as table tennis and aerobics/
- 1.12 The club are committed to working with their partners to turn the pitch into a 3G pitch and initial meetings have taken place with the Football Foundation and Shropshire FA. Potential local football club partners have been identified however, for the avoidance of doubt, the provision of a 3G pitch does not form part of this application.
- 1.13 The club have secured comprehensive support for the Shropshire FA, Shrewsbury Town Supporters and Shropshire Schools and Colleges FA. These statements / letters of support are provided in Appendix F.

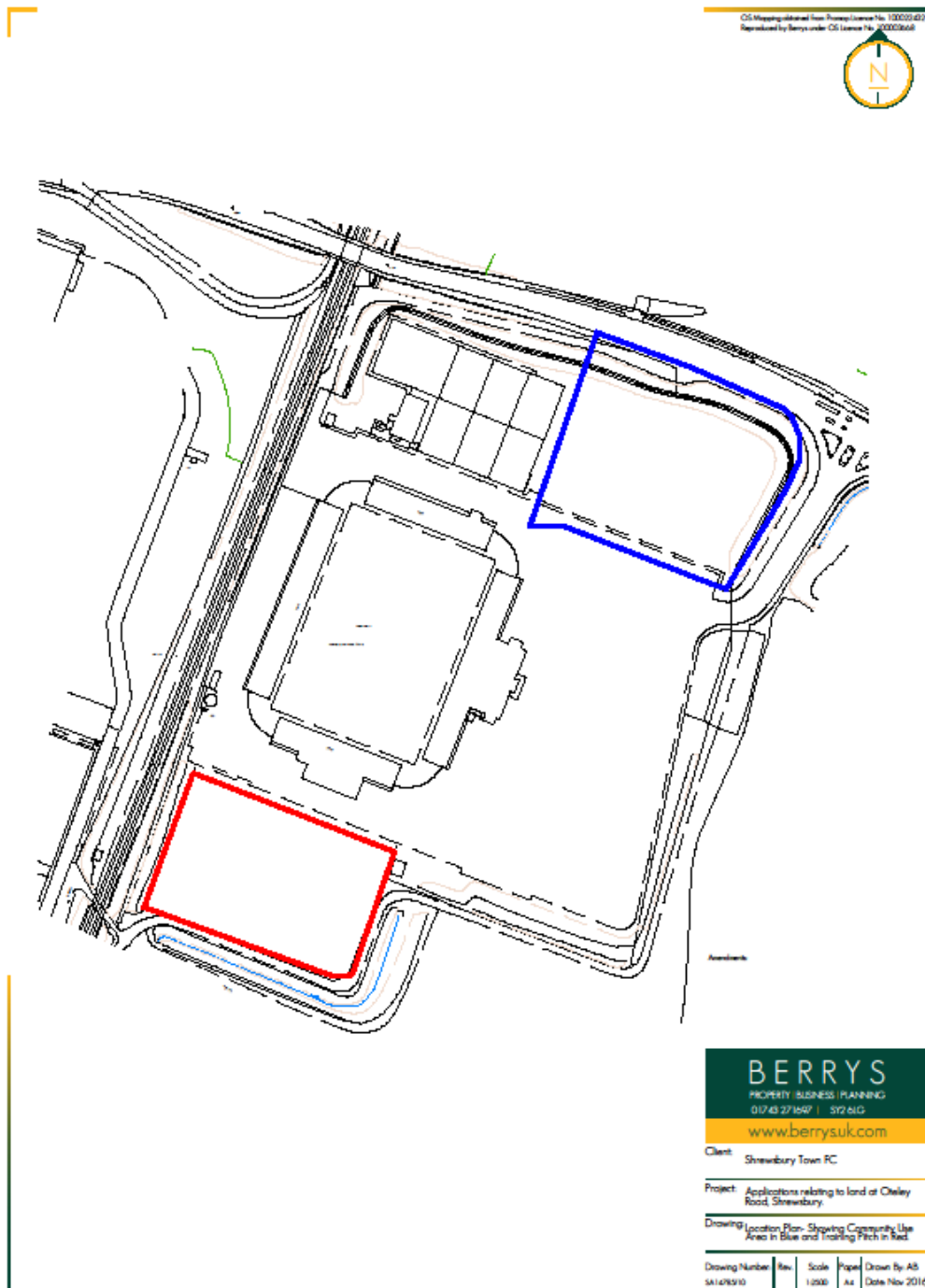
Summary

- 1.14 In summary approval of the application would deliver substantial public benefits for the town and provide an opportunity to greatly expand community activities and user participation in sport. These benefits can be summarised as follows:
- Provision of a new community pitch which is larger than that originally designated. The pitch is well drained, fenced and of a standard for professional football use.
 - A £65,000 s106 contribution towards sports and recreation facilities in the local community

- Provision of changing facilities in association with this pitch to supplement the existing facilities located beside the “Shrewsbury Town in the Community” hub which employs 16 full-time staff.
 - New pitch would be run by Shrewsbury Town in the Community who are a registered charity. They would ensure the pitch is used and available for local football teams together with other sporting activities.
 - Creating the opportunity to greatly expand sporting participation in the local community.
 - Retention of the main stadium pitch for community matches such as Shropshire Schools Finals, Shropshire FA Senior Cup Final and Amateur Cup Finals.
 - The pitch is immediately available for use by the wider community.
 - Substantial qualitative improvements and financial investment in pitches and associated facilities at Sundourne Castle.
- 1.15 These benefits would offset any concerns regarding the loss of sports land and **Sport England have confirmed they raise no objections to either of the applications. This was confirmed in an e-mail to Karen Townend on 1st March 2017.** There is no basis to continue to withhold determination pending the satisfaction of Sport England’s objection when an objection to the applications does not exist. We would therefore respectfully request that the committee agree with officers and Sport England and approve the applications which will allow the substantial benefits arising from the Lidl development and new community pitch to be realised.

2 APPENDICIES

2.1 Appendix A – Location Plan



2.2 Appendix B – Technical Report on Existing Grassed Area (Lidl Site)

TECHNICAL REPORT by John Handley

For

Shrewsbury Town FC Land adjacent to stadium car park Oteley Road, Shrewsbury

REPORT FOR EXISTING NATURAL GRASS AREA

8th January 2015

GENERAL

The land situated adjacent to the car park at the Greenhous Meadow, Oteley Road, Shrewsbury was part of the purchased area by Shrewsbury Town Football Club to build the new stadium complex. The total levelled grass area measures approximately 72m x 115m (8280m²). Area outlined below in picture. Area is bounded to North and East sides and Power League and Car park on West and South sides.

In the 8 years since the stadium was built, the club have not used this area for sport or recreational use due to the poor ground conditions. It has occasionally been used as car park overspill.

The report to the club is to evaluate the current state of the area, the issues arising and ascertain the possible remedial/construction work required for the area to make it fit for purpose.



Overview

The site was visited on the 18th December 2014, the weather conditions were cold and overcast. The following observations were made: -

The ground was holding water and you left muddy footprints.

There was more than 90% coverage of vegetation. There was a good population of rye grass (preferred grass type), some weed grasses such as annual meadow grass and Yorkshire fog. Grass colour and health was generally good.

Weeds were prevalent throughout the grass sward, primarily broad leaved weeds such as plantains and dandelions and clover. Some moss also in evidence.

There were some mature fairy rings and red thread within the grass sward.

There was quite a lot of worm casting.

Rabbit damage is also quite prevalent, particularly around the edges of the grassed area. The land falls gently from North to South and from west to east across the field. The overall levels are uniform, but local levels are poor and not suitable for sports use.

Visual and analysed observations

Vegetation

The sward is generally good across the area, approximately 90% grass cover with no distinct bare areas, desirable grass species are around 80%. Rye grass dominates, there is around 10% weed infestation, a variety of weeds, such as plantain, daisy, dandelion and clover. The sward was maintained at around 50mm, current ground conditions prevent any maintenance (too soft and wet).

Sward colour was good, despite the non-use of any fertilisers.



Disease and pest damage

There was evidence of disease (leaf spot, fairy rings and red thread), the field is also badly damaged by rabbits burrowing and mole hills. There were a lot of worm casts in evidence. There was also bird damage, looking for grubs, presumably leatherjackets and/or chafer grubs.



Levels

General levels were considered ok with a fall of less than 1:100 from N-S and W-E. Local levels are poor. The level deviances across a 3m straight edge, are more than 100 mm in places.

Worm casting

There is a reasonable level of worm casting, above the 5% threshold of the PQS guidelines.



Compaction

Compaction testing was carried out, and on average was more than 400psi at a depth of 150mm. The textural analysis of the area shows a high concentration of fine particles that would reduce available air space and unless managed with regular aeration, the soil will compact quickly. We would expect to achieve a level less than 150 psi at this depth for a natural grass pitch.

Root depth

Root depth was generally good and measured at greater than 150mm in samples taken, there was no anaerobic activity present in core samples taken.

Thatch depth

There was a layer of thatch in evidence. Through a lack of maintenance and sward type, there has been a good build-up of dead/decaying fibrous material. Thatch retains water in the top, preventing water and oxygen to permeate the ground easily.

Infiltration rates

Percolation tests were conducted in three areas across the surface, using calibrated infiltration rings. The rings were filled with water and timed for 1 hour. The percolation rates of water in each of the three tests was negligible at the time of testing, with all readings significantly below 1mm per hour. Sport England Guidelines state that pitches should be aspiring towards 5mm per hour.

Drains and drainage

As far as we are aware there was no evidence of a drainage system in place.

Topsoil

The topsoil depth varies slightly across the area but was measured upwards of 175mm. The soil was finger tested, it rolled easily into a sausage, felt smooth and there was little noticeable sand texture with in it. Soil analysis results attached to this report. There was a reasonable amount of stone found in all samples taken. The analysis of the topsoil from the area is attached to this report.



The soil results analysed showed less than 20% beneficial drainage sands in them (coarse and medium sand content). The high levels of the finest particles (clay and silt) amounting to 49% of the sample. The rest of each sample was made up of fine and very fine sands which are classified by sieve size and will compound drainage issues and compaction further.

The large quantity of 'fines' in all samples will limit air space within the soil and have a high capability of retaining moisture, this is not conducive to providing a free draining sports surface.

The pH was acceptable in all the samples, being within the preferred range.

Nutrition was well balanced within the soil profile.

Report Summary

Based on the testing and results obtained the grass area is not currently fit for use.

The surface levels need to be addressed and the heavy soil would require piped drainage in conjunction with secondary drainage to allow surface water to bypass the heavy clay loam soil and drain away quickly.

The area would need to be stone buried and any visible stones left on the surface removed by hand picking.

The current particle size distribution (PSD) in favour of fine materials would require a substantial amount of approved drainage sand amelioration at the surface as well.

The overall levels on the area is good. The surface would require a cultivation and inclusion of good drainage sands, prior to regrading to a suitable finished level. This would take place following the design and implementation of a piped drainage matrix and the suitability of finding somewhere for the water to outfall too.

If the club would like specifications and costs for the re-instatement of this area, we would be happy to provide these.

Kind regards,

John Handley MSc

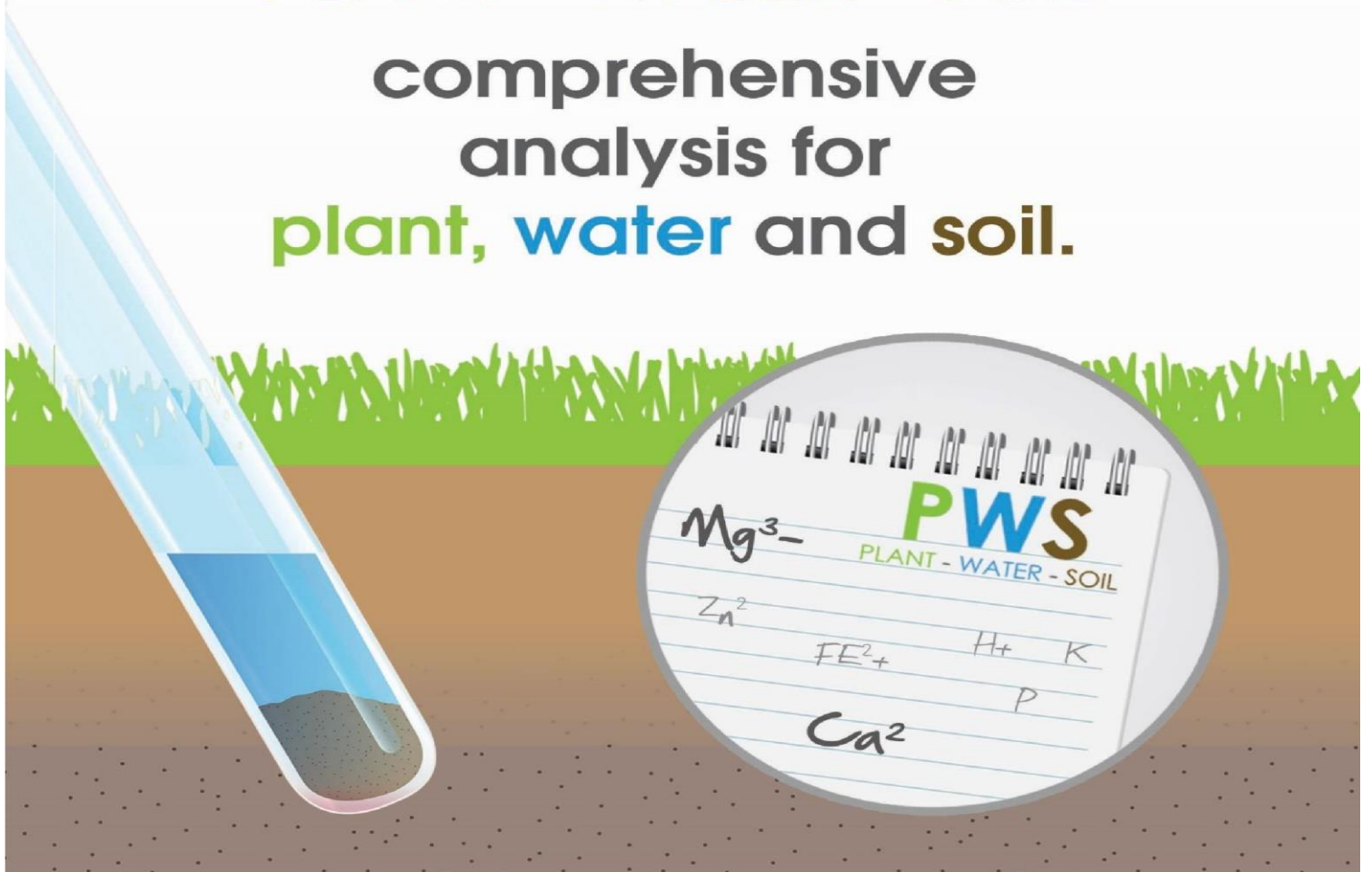
2.3 Appendix Bi – PWS Soil Analysis



PWS

PLANT - WATER - SOIL

comprehensive
analysis for
plant, water and soil.



T: 01902 440250

E: sales@pitchcare.com



Soil chemistry is a well-established science, as what happens within the soil determines the health and vigour of the plants growing in it.

A plant will utilise the chemical elements within the soil to build itself and operate its metabolic systems.

Together with a soils physical properties the chemical nutrient balance provides the basis of recommendations for an informed fertiliser programme. These recommendations are based on the "sufficient levels" approach. This philosophy acknowledges that, as the level of a nutrient increases, the chance of the plant

responding from the addition of that nutrient decreases and therefore the magnitude of the plants response, if it occurs, is diminished.

In addition; the lack of one element or the abundance of another changes the soil profile dynamics. For example; an overabundance of iron can impact upon the availability to the plant of phosphate, potentially creating a phosphate deficiency in soils which may on the surface appear to have a good phosphate level.

Soil chemical analysis is a means to discover what levels of chemical nutrients are available to your plants. There is an optimum range for each plant nutrient that when coupled with other properties, such as soil structure and particle size, determine how healthy an environment your plants are living in.

Fundamentally, healthy grass plants create good quality turf surfaces.

Correct interpretation of the soil analysis results can be used to help provide you with a nutrient programme tailored to your specific requirements.

Our PWS system aims to illustrate and present this information in an easy to interpret manner.

The different chemical nutrients shown in the report undertake different tasks within the plants systems, this is illustrated below:

A Guide to PWS Broad Spectrum Soil Analysis		
pH		Soil pH is a measure of the soils acidity or alkalinity. Soil pH controls many chemical processes that take place. It specifically affects plant nutrient availability by controlling the chemical forms of the nutrient. The optimum pH range for turf grasses is 5.5-6.5.
Macronutrients		Role within plant
Primary Nutrients:		
Nitrogen	N	mainly used for the growth of leaves and stems
Phosphorous (phosphate)	P	primarily used for flowering and root development
Potassium (potash)	K	used for fruiting, root growth and disease resistance
Secondary Nutrients:		
Magnesium	Mg	important within the process of photosynthesis and enzyme production
Calcium	Ca	used within the plant cell wall
Sulphur	S	important in food, enzyme and chlorophyll production
Micronutrients		
Zinc	Zn	used within the transport system of the plant
Manganese	Mn	involved in the breakdown of carbohydrates
Copper	Cu	important for reproductive growth
Iron	Fe	used in the formation of chlorophyll
Boron	B	used in the production of sugars and carbohydrates
Sodium	Na	used in plant metabolism and synthesis of chlorophyll
Molybdenum	Mo	utilised by the plant when using nitrogen

Cation (Cat-ion) Exchange Capacity (CEC) is included within a broad spectrum analysis. CEC is a complex subject within soil science however, on a basic level it is a measurement of the soils ability to retain nutrients and mobilise water. The reading is given as meq/100g which expresses the milliequivalent of hydrogen per 100 g of dry soil. The CEC will normally directly relate to the amount of clay and organic matter within the soil.

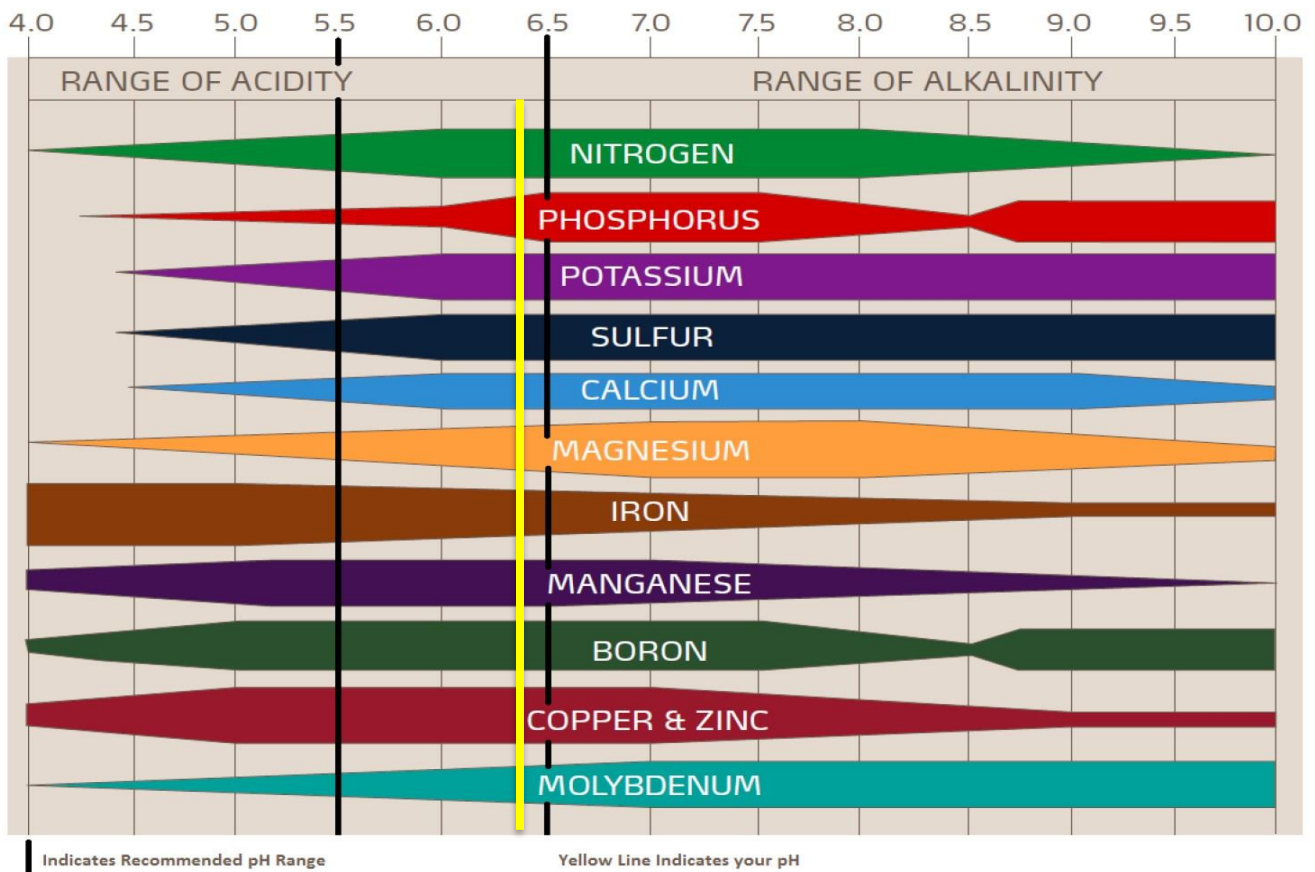
A Guide to CEC Readings	
Below 10meq/100g	low nutrient holding and exchange capacity
11 – 20meq/100g	good nutrient holding and exchange capacity
Above 20 meq/100g	high levels of organic material and clay prone to compaction and drainage problems

Soil pH Example

The table below shows the plant availability of nutrients within the soil at different pH values.

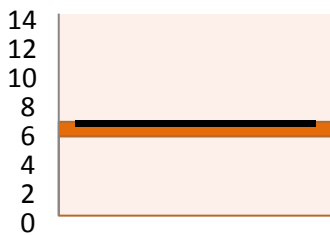
Your pH (yellow line) is shown in relation to the recommended range for turf grass – black lines.

The Influence of Soil pH on Nutrient Availability



Location:	Shrewsbury Town Football club	
Soil ID Code:	E199554	
Sampled Area:	0	
Soil Analysis Prepared By:	INTERNAL SALES	
Cation Exchange Capacity (CEC):	19.5	meq/100g
Soil Type:	Clay Loam	

pH



pH: 6.4

» Our baseline data indicates that your pH falls within the preferred parameters i.e. 5.5 - 6.5, no amendments are required.

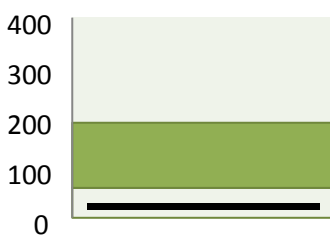
Phosphorous



Phosphorous: 24 mg/l

» Our baseline data indicates that your phosphorous levels fall within the preferred parameters, no amendments required

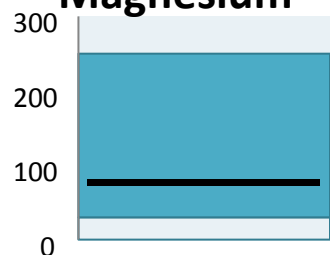
Potassium



Potassium: 23 mg/l

» Your potassium level is too low and will requiring. » A major symptom of low potassium is the yellowing of older leaves followed by tip dieback and necrosis along the leaf margin. » Potassium deficiency may not always be apparent but an application of the nutrient will aid in the stress tolerance of the plant. » Potassium is supplied with regular fertiliser applications.

Magnesium

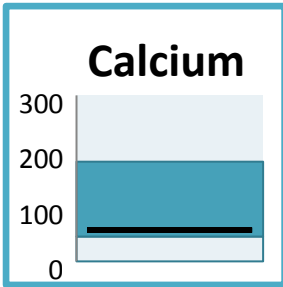


Magnesium: 77 mg/l

» Our baseline data indicates that your magnesium levels fall within the preferred parameters therefore no amendments are required.

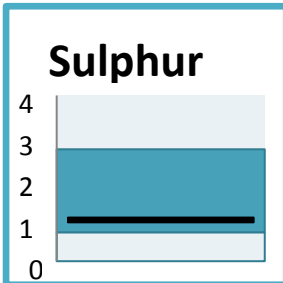


Location: Shrewsbury Town Football
Soil ID E19955
Sampled Area: 0
Soil Analysis Prepared By: INTERNAL SALES



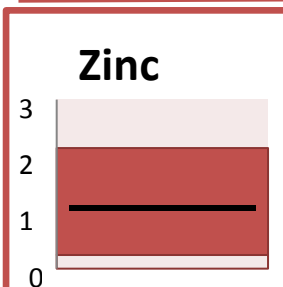
Calcium: 569

» Our baseline data indicates that your calcium levels fall within the preferred therefore no amendments are



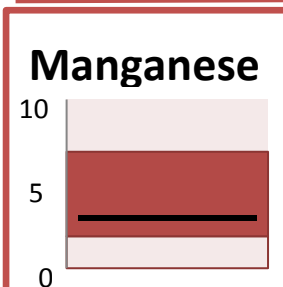
Sulphur: 10

» Our baseline data indicates that your sulphur levels fall within the preferred therefore no amendments are



Zinc: 10.8

» Our baseline data indicates that your zinc levels fall within the preferred no amendments are

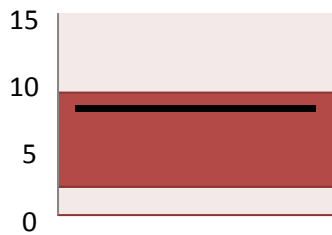


Manganese: 30

» Our baseline data indicates that your manganese levels fall within the preferred therefore no amendments are

Location: Shrewsbury Town Football club
Soil ID Code: E199554
Sampled Area: 0
Soil Analysis Prepared By: INTERNAL SALES

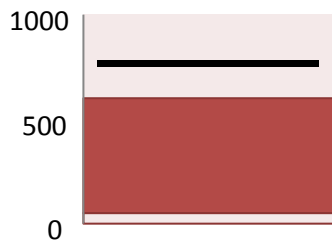
Copper



Copper: 7.9 mg/l

» Our baseline data indicates that your copper levels fall within the preferred parameters therefore no amendments are required.

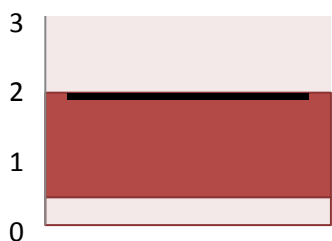
Iron



Iron: 770 mg/l

» Your iron level is too high.
 » Iron toxicity will blacken the leaf of the turf plant although this damage is not permanent. The foliage can be set back but the plant will recover from this condition. High levels of iron can also induce a manganese deficiency.
 » Iron can be flushed through the soil profile with the use of penetrant wetting agents.

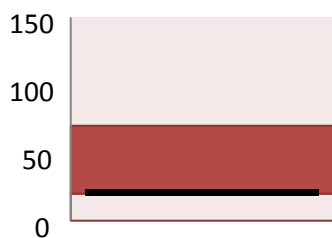
Boron



Boron: 1.85 mg/l

» Our baseline data indicates that your boron levels fall within the preferred parameters therefore no amendments are required.

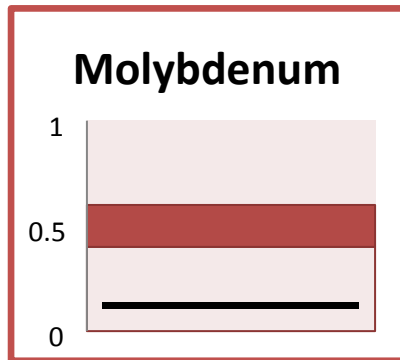
Sodium



Sodium: 21 mg/l

» Our baseline data indicates that your sodium levels fall within the preferred parameters therefore no amendments are required.

Location: Shrewsbury Town Football club
Soil ID Code: E199554
Sampled Area: 0
Soil Analysis Prepared By: INTERNAL SALES



Molybdenum: 0.12 mg/l

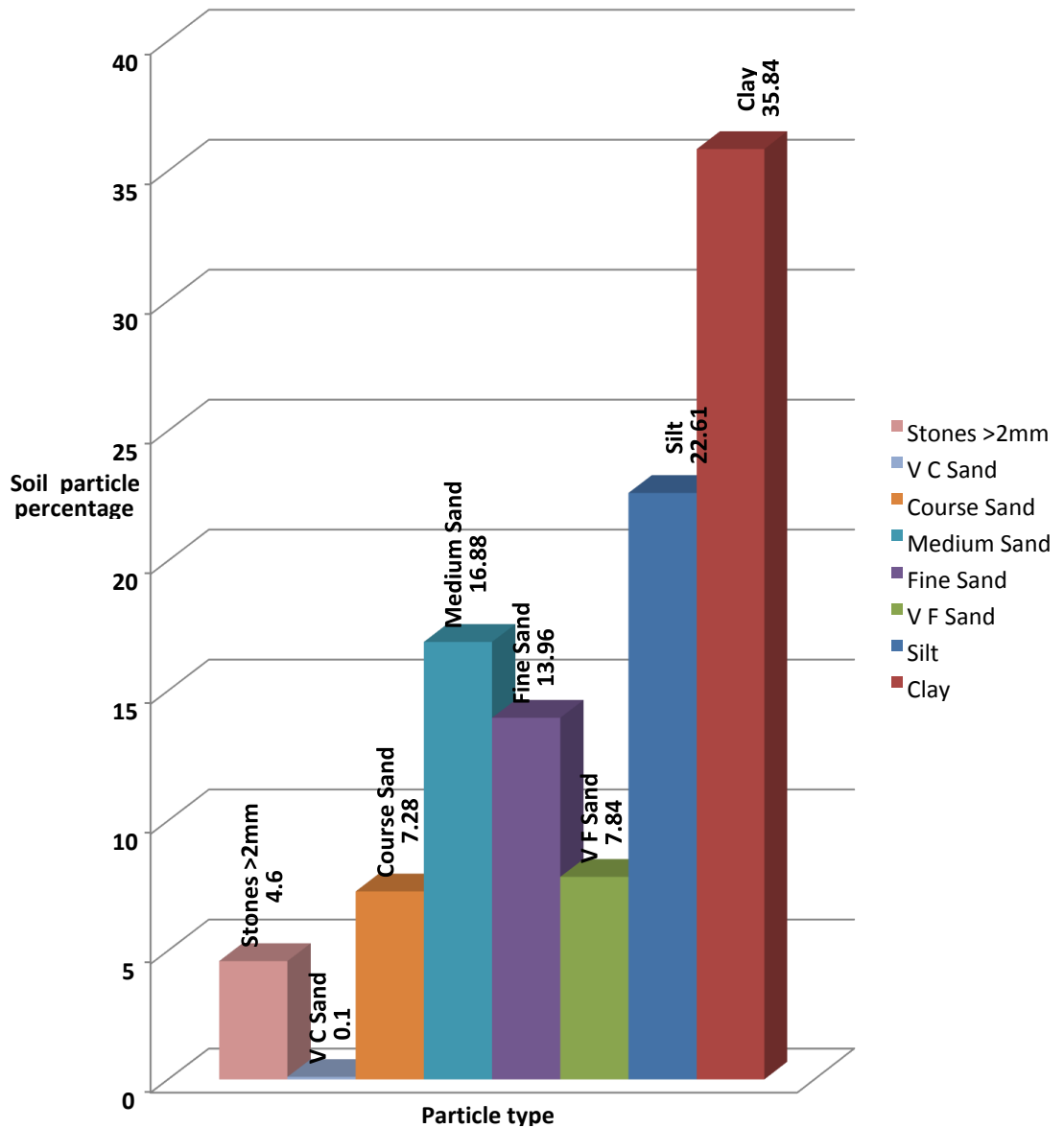
- » Your molybdenum level is too low and will require amending.
- » When molybdenum is deficient, older turf leaves turn pale green. Interveinal areas of leaf appear mottled and yellowish with withering and stunting of the plant.
- » Molybdenum can be supplied directly in the form of a granular fertiliser, speak to a member of our sales team who can discuss your options.

2.4 Appendix Bii – Soil Analysis Graph



Location/Customer: Shrewsbury Town Football club
 Soil ID Code: E199554
 Sampled Area: 0 Soil Type:
 Soil Analysis Prepared By: Internal Sales

Clay Loam



2.5 Appendix C – Technical Report on Proposed Community Pitch

Summary Report

Shrewsbury Town FC

Training pitch behind South stand

Provided by Dave Saltman ND LC

15th March 2017

The pitch situated behind the South Stand at the Greenhouse Meadow, Oteley Road, Shrewsbury has been used as a training facility by Shrewsbury Town Football Club since the Stadium was built. The total levelled grass area measures approximately 70m x 113m (7910m²).



The pitch is subject to weather due to its soil profile, but historically was used from June-mid October and then again in April and May for training. The playing squad would usually go to Lilleshall or one of the Shrewsbury schools for training during the winter months. The heavy topsoil would hold water in the winter and standing water would take an unacceptable amount of time to drain away.

The pitch benefits from having piped primary drainage running from West to East at 5m centres and the outfall drains into a ditch just outside the perimeter. The problem is getting surface water down through the profile to the drains.

The pitch also has a pumped irrigation provision, with three valve boxes that travelling sprinklers can be connected to.

Since 2015 the pitch has undergone a more intensive maintenance programme than previously in place.

There is regular aeration, using a solid tined machine monthly and a linear aerator annually. The pitch is mowed frequently during the growing season, also regularly brushed and harrowed.

Repairs are carried out after training and the high wear areas such as goal mouths topped up with rootzone.

At the end of the last two seasons, renovations have taken place, adding around 300 tons of sandy rootzone, seeding and fertiliser.

This programme has seen a large improvement to the longevity of use, last season and this season, the pitch has been fully useable up until Christmas time and subject to any inclement weather, from mid-February onwards.

The playing squad have made use of the stadium pitch for training for the majority of the times that the training pitch has been too wet, this season. The picture below was taken today 15/03/2017.



Grass coverage is good, a mix of rye and meadow grass, but is growing again now and recovering quickly.

Worms are an issue, but it is becoming increasingly difficult to remove them and it's a problem that we have had to work with.

The heavier soils in the upper profile are improving with each renovation, but ideally the pitch requires a secondary drainage system in the form of sand slits or gravel bands to connect the surface to the existing drains.

With a secondary drainage matrix in place and continued end of season renovations, the training pitch should be able to cope with inclement weather through most winters.

Kind regards,
Dave Saltman

2.6 Appendix D – Technical Report on Sundorne Castle Training Pitches

TECHNICAL REPORT

Shrewsbury Town FC Sundorne Castle Training Ground

Provided by Dave Saltman ND LC

REPORT FOR EXISTING NATURAL GRASS PITCHES 19th February 2016

GENERAL

The land at Sundorne Castle, Shrewsbury was purchased privately by the Chairman back in January 1998 and was previously a MEB Sports Ground, primarily used for cricket, although occasional winter sport was played. The total grass area is about 6 acres (24000 square metres).

In recent years, the club have used the facilities for pre-season fitness and a handful of youth games. After September and through the winter months the ground remains unused for several reasons, primarily as ground conditions become wet and muddy, the pitches are unfit for play. Maintenance is limited as well.

The club have asked for this report to understand the issues arising, prior to a meeting to ascertain the future use and possible remedial/construction work required for the sports ground.

The findings of this report are based on the criteria of PQS (Performance Quality Standards) as set out by the FA and Sport England.

VISUAL INSPECTION

The site was visited on the 10th February 2016, the weather conditions had been largely dry for the previous 24 hours and on that day, it was cold, windy with intermittent sunshine. The following observations were made: -

- a) It was difficult to walk with ease across the field, wherever you walked, water was immediately brought to the surface and the ground became emulsified (muddy) and

slippery. The soil type appeared to be heavy and given the proximity of the River Severn, was or is part of the flood plain.

- b) The grass sward provided around 80% coverage, in addition there was approximately 10% weed infestation. Many the grass species were weed grasses (annual and rough meadow grass, Brome, Cock's foot and Couch), there was some rye grass evident in the sward.
- c) Grass colour and health was poor, showing malnutrition after the winter and evidence of disease.
- d) The land falls from South to North and from East to West across the field. The overall levels are uniform, but local levels are poor and not conducive to professional sport.
- e) Separate to the pitches the two club house buildings of timber construction are dilapidated, the roofs have collapsed in places and are deemed unsafe for use. The electricity had been disconnected as the main fuse board was open to the elements where the roof had caved in.

PQS TESTING- To be read in conjunction with the attached nutritional and textural soil results.

1.1 Herbage

The sward is generally good across the area, approximately 80% grass cover with no distinct bare areas, however desirable grass species are below 30%. Annual meadow grass dominates, there is around 10% weed infestation, a variety of weeds, such as plantain, daisy, dandelion and clover. The sward was long (100mm), the ground conditions prevent any maintenance (too soft and wet).

Sward colour was weak and showed a lack of adequate availability and/or uptake of nutrients. The grasses sit in prolonged wet soil conditions for up to 8 months of the year.

1.2 Disease and pest damage

There was evidence of disease (leaf spot, fairy rings and anthracnose), the field is also badly damaged by rabbits burrowing and mole hills.

1.3 Evenness

General levels were considered ok with an approximate 1:80 fall from S-N and E-W. Local levels are poor. The level deviances across a 3m straight edge, are more than 80mm in places.

1.4 Worm casting

There is a reasonable level of worm casting, above the 5% threshold of the PQS guidelines.

1.5 Compaction

Compaction testing was carried out, and on average was more than 300psi at a depth of 150mm. The textural analysis of the three pitches shows a high concentration of fine particles that would reduce available air space and unless managed with regular aeration, the soil will compact quickly. We would expect to achieve a level less than 150 psi at this depth.

1.6 Root depth

Root depth was generally good and measured at greater than 150mm in samples taken, there was a little anaerobic activity (gleying) present in some core samples taken from wetter areas.

1.7 Thatch depth

There was a layer of thatch in evidence. Through a lack of maintenance and sward type, there has been a good build-up of dead/decaying fibrous material. Thatch retains water in the top, preventing water and oxygen to permeate the ground easily.

1.8 Infiltration rates

Percolation tests were conducted on all three pitches, using calibrated infiltration rings. The rings were filled with water and timed for 1 hour. The percolation rates of water in each of the three tests was negligible at the time of testing, with all readings significantly below even 1mm per hour. Sport England Guidelines state that pitches should be aspiring towards 5mm per hour.



1.9 Drains and drainage

The pitches appear to have some very old clay piped drainage, as there is an outlet into the ditch in the bottom NW corner of the field. The age, integrity and scope of the existing drainage is unknown, but given the history and knowledge of the pitches to date, the current drainage provision is woefully inadequate

Excessive rainfall is sitting on the surface and/or running off down the gradients towards the North and West perimeters. The area reaches field capacity during the Autumn due to the ability of the soil to hold water and take an unreasonably long time to dry out in between periods of inclement weather. These conditions will allow the surface to very quickly emulsify during play and training. Due to lack of historical maintenance and the heavy nature of the soil, water will find it difficult to reach any existing drainage quickly.

1.10 Topsoil

The topsoil depth varies slightly across the area but was measured at between 125mm- 175mm at various points. The PQS preference for a minimum depth of root zone being upwards of 100mm.



The analysis of the topsoil from the area is attached to this report.

All three pitches tested contained around 21% beneficial drainage sands in them (coarse and medium sand content). The high levels of the finest particles (clay and silt) amounting to 47% of each sample. The rest of each sample was made up of fine and very fine sands which are classified by sieve size and will only compound drainage issues and compaction further.

The large quantity of 'fines' in all samples will limit air space within the soil and have a high capability of retaining moisture, this is not conducive to providing a free draining sports surface.

The pH was acceptable in all the samples, being only slightly above the preferred range at 6.8.

Nutrition showed a higher than normal level of iron in the soil and as it's one of the main cations, it will have a strong effect on the availability (unavailability in this case) of other nutrients to the grass plant. High levels of iron can also affect water percolation and the quality of the soil structure.



Summary

Based on the testing and results obtained the grass area would require a bypass system of piped drainage in association with secondary slit drainage to enable surface water to drain away quickly.

The near 80%/20% particle size distribution (PSD) in favour of fine materials will also need to be addressed with a substantial amount of approved drainage sand amelioration. The quantities of material required to reverse the PSD in favour of medium/coarse material will undoubtedly run to a few thousand tons.

The overall levels on the area is satisfactory, so with the application, cultivation of sand, the surfaces can be re-graded to provide a good surface for play.

The high iron levels will affect the grass species to take up other nutrients such as Potassium effectively. Managing high index iron can be fixed over a period through careful cultural practice and management. A balanced nutritional programme to enable the optimum growth/recovery and strength of new grasses will be required as well as the addition of organic material to improve the beneficial bacterial populations.

I have sent (via email) a remedial plan with budget costs to get the playing field back into play and start the process towards the long-term success for their playability.

If you have any queries, please don't hesitate to contact me by return.

Kind regards,

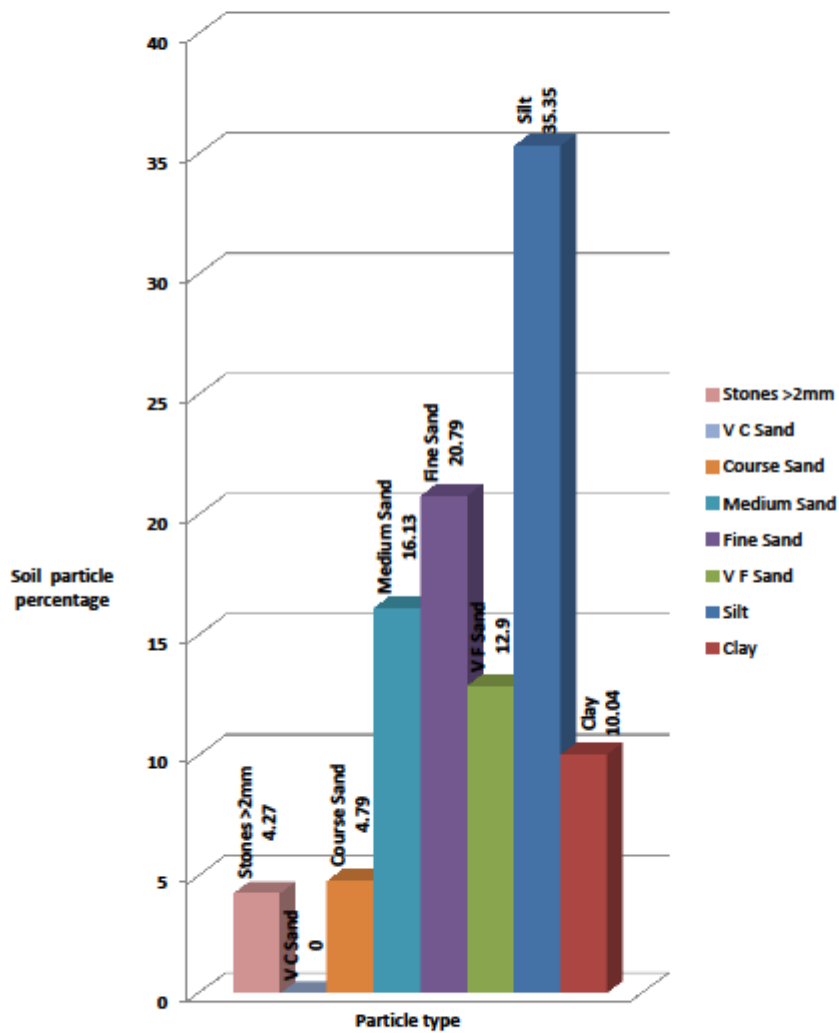
Dave Saltman ND LC

2.6 Appendix Di – Soil Analysis Graph

PWS
 PLANT - WATER - SOIL
 Comprehensive analysis
 for plant, water and soil.

SHREWSBURY TOWN FOOTBALL CLUB TRAINING GROUNDS
 Soil ID code: E188269

Soil Type: Sandy Loam
 Soil analysis prepared by: Consultancy



2.7 Appendix Dii – Pitches Prior to Improvement



2.8 Appendix Diii – Improved Pitches



2.9 Appendix E – Background to Shrewsbury Town in the Community

Background to Shrewsbury Town in the Community

Shrewsbury Town in the Community is a community engagement charity working with Shrewsbury Town Football Club delivering to a range of different communities and age groups across Shropshire. Its four main themes governed by the Football League Trust are Sports Participation, Education, Health and Social Inclusion.

The charity strives to make a positive difference for all through sport and learning and aim to do this by providing fun, safe and enjoyable activities for people of all ages and abilities, whilst ensuring their sessions are accessible and delivered to the highest of standards. They recognise the positive impact they have on the community, but are continually looking to develop and expand their reach.

The charity is completely separate from the Football Club and has a Board of Trustees made up of various professional local people from various sectors including education, health, finance etc. The organisation was formed in 1995 and earned charitable status in 2008. Last year engaged with over 7,500 local people on a wide range of community engagement programmes for all ages and abilities.

Mission Statement

To utilise the power of sport to engage, inspire and strengthen our local communities.

Current Community Engagement Activities

Weekly Participation Numbers 16/17

Programme	Projects	Weekly Engagement Numbers
Schools	Primary Schools	1553
Football Development	Skillz Centre, Gameplay, ADC	192
Education	Further & Higher Education	72
Disability	CP, DS, PC, PAN, MH, SB	125
Women's and Girls	RTC, FF, Ladies Team, PL Girls	308
Older People	Extra Time, Walking Football	53
Inclusion	Street Games (Estates)	30
Total		2333

Annual Projects Participation Numbers (Year to Date)

Programme	YTD (November 16)
National Citizen Service	188
Holiday Soccer Schools	1238
Meadow Memories	50
Work Experience	25
Business Enterprise	45
Total	1576

Current Partnerships

Primary Schools – Shropshire Council (100% Attendance Event), Premier League, SSFA, Powerleague, SERCO,

Disability – Severndale, Derwen College, Wembley National Stadium Trust, Telford and Wrekin sensory services, MIND, Redwood Centre, Shropshire Council, English Football League

Women’s & Girls – Shropshire FA, Premier League

National Citizen Service – McMillian Cancer, Hope House, Shrewsbury Ark, Severn Hospice, Harry Johnston Trust, Midlands Air Ambulance, Birmingham Children’s Hospital, MIND, Fight Bladder Cancer, Headway, National Autism Trust, Dame Kelly Holmes Trust, Shropshire Road Safety, West Mercia Police, Shropshire Fire Department, Santander

Higher Education – University South Wales & University Centre Shrewsbury

Older People – Marches Care, Age UK

Benefits of STITC having their own Facility - Community Grass Pitch

Having their own Community grass pitch would allow a minimum of 4 local football teams the opportunity to have a much-needed playing facility. This would include 2 male and 2 female teams. Funding would be sourced by the Charity for a new changing room facility/pavilion through the charity.

The area would also be utilised for other sports in the summer months such as Rounder’s and Fitness Camps etc.

Utilised on a Wednesday (Daytime) and Saturday (AM) and Sunday to provide a playing pitch for the Football & Education (Male and Female) and Regional Talent Club for Girls and Ladies Team.

Potential for funding to change surface to a 3G Pitch with adjoining building (Changing Rooms)

A 3G sports facility with neighbouring facilities would increase participation on the current grass pitch from 120 weekly users to over 1000 weekly users per week. It would allow STITC to expand our delivery by working closely with West Mercia Police, Shropshire Council and other local partners to have a site that really looks to strengthen the local community.

Facility Management would be undertaken by Shrewsbury Town in the Community.

Example Week User Matrix

	Monday			Tuesday			Wednesday			Thursday			Friday			Saturday			Sunday		
	Pitch 1	Pitch 2	Pitch 3	Pitch 1	Pitch 2	Pitch 3	Pitch 1	Pitch 2	Pitch 3	Pitch 1	Pitch 2	Pitch 3	Pitch 1	Pitch 2	Pitch 3	Pitch 1	Pitch 2	Pitch 3	Pitch 1	Pitch 2	Pitch 3
9-12	STITC Ed	STITC Ed	STITC Ed	STITC Ed	STITC Ed	STITC Ed	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	STITC Ed	STITC Ed	STITC Ed	Com Use	Com Use	STITC Part	Com Use	Com Use	Com Use
1-5	STITC Hlh	STITC Hlh	STITC Hlh	Com Use	Com Use	Com Use	STITC Ed	STITC Ed	STITC Ed	STITC Ed	STITC Ed	STITC Ed	STITC Hlh	STITC Hlh	STITC Hlh	Com Use	Com Use	Com Use	STITC Inc	STITC Inc	STITC Inc
5-7	STITC Part	STITC Part	STITC Dis	STITC Part	STITC Dis	Com Use	STITC Part	STITC Part	Com Use	STITC Part	STITC Part	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use
7-10	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	STITC Inc	STITC Inc	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use	Com Use

Key

- STITC Part – Participation
- STITC Inc – Inclusion
- STITC Dis - Disability
- STITC Ed – Education
- STITC Hlh – Health
- Com Use – Wider Community Use

Total Hours

STITC – 43 Hours per week
 Wider Community Use – 57 Hours per week

Wider Community Use would include Shropshire FA, SSFA (Schools) and Local Grassroots Clubs and organisations.





3.0 Appendix F – Letters of Support

Support from local and national organisations

The Premier League is committed to working with professional clubs' community organisations to develop facilities that meet a local need. Working with key national partners The FA and Sport England we are investing significantly in to facilities as an enabler to increase entry points in to sport and to improve pathways in to long-term physical activity.

'We are keen to learn more about Shrewsbury Town in the Community's plans and support them to develop new facilities locally that will enable them to expand their delivery in the community.'

Nick Perchard Premier League



'As local councillor for Meole, I am very aware of the fantastic and extensive work in our community for all age groups currently being carried out by the charity 'Shrewsbury Town in the Community'. Having seen sight of their plans going forward I am happy to support the Charity having their own facility as i recognise how this could expand and enhance the work of the charity in our local community'

Nic Laurens (Councillor for Meole)



We wish to go on record and convey our disappointment at the council's decision not to transfer the S106 community covenant from the proposed Lidl development area to the current training pitch at the rear of the stadium.

Our role is to represent the supporter base and help the local community in dialogue with the club. On notification of Lidls application the SP held detailed discussions with the club regarding the loss of a potential playing space to the front of the stadium. Following long discussion we felt the the transfer of the S106 covenant from what is currently a completely unusable piece of land for recreational activity to a near perfect playing surface used by the clubs first team for 10 years was a perfect solution to our concerns. If it had not been so we would have also on behalf of the local community objected to the proposals.

We believe the councillors need to look at the positive aspects transferring the covenant will bring, including increased community activity on site and all year-round use of the stadium site for community projects (which currently can't be achieved due to lack of a reasonable playing surface)

The aim of our group is to safeguard both the club but also maintain the supporter and community links the club has and help those flourish, this can be given a huge boost by

granting the S106 transfer and give the local community a facility they can truly use.

Should there be any uncertainty or questions we invite our councillors to meet with an SP rep at their convenience at the club so we can explain exactly why, now planning has been granted it's imperative we safeguard the facilities we have by transferring the S106.

The Shrewsbury Town Supporters Parliament



Shrewsbury Town
Supporters Parliament

I am happy to confirm that at a recent meeting of the Regional County Football Associations for the West Midlands and South West, the CEO's present confirmed that the Co-location of 3G football Pitches at the HQ of CFA's presented significant opportunities to develop football at a Grassroots Level. Furthermore, it is the stated aim of the FA to double the number of 3G facilities in England over the next 5 years with a particular emphasis on the development of hub-sites similar to what is being proposed by Shrewsbury Town in the Community.

The Shropshire FA would therefore welcome the development of your proposal.



Roy Waterfield, Chief Executive, Shropshire FA

Shropshire Schools & Colleges have held a strong link with Shrewsbury Town FC for over 50 years.

They have supported the Association allowing us the use of the stadium to host our annual Schools finals finishing the season with the prestigious Primary Schools finals. We have also had the opportunity to

host regional events again with the full support of the club.

Facilities are limited within the county to host large footballing events and the Association would welcome community use pitches to be available at the Club.



Lisa Sandford, Secretary, Shropshire Schools & Colleges

Shrewsbury Town in the Community are committed to developing our current delivery to both enhance and improve what Shropshire Council and other partners already deliver. Shropshire Councils recent local joint needs assessment is a pivotal part of our 3-year strategy document.

The potential of developing a 1st class community facility is key in our desire to increase our delivery especially in and around the Meole Brace area. In addition to this it would solve the on-going problem of accommodating 5 female football teams, 2 youth male teams and 4 disability specific teams.

Jamie Edwards (Head of Community), Shrewsbury Town in the Community

Every Trustee is fully committed to developing the best possible community provision for people of all ages, male and female, able bodied or in any way physically or mentally challenged. Through the medium of sport using the banner of the local football club we believe we are making a significant and positive impact on the lives of a good many people. Our recent track record is recognised as being second to none and it is important for me as chairman together with our staff ensure the least number of impediments stand in the way of even further progress.

Ryan Jervis

Chairman of the Board of Trustees (Shrewsbury Town in the Community) and retired Head Teacher





Shropshire Football Association



*President: E Parker
Chairman: D W Ralphs*

*Chief Executive: R Waterfield, Shropshire FA, Otley Road, Shrewsbury, Shropshire SY265T
Telephone: 01743 362769 Fax: 01743 270494 e-mail: info@shropshirefa.com
www.shropshirefa.com*

8th February 2017

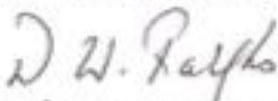
To whom it may concern

The Shropshire CFA is supportive of the proposal of Shrewsbury Town in the Community 'community pitch' subject to the approval of the required lease being granted. This is a good quality grass pitch that has been used by Shrewsbury Town FC first team for training. They have moved to a site where they have made significant improvements to the playing fields in order to meet their needs. The transfer of the covenant from the disused pitch at the stadium site is a clear benefit to the Community and will see a grass pitch being immediately utilised by the wider community.

The Shropshire CFA will look to support the development of an evidenced and sustainable usage and business plan to help show the justification towards a 3G pitch. This pitch would require appropriate ancillary changing facilities and appropriately dedicated car parking to ensure that any use can be maximised. An application to the Football Foundation can be considered once the evidence sustainable need of the 3G can be proven and does not simply displace users from other local facilities that could have a wider long sustainability issue across the area.

Initial discussions have already taken place between Shrewsbury Town in the Community and Shropshire CFA, and the Football Foundation. Furthermore potential community partners are being identified should the required lease be approved.

The County CFA supports this approach as it works towards providing good quality, sustainable and community accessible facilities. We fully support a potential application which will further support the growing partnership we have with the Shrewsbury Town Football Club.

Signed: 
David Ralphs, Shropshire FA Chairman

Signed: 
Mick Murphy, Shropshire FA Operations Manager

Shropshire Football Association Limited: Registered in England, Registration Number 3796679
Company Directors: G A Jervis-Smith, E R Edge, N W Pryce, D W Ralphs, D J Simpson, M Haines, D Rowe
Company Secretary: R Waterfield Registered Office: The New Stadium, Otley Road, Shrewsbury, Shropshire SY2 6ST
V.A.T. Registration Number: 493 2050 06

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Committee and date
 Central Planning Committee
 13 April 2017

Item
6
 Public

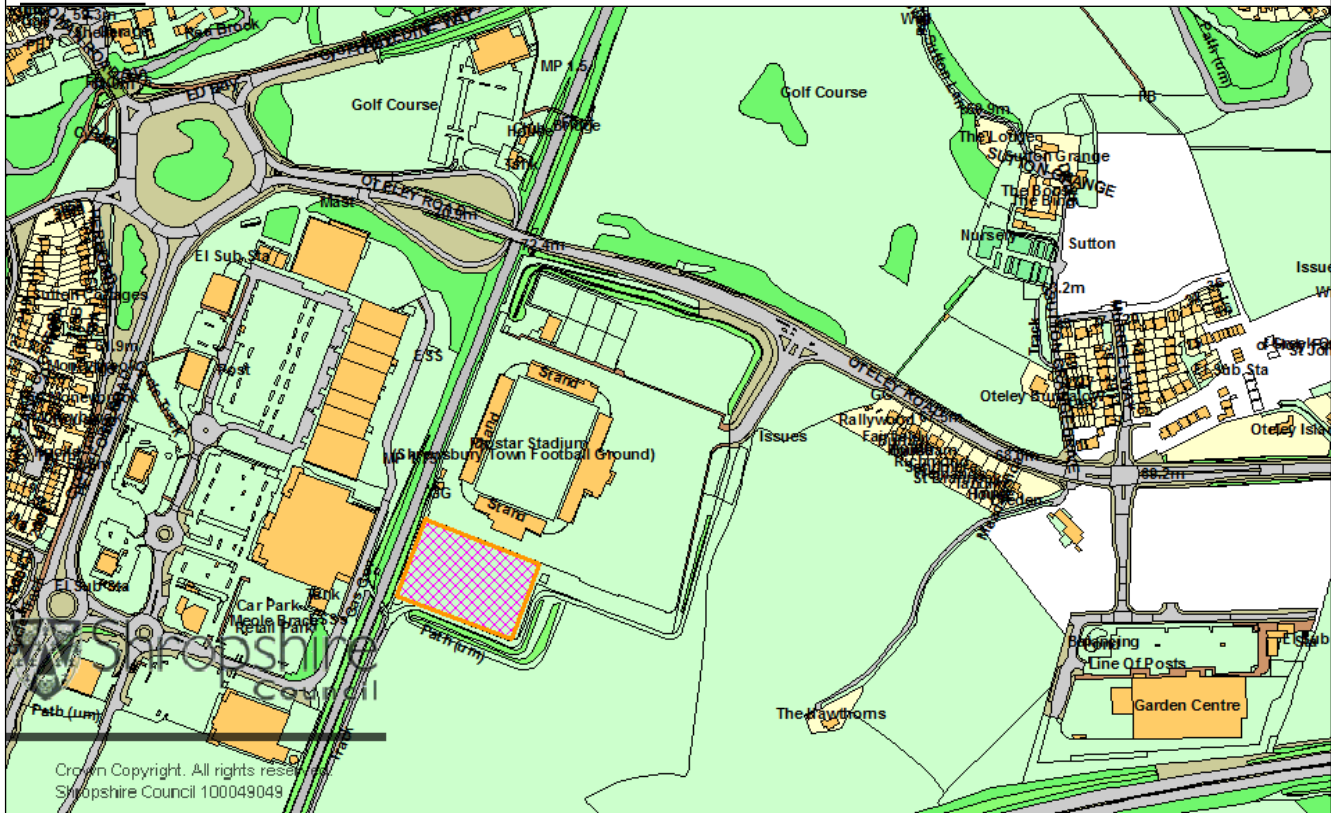
Development Management Report

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

Summary of Application

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

Grid Ref: 349504 - 310345



Recommendation:- Grant delegated powers to the Area Planning Manager to grant approval for the variation of condition 2, subject to the applicant entering into a new S106 agreement which both varies the previous agreement and also ensures the provision of additional facilities at the new community pitch and a financial contribution towards off-site open space.

REPORT – 16th February 2017

1.0 THE PROPOSAL

- 1.1 This application was previously considered by the Central Planning Committee at its meetings on the 24th November 2016 and 16th February 2017. Members deferred the determination of the application in February to allow Sport England an opportunity to comment on the additional information provided by the agent and also for a report to be provided back to members regarding the terms of the Section 106 legal agreement. Members concern was about the net loss of a sports pitch when considered against paragraph 74 of the National Planning Policy Framework (NPPF). The November and January reports are attached in full for information.
- 1.2 This report provides the detail of additional information submitted by the agent following the February meeting, consultation comments received to date and details of the draft heads of terms for the new S106 agreement.
- 1.3 For clarity the issue is the net loss of sports pitch. Who uses which piece of land for what is not relevant to the matter of loss of a pitch. In NPPF paragraph 74 terms all land which is used for sport is considered to be sport pitches, regardless of who uses it. The descriptions in the previous reports focused on use rather than location, as such this report will from here on consider the three pitches which are involved in the applications as:
- “front pitch”: the existing community pitch at the front of the Oteley Road site and the site of the proposed Lidl store;
 - “rear pitch”: the existing training pitch at the rear of the Oteley Road site which is to become the community pitch; and
 - “off-site pitch”: the pitch(es) at Sundorne Road
- This should hopefully help members define the three pitches by location and as three pitches rather than by existing or proposed use and hopefully make discussing the matter easier.
- 1.4 Members will need to make a decision on each of the applications. This report relates to the application to vary condition 2 on the planning permission for the construction of the football stadium and associated developments. Condition 2 refers to the list of approved plans and as the plans approve the location of the community pitch this application is required to amend the approved plan as the location of the community pitch is being amended.

2.0 ADDITIONAL INFORMATION FROM APPLICANT – February

- 2.1 Following the November committee meeting the agent submitted a statement detailing the existing pitches at the club site which are the stadium pitch, the training pitch, 6 x five-a-side pitches and 1 x seven-a-side pitch (Powerleague facilities). The statement also detailed the work carried out at the off-site pitch

(drainage and ground works) to enable it to be used all rear round; details of Shrewsbury Town in The Community (STinC), their charitable trust status, the management of STinC, the work they have been doing and their aim. The details of the information submitted in February is provided in full in the report at appendix 2.

3.0 **CONSULTATION RESPONSES – February**

The following comments have been received since the publication of the February committee meeting which are in response to the information received in February.

- 3.1 **Sport England** – I have received consultations for additional information relating to the ground conditions at Sundorne Castle Training Ground submitted in support of the above applications. I have not raised any objections to these applications. I hope that this additional information (together with some sort of planning statement) will be submitted by the applicant as part of planning application ref. 16/00181/FUL. Sport England have an outstanding statutory planning objection to this application ref. 16/00181/FUL and it is my understanding that the additional information will form part of the applicant's justification and mitigation for the loss of playing field at Oteley Road.

The additional information consists of a technical report outlining works that David Saltman has recommended are undertaken at Shrewsbury Town FC's Sundorne Training Ground and a soil analysis of the Sundorne Training Ground. The information submitted does not outline that these recommended works have been undertaken and it is not clear how this information supports this application. Furthermore Sport England has not raised an objection to these variation of condition applications.

It is my understanding that further information will be submitted which will clearly outline the proposed mitigation for the loss of the playing field to locate the proposed Lidl supermarket and also to move the community use from that area of playing field to the first team training pitch. Until that time I have no further comments to make and Sport England's objection to application ref. 16/00181/FUL remains.

- 3.2 **Shropshire Playing Fields Association** – Thanks for the up-date reference this application, I have read the additional report included (22nd February 2017) but can-not see the relevance to the application being tabled.

At the planning meeting last week I made a request for an independent quality assessment to be made of the community pitch being considered for development and a quality assessment of the current training ground site being offered as a replacement at the Oteley Road Site, so that members could form an opinion as to whether the new playing field being offered was equivalent or better than the current playing field. (Particularly in light of the comment made by Councillor Moseley regard the poor condition of the pitch being offered as a replacement pitch for community use.) I believe her comments relate to the STFC online newsletter of 1 December 2016:

"Pleasingly, we can report that the pitches are draining well, as is the stadium pitch. Unfortunately, the same cannot be said of our training pitch behind the south stand,

which started to resemble a duck pond on Monday. The squad battled with the elements for a good while, before calling it a day."

The Sundorne Castle playing field, as my understanding has it, will in the future have exclusive use for meeting the needs of the teams playing at the football club with no community usage being offered, so clearly has no relevance to this application or indeed the request I made at the meeting.

There would to my mind seem to be one or two solutions or options to this issue which are not being tabled, but which I would be happy to discuss further with any party who wishes to listen.

4.0 ADDITIONAL INFORMATION FROM AGENT – April

- 4.1 Since the February meeting the agent has been in discussion with the football club, Lidl, Sport England and officers of the Council. A revised supporting statement has recently been submitted which will be attached to all three applications (the two for the football club 16/04201/VAR & 16/03786/VAR106 and the Lidl application 16/00181/FUL). The statement is appended to this report so that members have all of the information before them.
- 4.2 The statement includes technical reports on all three pitches and the mitigation proposals from the applicant. The technical reports advise on the ground conditions of all three pitches and what works are required, or in the case of the off-site pitch were required. The front pitch is to be lost for the development of the Lidl food store.
- 4.3 The rear pitch already has a drainage system but the applicant accepts that a secondary drainage system would improve the surface water run-off, a matter raised by Councillor Moseley at the February meeting, and has agreed to provide the secondary drainage at the end of this football season. The applicant has also agreed to provide changing facilities adjacent to the rear pitch, either within the existing stadium building converting existing office space into two 15sqm changing areas with 3 showers and a toilet each and a referees room with shower and toilet, or within a new modular building adjacent to the STinC building. Both the drainage upgrades and the changing facilities can be required as part of the S106.
- 4.4 The off-site pitch has been upgraded in accordance with the recommendations of the ground conditions report. The works include installing drainage, improvements to the surfacing, provision of car parking and construction of a building providing changing facilities, kitchen, dining room, gym, physiotherapy room, laundry room, boot room and staff offices. All of these works have been carried out.
- 4.5 SPFA have commented that the off-site pitch is not available for the community and therefore is not relevant. However, this is confusing user with pitch provision. The issue is the loss of a sports pitch. At no time, and the agent has confirmed in the latest statement, has anyone proposed the removal of the community pitch use from the S106. The application relates to three pitches one of which is to be lost and the improvements to the other two are being put forward as mitigation. The rear pitch will become the new community pitch and the most recent statement has confirmed that this will be available for hire by the community for 57 hours a week

in the evenings and at weekends. The statement also advises that the rear pitch is larger than the front pitch and as such is big enough to be subdivided into three pitches and therefore could be used by three different users at any one time.

- 4.6 In addition to physical improvements to the rear pitch and off-site pitch the applicant has now also offered a financial contribution of £65,000 to be paid to the Council to be spent on sport and recreation within the local area. The figure has been proposed by the club as a figure which was raised by Sport England early in the application process as the estimated cost of replacing a pitch.

5.0 OFFICER REPORT

5.1 Loss of pitch

- 5.1.1 The policies within paragraph 74 of the NPPF and CS6 of the Core Strategy were detailed in the February report but are repeated here for ease of reference.

Paragraph 74 of the NPPF states:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

- 5.1.2 Policy CS6 of the Shropshire Core Strategy requires all development to contribute to the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Proposals resulting in the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility is not viable over the long term. Paragraph 4.58 of the explanatory text advises that the standards are set out in the Shropshire Open Space, Sport and Recreation study.

- 5.1.3 The construction of a Lidl food store on the front pitch will result in the loss of sports pitch. Both national and local policies allow for the loss of sports pitch. Shropshire Playing Fields Association have commented that there has not been an assessment to show the land is surplus to requirement, however this is not a requirement unless “surplus to requirements” is the case being put forward by the applicant. With regard to the Lidl store and the two applications by the football club the case being put forward is for “replacement provision”. The replacement is not in the form of a new sports pitch but in the form of improvements to existing pitches.

5.2 Improvement proposals

- 5.2.1 It is acknowledged that the proposals put forward by the agent are not for any new pitches to be provided to replace the pitch to be lost to development. Their proposals relate to enhancements proposed to the rear pitch and the off-site pitch and also, since the January meeting, the proposal now includes the offer of a financial contribution to be paid to the Council to be made available for enhancement to other sports pitches in the area.

- 5.2.2 The enhancement works are detailed above in section 4 of this report. At the time of writing this report the supporting statement has been sent to Sport England and SPFA for comment, any responses received before the meeting will be provided to members either in writing or verbally.
- 5.2.3 Notwithstanding any comments which may be received it is officer's opinion that the additional enhancements and the financial contribution now proposed by the applicant provide improvements to the rear pitch, off-site pitch and opportunities to improve other sports facilities in the area to be considered as equivalent or better provision in terms of quantity and quality in a suitable location to the front pitch which is to be lost for the construction of the Lidl food store. With regard to the financial contribution offered officers can confirm that this is the figure quoted by Sport England in their comment of the 19th April 2016 on the Lidl application as the cost of replacing the natural turf pitch, excluding the cost of the land. It is a definable figure with clear linkage to the loss of the pitch, as such it is considered to be a reasonable and appropriate figure which is reasonably related to the development. The overall package now proposed and clearly set out in the new supporting statement is considered by officers to mitigate the loss of the pitch and therefore meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 5.2.4 Members may wish to defer making a decision on these applications again until consultation comments are received. This is a decision which only members can make. However, the applications have been delayed twice already and the latest offer from Lidl and the football club has been increased to include all of the information and improvements suggested by Sport England and to include a financial contribution towards other sports facilities.
- 5.2.5 It is therefore officer's opinion that a decision now needs to be made on this application. There is a risk that Sport England and SPFA may still object, there is still a loss of a sports pitch, however the final decision rests with the Council. Sport England and SPFA are consultees, members are free to make a decision on the planning application based on the overall planning merits and consideration of the improvements and financial contribution.
- 5.3 **Section 106 heads of terms**
- 5.3.1 A S106 agreement is a planning obligation sought to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
- 5.3.2 It is officer's opinion that the provision of the additional facilities and the financial contribution detailed in section 5.2 above would meet the tests of the CIL Regulations. Without additional facilities at the rear pitch and off-site pitch and the financial contribution the loss of the front pitch is not mitigated by better provision

and therefore fails to comply with adopted policies. The provision of facilities is clearly directly related to the proposal and officers consider it is fairly and reasonably related in scale and kind.

- 5.3.3 Officers also consider that the legal agreement should also include a financial contribution as a fall-back position if the applicant does not provide the improvements to the rear pitch proposed. Such a contribution would need to be equivalent to the cost of providing the additional facilities on site and would allow the Council to provide other sports facilities elsewhere in the town should the applicant not provide the on-site facilities within an appropriate time period or to an agreed standard.
- 5.3.4 The existing section 106 agreement will be amended so that it will secure:
- Financial contribution of £65,000 payable to the Council to be used to provide either new sports facilities or enhance existing sports facilities within the area
 - The provision of 2no 15sqm changing rooms each with 3 showers and a toilet and the provision of a referee room with a shower and toilet, all to Sport England specification
 - The provision of the secondary drainage as recommended in the Summary Report on STFC training pitch by Dave Saltman dated 15th March 2017
 - Maintenance of the pitches and marking out by the club
 - Community use of the rear pitch as detailed in the April 2017 supporting statement on behalf of the applicant.
 - In addition, main stadium to be available for community matches such as Shropshire Schools finals, Shropshire FA Senior Cup final and Amateur Cup finals
- 5.3.5 It will also, as the previous S106 did, require the community sports facilities to be available for the Shropshire Football Association and adults and children in the community at rates comparable to the Council rates. The community facilities will become:
- the 6 five-a-side pitches and 1 seven-a-side pitch (as existing);
 - the new community pitch (the rear pitch);
 - the existing changing facilities at the Prostar facilities and the new changing facilities as detailed above;
 - space indoor for activities such as table tennis or aerobics (which the club have confirmed is available within the stadium building);
 - car parking using the existing car park except when there is a first team match or major event, such as a music event in the stadium;
 - refreshment facilities within the stadium and data connection.
- As now, the community facilities will be closed when a first team football match is playing.
- 5.3.6 The ongoing maintenance including cleaning, security and insurances of all the community facilities will be the responsibility of the football club. It is proposed to rent the land to STinC on a long term lease and for STinC to manage the pitch and bookings. However, the club have confirmed they will maintain the pitch and will be responsible for marking it out as pitches, managing the drainage of the site and correcting any damage. Ultimately the club will be the party entering into the legal

agreement and are the land owner and it would be the club that the Council would seek to take enforcement action against.

- 5.3.7 Members have previously raised concerns that the Council have not sought to take enforcement action against the club to require them to provide the community pitch on the front pitch. An argument could be made that the pitch was provided, there is a grassed area of land, but not necessary made available for use. To prevent this from happening again and to give the Council more detail to enforce over it is also recommended that the new S106 agreement includes details of the on-going maintenance. This will need to include maintaining the ground and the marking out of pitches to a useable condition. This is listed in the heads of terms above.
- 5.3.8 As noted above officers are also recommending that the new S106 agreement includes a financial penalty should the new changing facilities and drainage improvements not be provided to a suitable standard at the rear pitch. This would set a standard within the S106 agreement which the applicant would need to meet and give the Council a point where the non-compliance with such a condition could be clearly understood and therefore enforced.
- 5.3.9 Subject to these matters being dealt with in the S106 agreement, the precise wording of which will be drafted by the Council Solicitor, it is officer's view that the new S106 agreement would secure the community pitch, enhancement, financial contribution and on-going maintenance.

6.0 CONCLUSION

- 6.1 The additional enhancements carried out and proposed to the existing pitches to be retained, the pitch at the rear of the Oteley Road site and the pitch at Sundorne Road, and the financial contribution of £65,000 now proposed by the applicant provide improvements to existing sports pitches and opportunities to improve other sports facilities in the area. This is considered to mitigate for the loss of the pitch at the front of the Oteley Road site and is considered to be better provision in terms of quality to the front pitch which is to be lost for the construction of the Lidl food store. As such it is officer's opinion that the proposals meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 6.2 Therefore, this current application for variation of condition 2 to allow the relocation of the community pitch is acceptable to enable the continued provision of community facilities within the club site and, subject to the variation of the S106 agreement, the proposal accords with National and Local policies, the Shropshire Core Strategy and SAMDev in providing sports facilities to the community.

10. Background

Relevant Planning Policies

NPPF

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

MD1 - Scale and Distribution of Development
 MD2 - Sustainable Design
 Settlement: S16 - Shrewsbury

Relevant planning history:

16/03786/VAR106 Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F *PCO*
 16/00181/FUL Proposed erection of retail store, associated car parking and servicing facilities, site access and associated works *PCO*
 14/00587/VAR Variation of Condition Nos. 19 and 23 (restrictions of use) attached to Planning Permission 02/0278/F to permit no more than 6 no. non-football events at the stadium during any one year; to permit the use of the stadium for international matches without having to seek prior approval of the Council; variation of the S106 Planning Obligation to increase in the number of car parking spaces and reduction in coach parking *GRANT* 17th March 2016
 11/00199/FUL Application for temporary use (5th June - 18th June 2011) of football stadium for operations to facilitate the preparation/staging and de-rigging of a music concert *GRANT* 23rd March 2011
 SA/05/0257/VAR Variation of condition No. 6 attached to Planning Permission Reference 02/0278/F, to allow for the deferment of the children's pitch and five-a-side-pitches to read as follows: 'The community pitch and temporary changing building shall be completed and fully operational before the first beneficial occupation of the stadium. The children's pitch, five-a-side pitches and the permanent changing buildings to be completed and fully operational within 5 years of the first beneficial occupation of the stadium.' *REFUSE* 29th April 2005
 SA/02/0278/F Erection of a new football stadium, construction of training pitch, community pitch, childrens pitch, 6 no. five-a-side pitches, changing facilities, formation of car parking, taxi rank/bus stop layby, and new access and associated engineering and other works. *GRANT* 4th September 2003

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Jon Tandy Cllr Ted Clarke Cllr Jane Mackenzie
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Appendices APPENDIX 1 – Conditions APPENDIX 2 – Committee report 16 th February 2017 APPENDIX 3 – Committee report 24 th November 2016 Please see Appendix 3 of Agenda Item 5 which is also relevant to this application.
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APPENDIX 1**Conditions****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

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

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

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

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

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

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

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

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

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

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

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

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

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

monitoring will be specified in the noise management plan and shall include a map of monitoring locations.

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

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

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

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

Reason: To prevent pollution of the water environment.

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

Reason: To prevent pollution of the water environment.

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

Reason: To prevent pollution of the water environment.

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

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

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

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

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

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

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

Reason: In the interests of amenities of neighbouring properties.

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

Reason: In the interests of road safety.

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APPENDIX 2 – REPORT – 16th February 2017**1.0 THE PROPOSAL**

1.1 This application was previously considered by the Central Planning Committee at its meeting on the 24th November 2016. Members deferred the determination of the application as they were concerned about the net loss of a sports pitch when considered against paragraph 74 of the National Planning Policy Framework (NPPF). The November report is attached in full for information, however the only issue for consideration is the matter of the loss of sports provision.

1.2 This report provides more information regarding paragraph 74, the applicant's additional information submitted following the November meeting and any consultation comments received as a result of the additional information.

2.0 POLICY

2.1 Paragraph 74 of the NPPF states:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

2.2 Policy CS6 of the Shropshire Core Strategy requires all development to contribute to the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Proposals resulting in the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility is not viable over the long term. Paragraph 4.58 of the explanatory text advises that the standards are set out in the Shropshire Open Space, Sport and Recreation study.

3.0 ADDITIONAL INFORMATION FROM APPLICANT

3.1 Following the November committee meeting the agent submitted a statement detailing the existing pitches at the club site which are the stadium pitch, the training pitch, 6 x five-a-side pitches and 1 x seven-a-side pitch (Powerleague facilities). The land proposed for the new food store was designated as a community pitch but the agent has commented that it is not flat, has no drainage and is not of a standard suitable for matches. The statement also advises that for the last 3 years the community has been allowed to use the main stadium pitch and provides full details of the matches.

3.2 The main purpose of the submitted statement is to provide detail of the work carried out to the sports facilities on Newport Road, near Sundorne. The club has owned this land since 1996 and it has been used solely by STFC for pre-season training as the ground is not suitable for use in the winter months.

3.3 Since May 2016 the club has invested in the land installing drainage, reconstructing

the pitches, working sand into the ground and levelling the land and the additional information details the monies spent on undertaking this work. The intention of the information submitted is to show that the land is now improved and can be used all year round as the training pitch for Shrewsbury Football Club.

- 3.4 In addition to information relating to the pitches on Oteley Road and the works undertaken to the pitches at Newport Road the statement submitted also provides more detailed information on Shrewsbury Town in The Community (STinC), their charitable trust status, the management of STinC, the work they have been doing and their aim. The information provides a list of groups and organisations that STinC work with in providing sports, not just football.
- 3.5 The statement also comments that the proposed community pitch (relocated to the existing training pitch) would provide for 4 local teams to play football and for other sports to be provided for in the summer months in close proximity to the STinC hub building. STinC could also seek funding for upgrading the pitch to a 4G pitch and for providing changing facilities adjacent to the pitch. The statement provides quotes of support from the Premier League, Nic Laurens (Councillor for Meole), Shrewsbury Town Supporters Parliament, Shropshire FA, Shropshire Schools & Colleges FA, STinC.

4.0 CONSULTATION RESPONSES

The following comments have been received following the receipt of additional information:

- 4.1 **Sport England** – Sport England objected to planning application (ref. 16/00181/FUL) as insufficient information has been provided in relation to the mitigation for the loss of playing field. Despite this statutory objection, Shropshire Council's Planning Committee resolved to approve the application subject to a legal agreement relating to community use of Shrewsbury Town's training pitch. This resolution has, in effect, approved the principle of the loss of the existing community pitch subject to the approval of a legal agreement.

The FA has provided further comments:

1. The site where Lidl is planned for was used as a community pitch as recently as 2007, reasons for no more recent use are down to the fact that it has not been maintained for this type of use.
 - a. Use of the main pitch being classed as community is subjective – the school finals take place once a year with an average of 5 games (max of 10 games as per the lease agreement) for Shropshire CFA Cup finals – it is agreed that this is a great offer but it does not afford regular community use of the pitch which is the key debate here.
 - b. The FA'S Pitch Improvement Programme could have suggested ways to improve the pitch without the need for expensive drainage.
2. The new Shrewsbury Town FC training ground is existing playing field land that has been improved. There is no net gain in playing field area or any community use from.
3. There is no such surface as 4G, so I presume they mean 3G rubber crumb

4. We would need to see the full detailed business plan from Shrewsbury Town in the Community to assess the long term sustainability of the pitch.

a. Changing rooms would be essential to permit full use of the adult football pitch, grass or 3G.

5. The Usage plan is very generic and only indicates available slots with no potential club or community users noted.

a. Community use noted between the hours of 9am and 5pm is unlikely to materialise based on other Football Foundation funded facilities that are not on an education site.

b. 100 hours of use is ambitious – through the Football Foundation and with a facility based on a school site we push for 85 hours of which 36 are for community use outside of school hours and this is not always achieved.

6. Premier league support is based on seeing more detail.

7. There is a 3G facility on site which is a commercial 5 a-side facility, it has 6 x 5v5 pens and 1 x 7v7 pen which is not big enough for affiliated match play due to no run-off areas – is there an upgrade project here to support along with the grass pitch being transferred for the community department to run? Obviously discussions would be needed here to see if viable and if the current tenant would be open to this in some capacity.

Sport England maintain their objection to this application as we are still unable to assess the suitability of the proposed mitigation from the information submitted. If a 3G pitch is being proposed as mitigation, evidence is required to support the need/demand in this location in order to ensure that the facility is sustainable; the submitted Usage Plan does not provide the necessary detail (see FA comments above) and I am not aware of this specific location for a 3G pitch being supported by any relevant strategy. Furthermore it is not clear how the 3G pitch will be funded in its entirety; the level of funding from the applicant and other sources is not clear. If the Section 106 does not cover the entire cost of the 3G pitch how will the shortfall in funding be met? The absence of a clear strategic need for a 3G pitch in this location will restrict potential funding from Sport England. Changing facilities will also be required and it is not clear how these will be funded.

Without the type of information listed above Sport England are unable to assess whether or not the 3G pitch is sustainable and deliverable or whether the applicant's financial contribution is an acceptable form of mitigation for the loss of playing field. In order to make an assessment against Policy Exception E4 I need to weigh up the benefits to sport of the proposed mitigation (in this case the partial or full provision of a 3G pitch) against the loss of playing field. As there is insufficient information in relation to the proposed mitigation I am unable to make that assessment.

Sport England did not object to the two variation of condition applications as these applications in themselves did not permit the loss of playing field land. The applications seek to transfer the community use from one area of playing field to another. In this case the community use transferred from the training pitch which is

a better quality pitch than the existing community pitch.

It is my understanding that Shrewsbury Town FC's training ground is located on a former sports ground which was purchased by the Chairman of STFC 20 years ago. The supporting information submitted by the applicant indicates that investment was made into the site in 2016 to improve pitch quality as drainage of the pitches was poor. From historic aerial photos it appears that the site was laid out for training use in 2010 (see image below). Although improvements to pitch quality may have been made since this time, new playing field has not been created.



From the 2010 image it appears that the site was laid out with pitches suitable for training purposes. It is not entirely clear whether the improvements works were necessary to resolve issues created by lack of maintenance or fundamental issues with the site. The additional capacity of the playing field resulting in the improvements works is also not known. Given this missing information an assessment against Policy Exception E4 cannot be made, although clearly no new playing field has been created.

4.2 **Shropshire Playing Fields Association** – Shropshire Playing Fields Association do not believe the correspondence received since the matter was deferred at the planning meeting in November has made any attempt to resolve the key issue related to the proposed loss of one community sports pitch.

Rather their attempts to demonstrate the role of the Shrewsbury Town community sports trust in this matter only heightens the need to retain all three sports pitches discussed in their correspondence and for them to make all three pitches accessible for community use, this need is supported by Shropshire Councils 'Playing Pitch' Assessment which identifies Meole Brace as having a shortage of playing fields in the ward.

Shropshire Playing Fields Association are still very disturbed and dismayed at the comment made on page 21 of the planning and retail statement which states; 'It is the case that the application site has never been marked out or used as a sport or recreational facility and its use as such is only implied through a legal agreement that the council has previously advised will not be enforced'.

Despite our request at the planning meeting that this site should be marked out immediately and community allowed access to it immediately this has not happened. This poses the question that if the application to vary the community pitch agreement is supported, what assurances are there that anything more will be done given the lack of enforcement suggested in the applicant's statement requiring them to do so, and lack of any such positive actions to-date.

Reading through the additional correspondence provided on the 15th December 2016 a lot of rhetoric is given to the activity of the Shrewsbury Town Community Trust which is to be commended, however it should be noted that none of this activity took place on any one of the three sports pitches being discussed as part of this application, therefore their activity is we believe not relevant to this application.

Shropshire Playing Fields Association believe NPPF paragraphs 73 and 74 clearly provide the solution to this application and should be strictly adhered to; The policy clearly states an open space needs assessment is necessary in order to guide on the need for such pitches; As part of any such assessment the 'quality' of the pitch, is a critical issues that we feel should be subjected to an independent technical quality assessment, it is clear to the casual eye that some of the comments made in the additional correspondence are at least misleading where it states: 'The land earmarked for community use has no drainage, isn't flat and isn't of a standard to play matches and is therefore dangerous'. Shropshire Playing Fields Association believe that some of these claims are incorrect and should be substantiated by an independent pitch assessor, perhaps at the direction of Sport England. This process would provide the necessary evidence to ensure an equivalent or better facility has been provided if the application were ever to be agreed. We also believe the elements concerning 'accessibility' and 'availability' are critical factors, both of which would have been dealt with as part of an open space needs assessment.

For this application to move forward Shropshire Playing Fields Association believe

there needs to be a change of approach from the applicant and suggest that one way forward is a long term lease be agreed on the alternate proposed site between STFC and STCT plus a large cash settlement as mitigation for the loss of a playing field. That would ensure sufficient funds were available to enable the community trust to proceed developing the current training pitch with the purchase of a floodlit 4G all-weather pitch with appropriate changing rooms and social area, with arrangements put in place to enable them to become responsible for its management and maintenance.

At present it is not clear how the 4G pitch will be funded in its entirety; indeed at present there is no indication the football club would contribute anything towards the cost of any such pitch or its running costs. Without such a contribution it is unlikely a 4G pitch would be feasible, sustainable or deliverable, and therefore we believe until such a business case is put forward should not be a consideration when determining this application.

We recommend that the applicant provides further information relating to their proposed financial contribution and the proposed demand/usage plans/business case showing sustainability for any such proposed 4G pitch as outlined in the applicants correspondence submitted.

Shropshire Playing Fields position on this proposal is to maintain our objection.

5.0 OFFICER APPRAISAL

5.1 Loss of pitch

- 5.1.1 The policies within paragraph 74 of the NPPF and CS6 of the Core Strategy are detailed in section 2 above. Members deferred the consideration of this proposal, and the associated application to vary the S106 agreement, on the basis of a concern over loss of sports pitch. Both national and local policies allow for the loss of sports pitch, providing that there is either an assessment to show the land is surplus to requirements; there is replacement provision; or the development is for alternative sports use.
- 5.1.2 The construction of a Lidl food store on the existing community pitch and the associated relocation of the community pitch and training pitch will result in the loss of sports pitch. Officers do not agree with Sport England's comment that the granting of consent for the Lidl store has allowed the loss of the pitch. The Lidl application site is subject to a S106 agreement and this runs with the land, as such unless the S106 agreement is varied the land is still required to be a community pitch regardless of whether there is consent for other development on it. This is dealt with under a separate report to members. The agent initially put forward an argument that the replacement community pitch and the subsequent replacement training pitch are better than the existing pitches in both cases. Following the objection from Sport England the agent has also confirmed that the club are also willing to enter into a S106 agreement to secure the provision of changing facilities at the new community pitch. Whether this is therefore acceptable to justify the loss of a sports pitch is considered in the following sections of the report and will take into account the comments from Sport England and Shropshire Playing Fields Association (SPFA).

- 5.1.3 SPFA have commented that paragraph 74 of the framework requires the submission of a pitch assessment and that this assessment should be done independently and include information on pitch quality. However, paragraph 74 does not require an assessment to be carried out. The assessment is one of the three parts of paragraph 74, not all three parts have to be met to allow existing sports pitches to be built on. The applicant is asking members to consider their proposal under the second part “*The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*”.
- 5.1.4 SPFA has also commented that the information provided actually shows a need for more pitches rather than less. However, as noted in the previous report the S106 requirement is for the provision of one community pitch. The Council cannot require the football club to provide more pitches because of increased demand, the increased demand will have to be provided for by other developments.
- 5.2 **Replacement pitch proposals**
- 5.2.1 The proposals put forward by the agent are not for any new pitches to be provided to replace the pitch to be lost to development. Their proposals relate to enhancements proposed to the existing training pitch, to be used as the new community pitch, and also to the new training pitch.
- 5.2.2 The submitted detail suggests how the new community pitch will be used and that funding could be sought to change the pitch to a 3G pitch. The most recent information from the agent also confirms that the club is willing to ensure the provision of changing facilities at the new community pitch. The suggestion is that the proposal could allow for increased use by the community assisted by the management of the new community pitch by STinC.
- 5.2.3 Within the Sport England objection detailed above the FA has provided comments. These include concerns over the business plan from STinC and that the suggested level of community use is ambitious. The response comments that on a school site they seek 36 hours of community use which is not always achieved.
- 5.2.4 Sport England has questioned the need for the pitch to be upgraded to 3G or who will fund the upgrade. They have commented that the potential of Sport England funding would be restricted without a strategic need for a 3G pitch. The FA also advised that the use of the community pitch would require changing rooms.
- 5.2.5 Following receipt of the Sport England objection the agent has provided further comment which advises that STinC have had initial meetings with the Football Foundation and Shropshire FA and have identified possible local partners and users. The new community pitch would not be used exclusively by STinC with community partners having access at peak times. The agent has also confirmed that funding has been ring-fenced from charitable reserves for the construction of an extension to the existing STinC Hub building to provide changing rooms and that the existing changing rooms at the Power League could be utilised if needed. The agent has confirmed that the club are willing to have the provision of changing facilities included into a new S106 agreement.

- 5.2.6 A S106 agreement is a planning obligation sought to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
- 5.2.7 It is officer's opinion that the provision of additional facilities, to include changing rooms, but could also include other facilities, would meet the tests of the CIL Regulations. Without additional facilities at the new community pitch the loss of the existing community pitch is not mitigated by better provision and therefore fails to comply with adopted policies. The provision of facilities is clearly directly related to the proposal to relocate the community pitch and training pitch and officers consider it is fairly and reasonably related in scale and kind.
- 5.2.8 The detail of what will be provided will need to be secured through a new S106 legal agreement. Officers also consider that the legal agreement should include a financial contribution as a fall-back position. Such a contribution would need to be equivalent to the cost of providing the additional facilities on site and would allow the Council to provide other sports facilities elsewhere in the town should the applicant not provide the on-site facilities within an appropriate time period or to an agreed standard. The finer details of the legal agreement would need to be worked up between the Council's Solicitors and the applicant's Solicitor.
- 5.2.9 With regard to the new training pitch location Sport England have commented that this is not new provision, it was previously used for recreational uses and as such there is no net gain and furthermore no additional community use provided by using the new training ground. They have also queried the improvements undertaken to the proposed new training pitch providing a photograph of this land in 2010.
- 5.2.10 This has been accepted by the agent but he has also commented that the improvements to the training ground have been done for the benefit of the first team and as such allow STinC to take the existing training pitch as the new community pitch. The agent has since confirmed that the club do have further information regarding the condition of the land before the recent improvements and that this can be submitted for further consideration.
- 5.2.11 Sport England has commented, as too have SPFA, on a potential financial contribution. There is currently no proposal of a financial contribution. The agent's latest comments advise that the source of funding for any upgrade is of no relevance to the planning issues and is a matter for the club. However, it is officer's opinion that Sport England and SPFA were seeking a financial contribution and other works to mitigate the loss of the sports pitch which results from the approval of the Lidl store.
- 5.2.12 The agent has accepted that new playing fields have not been created but commented that the club has made substantial qualitative improvements to the existing pitches which are considerable benefits to sport and the club are

committed to ensuring further engagement with the community. The long term lease to STinC (which is a registered charity, separate to the football club) will allow increased use of the community pitch for the benefit of the town.

5.2.13 This latest information does not clearly overcome the objections from Sport England and as such further information and assurances are required. The agent has confirmed that the additional information sought by Sport England regarding the new training pitch can be provided and also that the club would be willing to enter into a new legal agreement to secure the provision of changing facilities at the new community pitch. The additional information has not yet been received and the detail of the S106 has not been drawn up. Furthermore Sport England, SPFA and other interested parties will need to be reconsulted on the receipt of the additional information. As such the recommendation reflects this and seeks delegated powers to approve the proposed variation of the plans providing the additional information and proposed S106 overcomes the objection from Sport England. It would be on the basis of further information and the commitment to provide changing facilities at the new community pitch that the Council could reasonably conclude that the pitch lost for the construction of the Lidl food store would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location and therefore meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.

5.3 **Other matters**

5.3.1 SPFA have also commented on the lack of enforcement of the community pitch and questioned why the pitch has not been marked out since the November committee meeting as they requested. The matter of enforcing the requirements of the S106 on the football club is a matter for the Council. At this time officers consider it would be unreasonable to enforce this part of the S106 and require the existing community pitch to be marked out on the basis that there are current planning applications seeking to remove this use from the land. Until such time as these current applications are determined any enforcement is on hold. Should members refuse the current proposal the Council will reconsider enforcement proceedings.

6.0 **CONCLUSION**

6.1 The conclusion of the previous report to members advised that, in officer's opinion, the variation of the condition to allow for the relocation of the community pitch within the football club site was acceptable as the proposal would enable the continued provision of sports facilities. However, following additional information and comments from Sport England and Shropshire Playing Fields Association officers' view of the proposal has altered.

6.2 The variation of the plans would result in the loss of sports land which is not, at present, mitigated by replacement land of an equivalent or better provision in terms of quantity and quality in a suitable location. Without further information and a commitment to provide additional facilities at the new community pitch the proposal would not comply with the adopted policies or national planning policy framework.

6.3 As such, as noted at the beginning of this report the recommendation has changed to request delegated powers to the Area Planning Manager to grant approval for the variation of condition 2, subject to receipt of additional information and the

applicant entering into a new S106 agreement which both varies the previous agreement and also ensures the provision of additional facilities at the new community pitch and subject to no further objections being received from Sport England as a result.

APPENDIX 3 – COMMITTEE REPORT – 24TH NOVEMBER 2016**1.0 THE PROPOSAL**

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

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Shrewsbury Town Football Club and the associated sports facilities lie within the

Shrewsbury development boundary and within an area which although is currently edge of urban area will become part of the urban area after the construction of the Shrewsbury South Sustainable Urban Extension (SUE).

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

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

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

Netting

The applicant must provide suitable ball proof mesh netting for the football pitches. The application must provide details of the netting to the Asset Protection Engineers to ensure that the netting is installed without placing any load bearing weight upon Network Rail land, and to ensure that the pole foundations do not undermine or encroach upon Network Rail land. The netting should be 5m in height to prevent all potential sports equipment i.e. footballs from over-sailing the railway boundary and falling into the path of trains. The applicant must consider the

foundations of the netting which could undermine or destabilise Network Rail's land. Equally, netting erected on land next to the operational railway could topple over in high winds and fall onto Network Rail's land, onto the path of trains or onto safety critical equipment (e.g. signals, telecoms cabinets) if above the level of the railway.

Excavations/earthworks

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

Lighting

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

Drainage

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

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

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

4.2 **Public Comments**

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

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

5.0 **THE MAIN ISSUES**

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

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

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

pitches which will remain at the front of the site; however officers are generally in support of the location given that it remains within the club site and is adjacent to the STC building. As the club are proposing to hand over management of the community pitch to STC officers consider that this location is acceptable. It is equally as accessible by car, foot or bicycle, is not significantly further from nearby residential areas and is no more or less visible from public vantage points than the current site which is enclosed with a bund.

6.2.4 The Football Club have confirmed that the club now train off-site on privately owned land. The existing training pitch is therefore not required by the club and can be made available for the relocation of the community pitch. The existing training pitch is not a public facility and furthermore it is not being “lost”. The training pitch has been relocated off-site and therefore the community pitch can be relocated within the site.

6.2.5 As such officers consider that the proposed relocation and therefore changes to the approved layout of the club site are considered to be acceptable. The scheme as now proposed will provide a more usable community pitch in terms of the surface finish and proximity to the STC facilities whilst remaining equally accessible.

6.3 **Control of use**

6.3.1 The primary objections from the community and the Town Council relate to management of the community pitch and ensuring that it, and the five-a-side pitches, continue to be available for community use. The original planning permission required the community facilities (community pitch, five-a-side pitches and changing block) to be provided and used for sports related activities. The S106 agreement (which was varied in 2007) defined the community sports facilities and set out a statement of the objectives for the use, management and pricing of the community sports facilities. (The S106 also dealt with other matters such as highway works, traffic management, car parking, however none of these matters are relevant to the current application.)

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

6.3.3 A statement has been provided with the current application which advises that the required facilities have all been provided. The five-a-side pitches are known as the Power League facility and the changing block and indoor sports provision is adjacent to these pitches. The children’s pitch and full sized pitch are the subject of this application. Car parking is provided within the club site on the main car park as

required.

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

6.4 **Other matters**

- 6.4.1 The objection relating to the proposed site being smaller than the proposed site has been dealt with above. The proposed site is marginally larger than the existing community pitch. The five-a-side pitches (Power League) are not to be altered as part of the current application and will continue to be required by the conditions on the decision notice and the requirements of the legal agreement.
- 6.4.2 Other objections comment that the proposal will result in loss of sports facilities when more are needed. It is acknowledged by officers that new housing developments and the growth of Shrewsbury will result in the growing requirement for sports facilities and open space. However, every new housing development is required by policy MD3 of the SAMDev to provide open space and the use of the open space is then determined by the relevant parish and town council or the developer (depending on who takes on long term management of the open space). As such, although it would be good to provide more open space and recreation uses as part of the current application, it can not be required. The original consent required the provision of community facilities, including the community pitch. The training pitch was not a community facility and as such, as noted previously in this report, providing the community pitch is provided the applicant will have met their duty under the conditions and the S106 agreement. It will be for other developments to provide for the growing needs of the town.

7.0 **CONCLUSION**

- 7.1 It is considered that the proposed amendments to the layout are acceptable and enable the continued provision of a community pitch within the club site. It is

therefore considered that, subject to the variation of the S106 agreement, the proposal accords with National and Local policies, the Shropshire Core Strategy and SAMDev in providing sports facilities to the community.

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions

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



Committee and date
 Central Planning Committee
 13 April 2017

Item
7
 Public

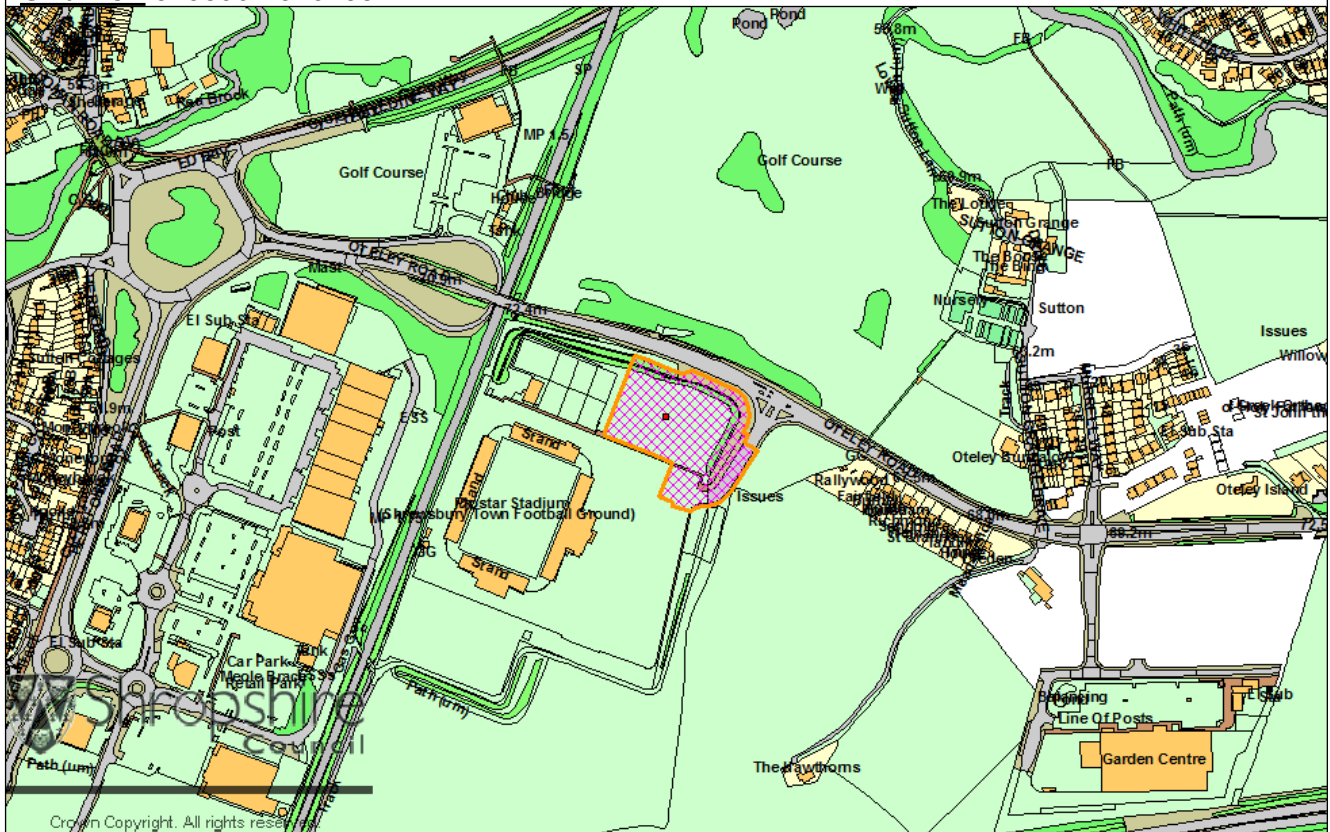
Development Management Report

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

Summary of Application

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

Grid Ref: 349590 - 310458



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

REPORT

1.0 THE PROPOSAL

- 1.1 This report relates to the application for the new Lidl foodstore on land at Oteley Road, Shrewsbury. The land is part of the football club site and is currently sports pitch for planning purposes. The proposal was previously considered by members on the 24th November 2016 and members resolved to delegate powers to the Area Planning Manager to grant planning permission subject to:
- The conditions set out in Appendix 1;
 - Additional Highway Conditions as set out on the Schedule of Additional Letters;
 - An additional Condition in relation to the inclusion of a footpath along the side of the building for pedestrian access;
 - A legal agreement to secure match day management scheme and also a contribution to public transport on Oteley Road; and
 - The decision not being called-in by the Secretary of State.
- 1.2 The Sport England objection detailed in the November committee report (which is attached in full at appendix 2 of this report) was considered by officers to be overcome by the information received at that time. The officer recommendation in November was based on there being no loss of sports pitch provision as the applicant was providing facilities at Sundorne Road.
- 1.3 Members also considered that the loss of sports pitch provision would be dealt with under the two applications submitted by the football club, 16/03786/VAR106 & 16/04201/VAR.
- 1.4 Since the November meeting Sport England have maintained their objection as they have confirmed that the Sundorne Road pitch is not new provision and was already considered to be sports pitch and furthermore that they consider that this application causes the loss of the sports pitch. Sport England do not object to the two applications submitted by the football club but continue to object to the Lidl application. This on-going objection is new information which members were not aware of at the time they made their decision on the application for the Lidl store.
- 1.5 As such this report has been brought to members to allow them to take into account the Sport England objection and the additional information provided by the football club which is submitted to seek to overcome this outstanding objection.
- 1.6 Officers would strongly advise against re-opening the debate on any other matter other than the loss of sports pitch as all other matters were considered acceptable by members in November and there has not been any other material change to the planning application, local policies or situation since that November meeting. Accordingly this report provides detail of the Sport England objection and, along with the two reports for the football club proposals, provides details of the applicant's mitigation for the loss of the sports pitch.

2.0 SPORT ENGLAND COMMENTS

2.1 **15.11.16 Sport England** – Thank you for re-consulting Sport England on additional information submitted in support of the above planning application. The applicant proposes to mitigate the loss of playing field through a financial contribution towards a 3G pitch on the site of an existing Shrewsbury Town FC training pitch. There will be a net loss of playing field and no new playing field is proposed.

Sport England has consulted the FA who have provided the following comments:

1. The FA are not aware of the finances involved with this project, both in a capital delivery perspective and from an ongoing revenue position to ensure sustainability.
2. The FA and the County FA met with Shrewsbury Town FC and the Football In the Community Department in June 2016 and requested site of usage plans, football development plans and the business case showing sustainability. The FA also requested that the club speak with the County Sports Partnership in light of the place plans to provide strategic direction. To date, no information has been received to comment on with regards to demand and the projects sustainability. With no current Playing Pitch Strategy available it is hard to comment with no further information provided
3. It is clear that the mitigation for the loss of the grass playing field area to a LIDL development is to provide funding towards a 3G, meaning there is a loss of playing field land.

There is a lack of evidence to support the need/demand required form a sustainable 3G pitch in this location. Furthermore it is not clear how the 3G pitch will be funded in its entirety; the level of funding from the applicant and other sources is not clear. Without this information Sport England are unable to assess whether or not the 3G pitch is sustainable and deliverable or whether the applicant's contribution is an acceptable form of mitigation for the loss of playing field.

Sport England recommends that the applicant provides further information relating to the proposed financial contribution and the proposed demand/usage plans/business case showing sustainability for the 3G pitch as outlined by the FA. Sport England's interim position on this proposal is to maintain our objection.

2.2 **02.02.17 Sport England** – Sport England objected to planning application (ref. 16/00181/FUL) as insufficient information has been provided in relation to the mitigation for the loss of playing field. Despite this statutory objection, Shropshire Council's Planning Committee resolved to approve the application subject to a legal agreement relating to community use of Shrewsbury Town's training pitch. This resolution has, in effect, approved the principle of the loss of the existing community pitch subject to the approval of a legal agreement.

The FA has provided further comments:

1. The site where Lidl is planned for was used as a community pitch as recently as 2007, reasons for no more recent use are down to the fact that it has not been maintained for this type of use.
 - a. Use of the main pitch being classed as community is subjective – the school finals take place once a year with an average of 5 games (max of 10 games as per the lease agreement) for Shropshire CFA Cup finals – it is agreed that this is a

great offer but it does not afford regular community use of the pitch which is the key debate here.

b. The FA'S Pitch Improvement Programme could have suggested ways to improve the pitch without the need for expensive drainage.

2. The new Shrewsbury Town FC training ground is existing playing field land that has been improved. There is no net gain in playing field area or any community use from.

3. There is no such surface as 4G, so I presume they mean 3G rubber crumb

4. We would need to see the full detailed business plan from Shrewsbury Town in the Community to assess the long term sustainability of the pitch.

a. Changing rooms would be essential to permit full use of the adult football pitch, grass or 3G.

5. The Usage plan is very generic and only indicates available slots with no potential club or community users noted.

a. Community use noted between the hours of 9am and 5pm is unlikely to materialise based on other Football Foundation funded facilities that are not on an education site.

b. 100 hours of use is ambitious – through the Football Foundation and with a facility based on a school site we push for 85 hours of which 36 are for community use outside of school hours and this is not always achieved.

6. Premier league support is based on seeing more detail.

7. There is a 3G facility on site which is a commercial 5 a-side facility, it has 6 x 5v5 pens and 1 x 7v7 pen which is not big enough for affiliated match play due to no run-off areas – is there an upgrade project here to support along with the grass pitch being transferred for the community department to run? Obviously discussions would be needed here to see if viable and if the current tenant would be open to this in some capacity.

Sport England maintain their objection to this application as we are still unable to assess the suitability of the proposed mitigation from the information submitted. If a 3G pitch is being proposed as mitigation, evidence is required to support the need/demand in this location in order to ensure that the facility is sustainable; the submitted Usage Plan does not provide the necessary detail (see FA comments above) and I am not aware of this specific location for a 3G pitch being supported by any relevant strategy. Furthermore it is not clear how the 3G pitch will be funded in its entirety; the level of funding from the applicant and other sources is not clear. If the Section 106 does not cover the entire cost of the 3G pitch how will the shortfall in funding be met? The absence of a clear strategic need for a 3G pitch in this location will restrict potential funding from Sport England. Changing facilities will also be required and it is not clear how these will be funded.

Without the type of information listed above Sport England are unable to assess whether or not the 3G pitch is sustainable and deliverable or whether the applicant's financial contribution is an acceptable form of mitigation for the loss of playing field. In order to make an assessment against Policy Exception E4 I need to

weigh up the benefits to sport of the proposed mitigation (in this case the partial or full provision of a 3G pitch) against the loss of playing field. As there is insufficient information in relation to the proposed mitigation I am unable to make that assessment.

Sport England did not object to the two variation of condition applications as these applications in themselves did not permit the loss of playing field land. The applications seek to transfer the community use from one area of playing field to another. In this case the community use transferred from the training pitch which is a better quality pitch than the existing community pitch.

It is my understanding that Shrewsbury Town FC's training ground is located on a former sports ground which was purchased by the Chairman of STFC 20 years ago. The supporting information submitted by the applicant indicates that investment was made into the site in 2016 to improve pitch quality as drainage of the pitches was poor. From historic aerial photos it appears that the site was laid out for training use in 2010 (see image below). Although improvements to pitch quality may have been made since this time, new playing field has not been created.



From the 2010 image it appears that the site was laid out with pitches suitable for training purposes. It is not entirely clear whether the improvements works were necessary to resolve issues created by lack of maintenance or fundamental issues with the site. The additional capacity of the playing field resulting in the improvements works is also not known. Given this missing information an assessment against Policy Exception E4 cannot be made, although clearly no new playing field has been created.

4.0 ADDITIONAL INFORMATION FROM AGENT – April

4.1 The agent for the football club has been in discussion with the football club, Lidl, Sport England and officers of the Council since the February committee meeting at which members reconsidered the two applications from the football club. A revised supporting statement has recently been submitted which will be attached to all three applications (the two for the football club 16/04201/VAR & 16/03786/VAR106 and the Lidl application 16/00181/FUL). The statement is appended to this report so that members have all of the information before them.

4.2 The statement includes technical reports on all three pitches and the mitigation

proposals from the applicant. The technical reports advise on the ground conditions of all three pitches and what works are required, or in the case of the off-site pitch were required. The front pitch is to be lost for the development of the Lidl food store.

- 4.3 The rear pitch already has a drainage system but the applicant accepts that a secondary drainage system would improve the surface water run-off, a matter raised by Councillor Moseley at the February meeting, and has agreed to provide the secondary drainage at the end of this football season. The applicant has also agreed to provide changing facilities adjacent to the rear pitch, either within the existing stadium building converting existing office space into two 15sqm changing areas with 3 showers and a toilet each and a referees room with shower and toilet, or within a new modular building adjacent to the STinC building. Both the drainage upgrades and the changing facilities can be required as part of the S106.
- 4.4 The off-site pitch has been upgraded in accordance with the recommendations of the ground conditions report. The works include installing drainage, improvements to the surfacing, provision of car parking and construction of a building providing changing facilities, kitchen, dining room, gym, physiotherapy room, laundry room, boot room and staff offices. All of these works have been carried out.
- 4.5 SPFA have commented that the off-site pitch is not available for the community and therefore is not relevant. However, this is confusing user with pitch provision. The issue is the loss of a sports pitch. At no time, and the agent has confirmed in the latest statement, has anyone proposed the removal of the community pitch use from the S106. The application relates to three pitches one of which is to be lost and the improvements to the other two are being put forward as mitigation. The rear pitch will become the new community pitch and the most recent statement has confirmed that this will be available for hire by the community for 57 hours a week in the evenings and at weekends. The statement also advises that the rear pitch is large enough to be subdivided into three pitches and therefore could be used by three different users at any one time.
- 4.6 In addition to physical improvements to the rear pitch and off-site pitch the applicant has now also offered a financial contribution of £65,000 to be paid to the Council to be spent on sport and recreation within the local area. The figure has been proposed by the club as a figure which was raised by Sport England early in the application process as the estimated cost of replacing a pitch.

5.0 OFFICER REPORT

5.1 Loss of pitch

- 5.1.1 The policies within paragraph 74 of the NPPF and CS6 of the Core Strategy are the policies against which development on sports pitches should be considered ease.

Paragraph 74 of the NPPF states:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*

- *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

5.1.2 Policy CS6 of the Shropshire Core Strategy requires all development to contribute to the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Proposals resulting in the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility is not viable over the long term. Paragraph 4.58 of the explanatory text advises that the standards are set out in the Shropshire Open Space, Sport and Recreation study.

5.1.3 The construction of a Lidl food store on the front pitch will result in the loss of sports pitch. Both national and local policies allow for the loss of sports pitch. Shropshire Playing Fields Association have commented that there has not been an assessment to show the land is surplus to requirement, however this is not a requirement unless “surplus to requirements” is the case being put forward by the applicant. With regard to the Lidl store and the two applications by the football club the case being put forward is for “replacement provision”. The replacement is not in the form of a new sports pitch but in the form of improvements to existing pitches.

5.2 **Improvement proposals**

5.2.1 It is acknowledged that the proposals put forward are not for any new pitches to be provided to replace the pitch to be lost to development. Their proposals relate to enhancements proposed to the rear pitch and the off-site pitch and the offer of a financial contribution to be paid to the Council to be made available for enhancement to other sports pitches in the area.

5.2.2 The enhancement works are detailed above in section 4 of this report. At the time of writing this report the supporting statement has been sent to Sport England and SPFA for comment, any responses received before the meeting will be provided to members either in writing or verbally.

5.2.3 Notwithstanding any comments which may be received it is officer’s opinion that the additional enhancements and the financial contribution now proposed by the applicant provide improvements to the rear pitch, off-site pitch and opportunities to improve other sports facilities in the area to be considered as equivalent or better provision in terms of quantity and quality in a suitable location to the front pitch which is to be lost for the construction of the Lidl food store. With regard to the financial contribution offered officers can confirm that this is the figure quoted by Sport England in their comment of the 19th April 2016 on the Lidl application as the cost of replacing the natural turf pitch, excluding the cost of the land. It is a definable figure with clear linkage to the loss of the pitch, as such it is considered to be a reasonable and appropriate figure which is reasonably related to the development. The overall package now proposed and clearly set out in the new supporting statement is considered by officers to mitigate the loss of the pitch and therefore meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.

5.2.4 Members may wish to defer making a decision on this application (and the two from the football club) until consultation comments are received. This is a decision

which only members can make. However, the latest offer from Lidl and the football club has been increased to include all of the information and improvements suggested by Sport England and to include a financial contribution towards other sports facilities.

- 5.2.5 It is therefore officer's opinion that a decision now needs to be made on this application. There is a risk that Sport England and SPFA may still object, there is still a loss of a sports pitch, however the final decision rests with the Council. Sport England and SPFA are consultees, members are free to make a decision on the planning application based on the planning merits and consideration of the improvements and financial contribution.
- 5.2.6 The means of securing the improvements proposed and the financial contribution will be dealt with through a variation to the S106 agreement attached to the consent for the football club and the variation of condition 2 on the football club. No changes are proposed to the terms of the S106 for Lidl in that it will still require a contribution towards public transport and a car park management plan to be submitted.
- 5.2.7 Officers can also confirm that the consultation with the Secretary of State has been carried out and the Secretary of State has considered his policy on calling in planning applications. This policy gives examples of the types of issues which may lead him to conclude, in his opinion that applications should be called in. The Secretary of State has decided, having had regard to this policy, not to call in the application. He is content that the application should be determined by the local planning authority.
- 5.2.8 The recommendation has therefore been revised to reflect this and furthermore the conditions detailed below include the additional conditions previously sought by members.

6.0 CONCLUSION

- 6.1 The additional enhancements carried out and proposed to the existing pitches to be retained, the pitch at the rear of the Oteley Road site and the pitch at Sundorne Road, and the financial contribution of £65,000 now proposed by the applicant provide improvements to existing sports pitches and opportunities to improve other sports facilities in the area. This is considered to mitigate for the loss of the pitch at the front of the Oteley Road site and is considered to be better provision in terms of quality to the front pitch which is to be lost for the construction of the Lidl food store. As such it is officer's opinion that the proposals meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 6.2 As such officers remain of the opinion that the proposed food store has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of a food store on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable

sites.

- 6.3 Furthermore it is considered that the layout, scale and design of the site, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; that the development will not have an unacceptable detrimental impact on the amenities of the neighbouring properties, ecology, flood risk or drainage.
- 6.4 Accordingly the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Shrewsbury Town Centre. The scheme is also in accordance with policies MD1, MD2, MD10a, MD10b and S16 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

10. Background

Relevant Planning Policies:

NPPF

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD10A - Managing Town Centre Development

MD10B - Impact Assessments for Town and Rural Centres

Settlement: S16 - Shrewsbury

Relevant planning history:

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

16/04201/VAR Variation of condition 2 attached to Ref:14/00587/VAR dated 17/03/2016

relocate community football pitch. PCO

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

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

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

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

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Jon Tandy Cllr Ted Clarke Cllr Jane Mackenzie
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Appendices APPENDIX 1 – Conditions APPENDIX 2 – Committee report 24th November 2016 Please see Appendix 3 of Agenda Item 5 which is also relevant to this application.
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APPENDIX 1

Conditions

STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. Notwithstanding the details reserved by other conditions in this decision notice the development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plans as detailed below.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 08:00 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place, including any works of demolition, until a Construction Method Statement and Traffic Management Plan 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/Plan shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii coordination and management of all deliveries, HGV routing proposals and off-site holding areas
 - ix phasing of any temporary and/or permanent vehicular/pedestrian accesses and management thereof within the construction period of the development.
Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.
5. Prior to commencement of development a scheme for surface water drainage shall be submitted to and approved by the Local Planning Authority. The submitted scheme shall take account of the advice provided in the Council Drainage Engineer consultation response. The approved scheme shall be completed before the development is occupied.

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

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

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

7. Notwithstanding the details shown on the submitted landscaping plans, no above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscaping works shall show native planting to include, amongst other trees, replacement Lime trees to mitigate the loss of the existing Lime trees. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

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

9. Notwithstanding the details shown on the submitted plans prior to the commencement of the development a plan shall be submitted for approval by the Local Planning Authority to show a pedestrian access link between Oteley Road and the football club car park between the food store hereby approved and the existing five-a-side pitches. The footpath shall be provided to the satisfaction of the Council prior to the opening of the store and shall be retained and maintained available for pedestrian use at all times.

Reason: To enhance pedestrian linkages around the site and to the community facilities within the football club.

10. No development shall take place until details for the proposed cycle parking have been submitted to and approved by the Local Planning Authority. The approved scheme shall be installed prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

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

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

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

Reason: In the interests of highway safety.

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

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

14. 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.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

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

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

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

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

17. Notwithstanding the provisions of the 1987 Town and Country Planning (Use Classes) Order or succeeding orders, the food store hereby approved shall not include the following dedicated ancillary retail facilities:
- A post office
 - A dry cleaners
 - A travel agents
 - An optician
 - A pharmacy

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

18. The net sales floor area of the food store hereby approved shall not exceed 1,400 square metres. No more than 210 square metres of the net sales floor area of the store shall be used for the sales of comparison goods. Comparison goods are defined within the COICOP categories for the following goods:
- Clothing materials & garments
 - Shoes & other footwear
 - Materials for maintenance & repair of dwellings
 - Furniture & furnishings
 - Carpets & other floor coverings
 - Household textiles
 - Major household appliances, whether electric or not
 - Small electric household appliances
 - Tools & miscellaneous accessories
 - Glassware, tableware & household utensils
 - Medical goods & other pharmaceutical products
 - Therapeutic appliances & equipment
 - Bicycles
 - Recording media
 - Games, toys & hobbies
 - Sport & camping equipment
 - Musical instruments
 - Gardens, plants & flowers,
 - Pets & related products
 - Books & stationery
 - Audio-visual, photographic and information processing equipment,
 - Appliances for personal care, jewellery, watches & clocks
 - Other personal effects.

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

APPENDIX 2 – REPORT – 24th November 2016**1.0 THE PROPOSAL**

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

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is 1.07 hectares of relatively flat grassed land within the existing security fence for the Shrewsbury Town Football Club (STFC). A grassed embankment runs around the two external edges of the site, the east and north boundaries, with the fencing on the top. The stadium and car park lie to the south of the site with five a side pitches to the west and the railway and Meole Brace retail park beyond. Access to the site is off Oteley Road using the existing traffic light junction which leads to a mini roundabout within the football club. The proposal is to amend this roundabout which is dealt with later in the report.
- 2.2 The land is south of Oteley Road with Meole Brace golf course on the opposite side of the road and residential areas beyond. Over the SAMDev plan period the football club land will become encompassed into the Shrewsbury South Sustainable Urban Extension (SUE)

which is an allocated urban extension to the town to include around 900 houses, 22ha of employment land, retail and commercial uses and infrastructure. The SUE will mean that the character of the area will change significantly.

- 2.3 The site is clearly within the development boundary for Shrewsbury and within an area which although is currently edge of urban area will become part of the urban area after the construction of the SUE.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

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

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

www.sportengland.org/playingfieldspolicy

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

The Proposal and Impact on Playing Field

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

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

Assessment against Sport England Policy/NPPF

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

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

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

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

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

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

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

Based on the information submitted in support of the application Sport England considers that the playing field is not surplus to requirements. Sport England are therefore seeking to protect the site, replace the playing field or negotiate financial compensation for this loss. Based on current costs, Sport England estimates the cost of replacing the natural turf football pitches (97m x 61m including runoffs) would be approximately £65,000 excluding the cost of the land.

Conclusion

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

106 agreement or other legal mechanism, with a view to withdrawing the current objection.

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

4.1.3 **Policy Officer** – No objection.

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

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

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

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

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

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

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

National Planning Policy Framework (NPPF) Paragraphs 23-27

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

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

Sequential Site Assessment

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

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

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

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

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

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

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

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

In instances where there are alternative out-of-centre options, the implementation of the sequential test (as advised by the NPPG) specifically gives preference to accessible sites that are well connected to the town centre. It therefore can be reasonable to conclude that two out-of-centre sites are sequentially equal. Solely being on a bus link does not in itself

make one site sequentially preferable than one which is not, and it is important to consider the practical use of the bus route as a means for the public to link their shopping trip with a visit to the town centre. If link trips are unlikely to be encouraged in practice there is no practical basis for distinguishing between competing out-of-centre sites purely on this basis.

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

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

Impact Test

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

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

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

Impact on Proposed Waitrose

How Planning raise concern that the combined impact of the recently opened Marks and Spencer Food store at Meole Brace Retail Park and the proposed Lidl would impact on the potential turnover of the proposed Waitrose scheme to an extent to make it unviable, and on that basis the impact on the Waitrose scheme as a defined Local Centre would be significantly adverse.

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

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

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

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

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

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

Any assessment of individual store impact is inevitably based upon broad assumptions, and in the case of Waitrose is further hindered by the fact the store is yet to be built. The applicant has drawn evenly from two main factors - 'like for like' and 'proximity' impacts - in assuming trade diversion levels. 40% trade diversion is expected from the existing Aldi and Lidl stores to the north of Shrewsbury. Given the 'deep discount' nature of Lidl, it is considered reasonable to assume a high trade draw from these stores despite the distance of these stores from the application site. This view is supported by the current lack of 'deep discount' operator in the south of the town.

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

as referred to above.

Other Planning Policy Issues

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

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

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

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

The site is located adjacent to the Shrewsbury FC football ground which acts as major venue for conferences and exhibitions supporting the Shropshire tourism economy. The development of the site would severely restrict opportunities for future expansion of operation which could include additional conference entertainment or sporting facilities.

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

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

Observations/Comments:
Access

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

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

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

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

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

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

Internal Layout

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

It should be noted that an alternative solution could be to service the site from the football club side thereby, no compromising the shoppers' car park. Although service vehicles would have to be restricted from access on match/event days. Whilst the proposed pedestrian access from the B4380 Oteley Road, will improve connectivity to the site, consideration should be given if access on match days should be provided to reduce the possible conflict between shoppers vehicles and football supporters. Consideration should also be given to the gradient of any proposed pedestrian link is DDA (Disability

Discrimination Act 2005) compliant.

Transport Assessment

Section 3 - Existing Conditions

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

Section 4 – Development Proposals

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

Section 5 – Trip Generation

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

Section 6 – Traffic Impact Assessment

6.13 – States, "It is considered that the majority of Lidl customers will not seek to access the proposed development by car during the peak periods on a matchday (1400-1500 for arrivals and 1630-1730 for departures)

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

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

6.15 – The conclusions in this paragraph or relevance to this assessment is not accepted. The TA needs to focus on what is actually happening at this junction now, as well as when the whole SUE (including the consented adjacent employment land) is fully developed. Then determine how this might change with the new food store in operation. A paragraph on the acceptability of the current queue length measured during the Saturday survey would be useful, as well as how the on-site traffic/pedestrian

management might affect the stores operation and the proposed formal pedestrian crossing. Particularly, as it also assumes that the level of occupancy of the stadium and car park are directly linked.

Outline Travel Plan

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

4.1.6 **Rights of Way** – Public Footpath UN1 Shrewsbury abuts the northern boundary of the site identified but will not be affected by the proposals. Footpath 74 Shrewsbury partly runs along the eastern edge of the access to the site but it will not be affected by the proposals. The routes are shown on the attached plan.

4.1.7 **Ecology** – If an application, submission of reserved matters or the development is likely to start after February 2017 then an update survey of ponds/ditches within 500m of the development site for Great Crested Newts would be required.

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

Great Crested newts

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

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

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

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

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

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

Nesting Birds

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

Bats

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

Landscaping

On the preapplication PREAPP/15/00504 the County Ecologist advised that the proposed

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

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

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

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

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

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

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

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

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

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

In addition gating capable of being locked during peak pedestrian movement times to the stadium on the pedestrian access from the proposed site onto Oteley Road would be

required with a statement to confirm that they will be locked during the period prior to any event at the stadium (recommended 2 hours) until a period after the event is scheduled to finish (recommended one hour after an event at the stadium).

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

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

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

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

If a separate pedestrian access cannot be provided then I request that a condition is applied to any approval requiring that the arrangements detailed in the MMP are implemented in full for every match at Shrewsbury Town Football Club which is covered by the Safety Certificate issued under the Safety at Sports Grounds Act 1975. Also I would request a condition be applied requiring there no deliveries to the Lidl store in the 2 hours before a match kicks off and for 1 hour after the expected finish time .

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

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

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

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

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

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

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

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

The 36 letters of objection raise the following concerns:

- Conditions imposed on the previous consent prevent the proposed development
- Loss of community sport pitch and no alternative proposed
- Club have prevented communities using the site as a pitch
- No need for another food store – Shrewsbury is already well served by supermarkets on every side of town
- May impact on delivery of existing Waitrose consent and site on Hereford Road
- Need a DIY store
- Site should be used for leisure uses such as a new swimming pool
- Should be used for more parking for the football club
- Significant house building in the area will increase the need for open space
- More appropriate sites available
- Will not be in keeping with local area
- Negative impact on visual amenity and landscape
- Too much built development is being carried out resulting in the loss of the character of Shrewsbury
- Poor access
- Increase in traffic and congestion
- Will create traffic and pedestrian access problems on match days
- Pedestrian access would be better to the west of the store rather than trying to steward the pedestrians crossing the Lidl car park
- The TA has not sufficiently assessed the traffic at peak times and has not fully considered the potential impact on the roundabout and traffic lights
- No evidence that shoppers will avoid match times – personal experiences of this not being the case in other towns
- Wait times to leave the football club by car can be up to 45 mins
- Will result in supporter parking on the store car park, shoppers parking in the football club and increase supporter parking on local roads
- TA does not take account of increase in parking approved at football club
- Relocation of club access gates and pedestrian crossing facility will increase traffic congestion on Oteley Road

4.2.2 The 123 support letters received are summarised below:

- Need a discount store on the west/ south of the town
- Would prefer a Lidl to Waitrose
- Will be convenient
- Increase choice
- Within an area designated for development
- New housing will support new store

- Will support football club financially
- More jobs
- Not obtrusive
- Good use of land
- No issue with location or parking
- Access is already controlled by traffic lights
- Will reduce carbon footprint by reducing travel, traffic and within walking distance
- Lidl can assist with traffic management on match days to overcome objectors concerns
- No impact on residential properties

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

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

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

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

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

4. What plans are in place to protect the shoppers from problems caused by football fans.

5. What are the opening times of the shop?

6. This application should be heard by Cllrs and I formally ask that this application to go to committee.

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

4.2.5 An objection has been received from **How Planning Ltd on behalf of Waitrose**. The objection considers that the submitted retail statement is incorrect in that the Waitrose store is a local centre, as required in the SUE, not an out of centre store and as such the sequential assessment is not satisfactory. Furthermore the submitted statement does not

consider the potential impact on the planned investment of Waitrose and the objection also raises concerns about the submitted trade and turnover data and considers that the Council can not therefore fully consider the potential impact.

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

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

- 4.2.6 A letter has been received from the **Sutton Area Residents Association** Chairman objecting to the proposal on the following grounds:
- Land is subject to a covenant for community recreational use which has been discouraged by STFC
 - Access will be through gates of football club which is prohibited on match days and does not allow for two way traffic
 - Will result in severe traffic congestion

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

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

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

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

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

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

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

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

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

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

- 4.2.9 Following receipt of the proposal to relocate the community pitch to the training pitch the Shropshire Playing Fields Association maintain its objection. Shropshire Playing Fields Association believe that the application does not replace the loss of one full sized community football pitch with better provision in terms of quantity. At present the picture clearly shows two green open spaces, both currently being used as grass playing fields for the purpose of football. Clearly if you build a Lidl Superstore on one of these grass pitches you have a loss of one playing field.

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

5.0 THE MAIN ISSUES

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

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning

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

- 6.1.2 The Shropshire Core Strategy was adopted in February 2011. Policies CS1 (Strategic Approach) and CS2 (Shrewsbury – Development Strategy) aim to encourage the continued sustainable growth of Shrewsbury as the County town. Shrewsbury is noted in CS1 as being the focus for significant retail, office, employment and residential development. CS2 goes on to provide more detail to CS1 in providing higher level policy guidelines to enable the town to achieve economic growth whilst protecting and enhancing the town's role, character and unique qualities of built and natural environment. CS2 provides for development of the retail centre role of the town and also provides for the two urban extensions. With regard to retail uses policy CS15 (Town and Rural Centres) encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within the identified town centres as a 'town centres first' approach, however it does acknowledge the NPPF sequential and impact tests where no town centre sites are available.
- 6.1.3 The SAMDev for Shrewsbury, policy S16, follows from the principles set in the Core Strategy policy CS2 encouraging sustainable economic growth. S16A deals specifically with the town centre and edge of centre areas and follows the town centre first approach of the NPPF and CS15. This part of the policy, amongst other things, seeks to ensure that the town centre retail offer is enhanced whilst ensuring that the independent sector is retained and developed, seeks to unlock the potential of vacant and underused buildings but also with an underlying aim of reducing the impact of traffic and congestion in the town centre. Within S16 there is one specific retail allocation, S16.1c, Riverside Shopping Centre which proposes the redevelopment of the existing shopping centre, night club and medical centre with a new shopping centre providing a department store, improved connections to Pride Hill and Darwin Centre and an active frontage onto Smithfield Road. This allocated site has planning permission but work has not yet started. S16 also includes smaller retail uses within allocated housing sites at the Flaxmill and both SUE's.
- 6.1.4 Also of relevance are policies MD10a – Managing Town Centre Development and MD10b – Town and Rural Centre Impact Assessments of the SAMDev. Policy MD10a defines Shrewsbury as a category 'C' town where there are primary and secondary frontages. In the two category 'C' towns (Shrewsbury and Oswestry) there are different levels of protection to the primary and secondary frontages and also a presumption in favour of town centre uses within the wider town centre. Policy MD10b sets local thresholds for impact assessments depending on the town. Developments located outside of the defined town centre and which have a gross floor space of over 500sqm in Shrewsbury will require an impact assessment to be undertaken and submitted with the application. Policy MD10b also advises that developments which have a significant impact on town centres, or where the impact assessment is insufficient, will not be permitted. The policies within the Core Strategy and the SAMDev are considered to be consistent with the requirements of the NPPF as detailed in the following paragraphs.

- 6.1.5 At a national level the NPPF, section 2, sets out the national policy for determining planning applications for retail and other town centre uses. It seeks to be positive and promote competitive town centres but does acknowledge that policies will be required to consider main town centre uses which cannot be accommodated in or adjacent to town centres. Paragraph 24 requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. This test is the “town centre first” approach where out of town sites should only be considered where there are no sites within or on the edge of centres and preference should be given to accessible out of town sites that are well connected to the town centre.
- 6.1.6 Paragraph 26 of the NPPF also requires out of town retail applications to be submitted with an impact assessment to show the impact of the proposal on existing, committed and planned public and private investment in the town centre; and the impact on the vitality and viability of the town centre. Where an application fails the sequential test or is likely to have a significant impact it should be refused. Where no significant adverse impacts have been identified, and where the application also satisfies the requirements of the sequential test, a decision should be taken by balancing the positive and negative impacts of the proposal and other material considerations, and also the likely cumulative effect of recent permissions. These two issues of sequential and impact assessments are highly important in determining this application.
- 6.1.7 The key issues are firstly, determining whether there are any sequentially preferable sites available and suitable, or likely to become so within a reasonable period of time; and secondly whether the proposed retail development would result in a significant adverse impact on the existing town centre. These are the two tests within the NPPF, policy CS15 and policy MD10b. The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. PPS4, the national retail policy prior to the NPPF, removed the requirement for applicants to satisfy a test of “need” in justifying proposals for town centre uses and as such whether there is a need for the retail units proposed (including the food store) is given less weight but can still inform the conclusions reached in terms of the impact test.
- 6.1.8 In order to consider these issues the application has been submitted with Planning Statement which includes a Retail Statement. This statement includes information on the business model of Lidl. As a deep discount retailer the model has limitations to the scope for flexibility and no scope for disaggregation of the store which is something which has been agreed in a number of appeal decisions across the Country.
- 6.1.9 The Practice Guidance, which previously accompanied PPS4 and is still in force, advises that retailers should show flexibility in the design approach but also acknowledges that flexibility can prejudice the business model. The agent has advised that Lidl business model does not provide for a one-stop shop for the customer and that there would still be a need for the majority of customers to use other stores to undertake a full shopping trip. This therefore provides a restricted shopping provision when compared to the big four retailers such as Sainsbury and Waitrose. The store is more likely to compete with other deep discount stores such as the existing Lidl store on the north of the town or the existing Aldi store rather than the large food stores. However the agent does acknowledge that the proposed development does have the potential to impact on the existing retailers around Meole Brace. This is considered in detail later in the report.

6.2 Sequential site assessment

- 6.2.1 Policy CS15 of the Shropshire Core Strategy seeks to maintain and enhance the vitality and viability of existing town and rural centres identifying town centres as the preferred location for new retail development but acknowledging the sequential and impact assessments. Paragraph 24 of the NPPF requires developments in 'out of centre' locations to demonstrate that there are no sequentially preferable sites suitable or available to accommodate the proposed development within the town centre or on the edge of the town centre. The sequential assessment should also take into account other out of centre sites which are accessible and well connected.
- 6.2.2 Paragraph 6.2 of the Practice Guidance on Need, Impact and the Sequential Approach states that:
"the sequential approach is intended to achieve two important policy objectives:
- Firstly the assumptions underpinning the policy is that town centre sites (or failing that well connected edge of centre sites) are likely to be the most readily accessible locations by alternative means of transport and will be centrally placed to the catchments established centres serve, thereby reducing the need to travel,
- The second related objective is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to provide for improved consumer choice and competition. In this way, the benefits of the new development will serve to reinforce the vitality and viability of the existing centre."
- 6.2.3 The submitted sequential assessment has focused on sites in the town centre and south of the town as the existing Lidl store is in the north of the town and as such the applicant has suggested that a second store should be out of the catchment area of the first store. 15 sites have been considered. 12 of these are in the identified town centre of Shrewsbury, however 10 are too small for a proposed food store even when combining the three sites which are adjacent to each other as one space. The Riverside shopping centre, noted above, does not provide any units of a similar size required by Lidl. Although it provides multi level units these would not be suitable for a food store use and as such the Riverside has been discounted by the applicant as not suitable. Furthermore, members should note that the Council has previously accepted that the Riverside is not sequentially preferable for food store uses when considering other recent out of centre food store proposals.
- 6.2.4 The site in the centre known as The Gap site is also considered to be too small for the proposed Lidl store without constructing it as a four storey building which would then be difficult to stock and manage viably for a deep discounter. The agent also considers that the Gap site has a poor frontage and is poorly related to other retail uses and as such does not consider the site is viable or suitable.
- 6.2.5 A recent consent on Hereford Road (Morbaine site) was granted by appeal with the Inspector noting that the site was accessible with reasonable connections to the town centre. However, the agent for the current Lidl application is of the view that the Hereford Road site is not sequentially preferable to the Oteley Road site as both are out of centre and the Oteley Road site will become better connected to the town centre following the development of the SUE. Furthermore, the Hereford Road site requires significant highway works, relocation of the existing business and lacks commercial prominence which the agent considers undermines the viability of that site. Lidl had made an offer for the Hereford Road site, taking into account the constraints noted, but this has been

rejected by the land owner.

- 6.2.6 The retail statement also notes that there are empty units on Meole Brace retail park but these are too small for the proposed user and have therefore been discounted as not suitable. The land either side of the access road to Meole Brace park and ride is outside the Shrewsbury development boundary and as such considered as out of town therefore the Oteley Road site is sequentially preferable as an out of centre site. (Sequentially sites should be considered in the following order: “in centre”, “edge of centre”, “out of centre”, “out of town”).
- 6.2.7 The existing consent adjacent to the recently completed Percy Thrower garden centre is also acknowledged but it not an available site to the applicant as it controlled by Waitrose as the future operator of the site. This site, although consented, is also considered to be out of centre and not any better connected to the town centre than the application site. As such the agent suggests that it is not sequentially superior.
- 6.2.8 Overall the agent concludes that there are no in-centre or edge of centre sites available, suitable and viable and that there are no alternative out of centre sites which would be more appropriate for the proposed development. An objection has been received from the agents for both the Morbaine site and Waitrose who both consider their sites are sequentially preferable, both already have consent and both would be at risk if the proposed Lidl store was approved. The Waitrose objection suggests that their consent is for a “local centre” (as required by the SUE policy to serve the housing development). Local residents have also commented that there is no need for another food store. However, there has also been support for the proposal on the basis that this would provide a discount store on the west/ south of the town and increase choice and convenience.
- 6.2.9 The Council Policy Officer’s comments are provided in full under section 4 above, in conclusion the Policy Officer agrees with the applicant’s agent in that, taking into account all available information, it is considered that the applicants have met the requirements of the sequential test. The Policy Officer advises that the Riverside site is sequentially preferable but is intended to provide comparison goods floor space rather than for a new food store and as such it is reasonable to discount the Riverside as not suitable. The Policy Officer also comments on the Morbaine site which he considers is sequentially equal to the current application site due to the distance of both sites from the town centre.
- 6.2.10 Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test and the impact test (considered below), it should be refused, however this paragraph does not extinguish the requirement to take into account all other material considerations in assessing the planning balance. It is officers opinion that the applicant has undertaken an appropriate sequential assessment and that there are no sequentially preferable sites and as such the application is considered to comply with the sequential test.
- 6.3 **Impact assessment**
- 6.3.1 Paragraph 26 of the NPPF requires out of centre developments to also assess the impact on existing, committed and planned investment and the impact on the vitality and viability of the town centre and wider area, up to five years from the time the application is made. Only where the impact is significant should this be used as a reason to refuse. Shrewsbury is currently served by four large food stores and three deep discount stores all in out of centre locations. The town centre has small convenience stores but is

predominately comparison shops with a good level of independent and specialist retailers. As noted before Shrewsbury also has significant future housing growth planned, some of which is already under construction, and this will also increase the expenditure capacity of the catchment area.

- 6.3.2 The Practice Guidance on Need, Impact and the Sequential Approach also comments on impact recognising that new retail developments will have an impact but this is not always a bad thing as new development often enhances choice, competition and innovation. The NPPF seeks to prevent significant adverse impact which would undermine the vitality and viability of the town centre and not to prevent competition or increases in choice.
- 6.3.3 As detailed in section 6.1 above policy MD10b of the SAMDev sets a local threshold for impact assessments of 500sqm for out of centre uses in Shrewsbury. The Planning and Retail Assessment includes this impact assessment. In summary the agent considers that the proposed Lidl food store will have no impact on committed and planned investment in the town centre as the development proposals in the centre are mainly intended to be for non-food uses. The agent also considers that the development is highly unlikely to have a significant impact on the vitality and viability of the existing town centre retailers as the town centre is in a relatively good state of health. Furthermore, it is the agent's view that the deep discount business model is not an important part of the existing town centre retail offer and therefore an out of centre store is not likely to draw significant levels of shoppers away from the town centre, cause any existing stores to cease trading or reduce pedestrian flow in the centre. The agent also comments that the town centre is operating successfully with other existing out of centre food store retailers, including deep discount retailers, and that they do not consider that a further out of centre store will tip the balance. The impact assessment concludes that the proposal is highly unlikely to bring about significant adverse impact on the town centre for the reasons given above.
- 6.3.4 Objections have also been received on this matter. Principally the objection on behalf of Waitrose which questions whether the application correctly considers the impact on the approved Waitrose. The objection notes that Waitrose is a committed investment and therefore the impact should be considered. The objection raises concern that the combined impact of the recently opened Marks and Spencer Food store at Meole Brace Retail Park and the proposed Lidl would impact on the potential turnover of the proposed Waitrose scheme to an extent to make it unviable, and on that basis the impact on the Waitrose scheme as a defined Local Centre would be significantly adverse.
- 6.3.5 The Council Policy advice comments on this objection and advises that the approved Waitrose, with a floor space of 2,741sqm, will provide a local centre role but will also have a much wider catchment than a local centre. The Waitrose planning application was considered as an out of centre retail food store rather than as a local centre and was accepted as being more than a local centre due to its size and catchment. As such it is officers opinion that the objection on behalf of Waitrose regarding the impact on the local centre is not one which can be given significant weight, it is an objection from one out of centre food store against a competitor out of centre food store.
- 6.3.6 An addendum to the retail statement was also submitted following the objections received. The addendum amended the sales impact figures, included the 'no development' scenario and cumulative impact assessment. The conclusion of the addendum is that there is no greater impact on the town centre than was concluded on the original assessment.

- 6.3.7 As part of the addendum the agent has also commented on the objection from Waitrose. It is the agent's opinion that the impact on Waitrose will be from cumulative issues (impact from other existing, recently built and consented stores) not from Lidl alone. The agent considers that the greatest impact on the approved Waitrose would be from the recently built M&S food store and that the Lidl impact will be marginal. Furthermore, the agent comments that the building of the new Waitrose store was put on hold before the proposals for Lidl became public.
- 6.3.8 A further objection was thereafter received from Waitrose. This retained their objection to the impact on the approved store as a local centre. The objection acknowledges that the Waitrose store will operate as more than a local centre but considers that it will also serve as the local centre and that the impact will be significant. The objection also raises concern about the impact on the existing Aldi and Lidl stores and considers that the existing Lidl on Harlescott Lane would be likely to close.
- 6.3.9 These latest objections are not considered to raise any new issues. Officers remain of the opinion that the Waitrose store would be more than a local centre store and as such should be considered as a out of town retail unit. Waitrose have threatened to pull out of developing the site. This is a business decision for Waitrose to make and not one which should influence the current planning application. If Waitrose were to pull out of the site there is no evidence to show that the local centre would not be built, the site could be taken on by another retailer or a smaller unit provided. As such officers remain supportive of the principle of the proposed Lidl food store on the application site subject to a condition restricting the operation of the food store to a discount operator on the basis that the impact is unlikely to be significantly adverse and as such can be supported in accordance with the NPPF, Core Strategy and SAMDev.
- 6.4 **Loss of community sports pitch**
- 6.4.1 Significant local objection has been received, including from Councillor Tandy, on the grounds that the application site is restricted by a legal agreement linked to the planning permission for the new stadium for the football club and also by a covenant. The restriction states that the land which is the subject of this planning application should be used as a community sports pitch. The Case Officer can confirm that there is a section 106 legal agreement attached to the consent for the football stadium securing such use.
- 6.4.2 Objectors have also noted that there was a previous request from the club to remove the requirement to provide the community pitch and that this was declined by the Council. This is also correct, in 2007 the club requested to be relieved from their obligation and offered to pay £350,000 in lieu of the community facility which was denied on the grounds that there was still evidence of a need for the community pitch to be provided.
- 6.4.3 Initially Lidl submitted a statement suggesting that the site has never been marked out as a sports pitch and never used for any sport or recreation purposes. It has been used for over-flow parking and the siting of a marquee during the Shrewsbury Town versus Chelsea match. Lidl, on the advice of the club, state that the club have allowed the community the use of the main pitch in the stadium. However, objectors have commented that the site has not been used as the club have not allowed its use and have denied interested clubs access to the site.
- 6.4.4 Notwithstanding whether it has or has not been used and whether the club have allowed its use or not it is officers opinion that the current situation is that the application site is

restricted by S106 to be used as a community pitch and as such the proposal for erection of a food store on this site would result in the loss of sports pitch. Both Sport England and Shropshire Playing Fields Association have objected and their comments are detailed in full under section 4 above. Both have quoted the relevant policy and the continued, and growing, requirement for open space.

- 6.4.5 The matter was therefore raised with Lidl and officers advised that without equivalent or better replacement facilities the application would not comply with the relevant policies and would be recommended for refusal. It is this matter that has resulted in the delay in the determination of the application as Lidl sought to overcome this objection and held further discussions with the club.
- 6.4.6 An alternative has now been proposed. The alternative is to relocate the community pitch onto the existing club training pitch which lies to the south of the stadium, adjacent to the Shrewsbury Town in the Community (hereafter STC) building. The pitch would be rented at a peppercorn rent to the STC to operate as a community pitch and therefore divorce it from the club. The applicant also notes that the STC are applying for funding to upgrade the pitch to a 4G pitch which would enable all year round use. The existing training pitch is accessible off the existing club car park, as noted above is adjacent to the STC building which has facilities and services and is well drained and maintained. STC already provide various sporting activities and it is the applicant's opinion that this proposal will provide improved facilities managed by a charitable organisation.
- 6.4.7 The football club have confirmed that the training pitch is no longer required by the club as training occurs off-site on land which is privately owned and was not operated as a sports pitch before being used by the football club. No comments have been received from either Sport England or the Shropshire Playing Fields Association to the alternative now proposed and as such it is officers recommendation that members balance the loss of one pitch with the provision of another and the benefits gained from the proposed food store/ It is officers opinion that the loss of the training pitch to provide the community pitch is not a net loss of sports facilities as the community pitch is retained and relocated and the training pitch is provided for off-site without loss of an existing pitch.
- 6.4.8 A deed of variation will be required by the football club to amend the previous S106 agreement to identify the new site of the community pitch and the training pitch. The work on this has commenced, along with a planning application to relocate the community pitch. However, until such time as the S106 is varied the owner of the application site is responsible for ensuring compliance with the current S106. As such if the football club sell the application site to Lidl before completing the deed of variation Lidl become liable for the provision of the community pitch and could not build a food store on the site until the deed of variation is completed. Once the deed is completed the club will be legally bound to provide the existing training pitch as the community pitch.
- 6.4.9 Objections have been received to the request for the deed of variation and to the application to amend the plans approving the position of the community pitch. These objections are dealt with in the report relating to those applications and officers consider that none of the objections raise significant or demonstrable impacts. The proposal will continue to provide a community pitch as required by the conditions and S106 on the original consent and as such there is no net loss of community sports facilities.
- 6.4.10 Local objectors have also commented that the proposed site, if no longer required for

community sports pitch, should be used for other leisure uses such as for a swimming pool or for additional car parking for the stadium. Although these comments are noted the application is as submitted and proposes a food store. The community pitch is still required and will be relocated. As such, providing the alternative sports pitch is provided, there is no policy requirement to resist the proposal or to provide either a swimming pool or additional car parking.

- 6.4.11 The other issue in relation to this matter is raised by Shrewsbury Playing Fields Association and local residents. The concern is that there is a growing need for sports provision both through the evidence submitted by STC the power league pitches adjacent and also as a result of the increase in housing development to be provided in the town. The growing need for sports provision is accepted and acknowledged by officers, however the need for open space and sports for new housing is dealt with through the plan-led policy process as required by paragraph 73 of the NPPF and furthermore each development is required to provide sufficient open space to accommodate the growth of the town as required by SAMDev policy MD2. The Football Club are only required to provide a community pitch and training pitch in the completed S106 agreement and the deed of variation proposed will provide for this. It would be unreasonable to require the Football Club to have to provide more than was originally required when they moved to this site.
- 6.5 **Layout, scale and design**
- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.5.2 Objections have been received commenting that the development will not be in keeping with the local area and will have a negative impact on visual amenity and landscape. However, support has also been received commenting that the site is in an area designated for development and that the proposal will not be obtrusive.
- 6.5.3 The proposed building is rectangular in shape and two storey in height with staff facilities at first floor above the sales floor, warehouse and customer facilities. The gross internal floor area is 2,267sqm. A mono-pitched roof is proposed over the store and a single storey flat roofed section is proposed over the delivery area. The layout of the site shows the building at the rear of the site, adjacent to the car park for the football club, with the store parking between the store and Oteley Road.
- 6.5.4 The existing access to the site is to be altered to enable delivery vehicles to turn around the mini roundabout and for clearer identification of the football club from the food store. The store service yard is on the western side of the building which will mean that delivery vehicles have to drive across the store car park. 142 parking spaces are proposed of which 9 are to be disabled and 8 are to be parent and child spaces. Cycle parking is also proposed.
- 6.5.5 The submitted Design and Access Statement details the proposed materials as grey and white cladding with large sections of the east elevation and the corner of the north elevation glazed. The agent considers that the materials will be simple but coherent. The

agent also suggests that the proposed elevations provide activity and interest with the store positioned at the rear of the site and the shop frontage facing towards Oteley Road with the car parking in between. An amended design submitted during the consideration of the application included the addition of a section of high level windows along the north elevation (facing over the car park and towards Oteley Road) which will add some interest to this elevation.

- 6.5.6 Sustainable and energy efficient measures are also proposed as part of the building with opportunities to use recycled materials, efficient lighting, WC's and taps, low energy refrigeration units and through sustainable surface water management and recycling of grey water. The application form also notes that waste is to be stored inside the store and will be taken away by delivery vehicles.
- 6.5.7 There is an existing bund with landscaping along Oteley Road and the access road to the football club. The proposal is to remove the bund and landscaping and to provide new landscaping between the car park and roads and between the store and the adjacent power league pitches. Cross section plans have been submitted which show that the ground level of the existing site will be raised less than 1 metre and also shows the removal of the bund. The cross section plan shows that the site will still be higher than Oteley Road, levelled across the site and then gently sloping down to Oteley Road. The new landscaping is to be planted on the slope.
- 6.5.8 The design of the proposed building is simple but fit for purpose. The internal use of the store restricts the opportunities for adding windows or detail to the external elevations without them being "stuck on". The design as amended provides functional features to the external elevations of the building and setting the building at the rear of the site will reduce the visual dominance of the building. The loss of the existing bund is unfortunate but is necessary to provide sufficient parking and the layout shows areas of landscaping between the car park and the road. The new planting will break up the views of the car parking and over time the wider area is to be developed which will also alter the character of the site and area.
- 6.5.9 Officers therefore consider that the amended scheme is appropriate and acceptable for the site and the wider area and will result in a scheme which is not visually intrusive or harmful to the character or amenity of the area and as such complies with the policies of the Core Strategy and SAMDev.

6.6 **Access, car parking and accessibility to town centre**

- 6.6.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced. It is acknowledged that as a food store catering for major food shopping trips many customers will travel by car; however the site should also provide the opportunity for other means of travel such as by public transport, bicycle or walking and, as an out of centre food store, provide opportunities for creating linked trips to the town centre.
- 6.6.2 The NPPF states that when considering out-of-centre locations for retail development "preference should be given to accessible sites that are well connected to the town

centre”. Therefore, in assessing the relative merits of the site it is also necessary to look at accessibility and connection to the town centre. This can include the potential for linked trips through a range of potential sustainable transport modes, not just by foot. The policy is not a simple presumption in favour of the site which is closest to the town centre or even to the most accessible site but enables local authorities to give weight to sites which are accessible and well connected.

- 6.6.3 There are three issues to be considered: the technical acceptability of the access and parking arrangements within the site; the capacity of the local highway network, junctions and traffic movements; and the accessibility of the site by means other than the private car. Concerns have also been raised by many objectors, including Shrewsbury Town Council and the Sutton Area Residents Association, about the impact on the traffic movements and car parking during football matches and this is accepted as a site specific issue which needs to be considered. The majority of the other related objections will be dealt with in this section; the objections include concern about the capacity of the existing access junction, additional traffic, congestion and pedestrian safety. Within the objection from Morbaine the accessibility of the site has also been questioned. However some local residents have also suggested that the proposed store will reduce the need to travel to the existing store on the north of the town and that this site will allow for shorter journeys and access on foot, that the access is good and that the food store operator can assist with management of the car parking on match days.
- 6.6.4 Access to site and parking. The application site is within the Shrewsbury development boundary, within the A5 bypass and also within the wider Sustainable Urban Extension (SUE). Access is existing and from a traffic light junction on Oteley Road, the B4380, which is currently subject to a 40mph at this point but controlled by the traffic lights. The access currently serves the football club and as such is an existing access with significant capacity which for the majority of the time is not well used. However, it is accepted that at times, especially during matches and events, this junction is well used and the impact of the proposed food store needs to take into account the existing situation both during a match/ event and at other times.
- 6.6.5 The proposal is to provide a fourth arm off the mini roundabout which is within the STFC site. This will result in the loss of 2 coach parking spaces, relocation of the existing pedestrian access, relocation of the STFC gates and provision of additional signage. Amended details were submitted during the consideration of the application which showed the servicing arrangements for the store including swept path analysis to show that HGV movements can be accommodated without having to overrun the car parking spaces. However, as discussed below, the applicant is also requesting out of hours deliveries to reduce the potential for conflict and this would be in line with the recommendation from the Council Highway Officer.
- 6.6.6 The Highway Officer also questioned the layout of the roundabout works and whether this would impact on the future access to the SUE. The agent has responded to this query and commented that the access proposals for the Lidl store would not affect the SUE proposed access arrangements as shown in the *‘Lands Improvement Oteley Road South Transport Assessment, September 2014’*. The comments of the Council Highway Officer on this issue are awaited and the recommendation to committee reflects this as an outstanding issue. However, it should also be noted that the road to the football club off Oteley Road is not currently an adopted highway, it will need to be adopted to enable the development of the SUE but the Highway Officer is not advising that the SUE could not be

developed and that a solution to her concern could not be found at that time.

- 6.6.7 As noted above the proposal includes 142 parking spaces within the site. 9 of these will be disabled spaces and there will also be cycle parking for customers and staff. Lidl will allow 90 minutes free parking which the agent considers is sufficient for the food store but also will minimise the risk of football supporter parking on site. Lidl have confirmed that they will employ parking attendants to restrict the use of the car park for customers only and to direct traffic and pedestrians using the car park/ crossing the car park.
- 6.6.8 The current planning policies do not include any parking standards. Parking has to be provided at a level which is appropriate for the development, however there are no set minimums or maximums. The previous Shrewsbury and Atcham Borough Council policies did include parking standards. For this form of development the parking requirement would be 1 space per 20sqm which would therefore require 123 spaces and as such the scheme proposes more spaces than would previously be required and as such a refusal on lack of parking would be difficult to sustain.
- 6.6.9 Highway network, junctions and traffic. A Traffic Assessment (TA) has been submitted with the application. The TA advises that database information has been used to predict potential traffic movements but also that the applicant's highway consultant's own experience is that many of the traffic movements associated with food stores is already on the network. Traffic counts of existing movements on Oteley Road and the access road to the stadium were carried out. The submitted assessment suggests that the existing access junction operates well within capacity with the highest demand on match days and the Council Highway Officer has agreed with this conclusion.
- 6.6.10 It is accepted that traffic increases on match days, especially in the peak times before and after a match, but it was noted that the match day traffic does not affect flow on Oteley Road. The applicant's consultant considers that the potential traffic from Lidl will not generate more movements than the traffic on match days and it is likely that food store traffic will reduce during the match day peak times as shoppers are likely to avoid these peak times. The agent has provided evidence from another store located near a football club which shows that the customer numbers reduce before the match. This is considered in detail later in the report.
- 6.6.11 Oteley Road is currently 40mph with a signal controlled junction serving the football club and application site. Crossing points are available to the junction and there are footways on both sides of the road. The TA notes the allocation of the urban extension, the outline consent and that it proposes a number of accesses both vehicular and pedestrian but the TA does not detail the proposed access through the STFC site. The TA also comments on accident data records noting that most accidents were recorded at the Meole Brace roundabout and that only 1 out of 17 accidents is logged as serious with all others being slight.
- 6.6.12 The Highway Officer has requested additional information and this has been received from the agent. Further comments from the Highway Officer have not yet been received but the case officer has spoken to the Highway Officer who has advised that she no longer has an objection to the proposal but will be recommending conditions. It is hoped that the updated response will be received by the committee date and that members can therefore be assured that the proposal will not adversely affect the highway network.

- 6.6.13 The application form advises that the store open hours are proposed to be Monday to Friday 7am to 10pm, Saturday 7am to 10pm and Sunday 10am to 5pm. Customer traffic will be limited to around these hours. The agent has requested 24 hour delivery times and this would mean that staff movements could be 24 hours a day. The agent has stated that there would be no more than 3 deliveries per day. The impact on amenities of this proposal is considered later in the report. However, it is considered to be beneficial to the customer traffic flow and football matches to have deliveries out of store opening hours and that the number of deliveries would not be noticeable on the highway network.
- 6.6.14 Accessibility. Within the submitted TA the agent details the nearest bus stop as 650m north west of the site on Hereford Road. The TA also notes that there are good footpaths in the local area and cycle lanes on Oteley Road and that cycle parking can be provided on site. A draft Travel Plan has also been provided and advises that a full working travel plan will be required once the store is open. The draft TP sets the aims to minimise single occupancy car trips and encourage the use of public transport, walking and cycling.
- 6.6.15 The existing fence, and the bund on which it sits, is intended to be removed to flatten the edge of the site so that the site is not enclosed by a bund or fence. This is mainly intended to open up the views of the site from Oteley Road however it will also create opportunities for pedestrian routes across the site from the footpath on Oteley Road to the food store and also across to the entrance to the football club. Cycle parking is proposed within the car park for customer use, staff cycle parking is within the building. It is likely that most customer movements would be by car but the improvements to pedestrian linkages are beneficial and Lidl are also offering a financial contribution towards the provision of a new bus stop closer to the application site to be paid to the Council on the opening of the store and to be spent by the Council once the bus service for the SUE has been defined and the route established. This would also improve accessibility of the store.
- 6.6.16 The plan also shows the repositioning of the pedestrian zebra crossing from across the entrance of the football club to being across the road into the site. The Highway Officer has raised concerns about this noting that the crossing would be across 4 lanes of traffic with no refuge and that it could cause traffic queuing, especially once the SUE has been developed. The agent has commented that the stewards employed to manage the car park could manage the crossing but this does not appear to respond to the issue. It is officers opinion that this crossing should be deleted from the scheme as there is formal crossing available at the traffic lights on Oteley Road which would be safer than a zebra crossing. This can be dealt with by an appropriately worded condition.
- 6.6.17 A draft Travel Plan (TP) has been written for the application. This acknowledges that the site is on the edge of the SUE which will provide a large scale, mixed use, development and also alter the character and use of Oteley Road including providing more crossing points and better cycle links. The TP notes that currently the nearest bus stop to the site is 650m northwest on Hereford Road, though this may be changed with the development of the SUE, and that the journey time to the town centre is approximately 15 minutes. The TP recommends the nomination of a Travel Plan Co-ordinator within the staff, encouraging staff car sharing and use of public transport through keeping notice boards up to date and newsletters.
- 6.6.18 The Highway Officer has provided detailed comment on the TP but has also accepted that this document is a draft and that a fully worked up TP will need to be provided by the applicant prior to the store opening for trade. This can be conditioned and the issues

raised by the Highway Officer dealt with as part of the revisions to the TP for the final version.

- 6.6.19 Impact on football club parking and traffic. Concern has been raised locally, and was also raised by Council Officers, that the food store traffic will conflict with match day traffic. The submitted TA comments that the STFC has capacity for 9,875 people on match days and that the parking is currently limited to 670 cars which is enforced by stewards. Planning consent has been granted to increase this to 1,000 cars. There is also space for 26 coaches and local highway parking restrictions enforced on match days.
- 6.6.20 On match days the traffic in the immediate area can be substantial and the football club also manage the vehicle movements on and off site. The concern of officers was that food store traffic would not want to be restricted by match day controls. The agent's response to this concern was that, in their opinion, the food store customers would learn to avoid the times in the run up to a match and at the end of a match. However, they have also agreed with the football club to employ attendants on match days to discourage supporter parking.
- 6.6.21 A plan and detailed proposal has been submitted which shows that the management of the Lidl store car park will work in conjunction with the management of the football club car park on match day. It is intended that additional stewards will be employed to deter pedestrians crossing the Lidl car park, prevent match day parking on Lidl car park and prevent customers/ delivery vehicles leaving the store until the pedestrians have left the match. The car park is proposed to be restricted to 90 minutes and this should also deter football fan parking .
- 6.6.22 The football club have also provided additional comments in support of the application and commented on the existing facilities available for supporters. The club comment that the town centre service and park and ride are not being used as frequently as previously and that the Shirehall park and ride is becoming the more frequently used site. The club are retaining the facilities but only for high profile matches. They are putting more resources into encouraging supporters to walk, cycle and use public transport by advertising bus timetables.
- 6.6.23 The assumption that Lidl customers will avoid match times does rely on customers firstly knowing when a match is due and secondly choosing to stay away at peak match times. However, officers note that the football club clearly advertise on Oteley Road the date and time of the next match and that customers are likely to stay away at peak times as a conscientious decision not to risk getting stuck in traffic with bags of shopping in the car. It is therefore considered by officers reasonable to assume that customer traffic will reduce at match traffic peak times and therefore that there is sufficient capacity on the road network for the food store and that the risk of impact on the football club parking is reduced.
- 6.6.24 Conclusion. Overall it is considered that, subject to the deletion of the zebra crossing, a satisfactory access can be provided to the development proposed and that sufficient parking, turning and manoeuvrability space is available within the site for both cars and delivery vehicles. The principle of car park management and a travel plan are recommended and the details of both of these matters would need to be submitted for written approval prior to the first opening of the store to ensure that the site is appropriately managed and does not adversely affect the highway network. Furthermore the site is considered to be in an appropriate location to promote sustainable means of

transport, especially for staff but also for some of the customer movements. As such officers consider that it is concluded that there are no highway grounds on which to refuse the application and it is considered to comply with the relevant parts of the NPPF and the local policies.

6.7 **Landscaping and ecology**

6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The application form submitted has answered 'no' to the question of any trees or hedges on the site or adjacent to the site that could influence the development or might be important as part of the local landscape character. This does not show an understanding or detail of the existing landscaped bund which borders two of the sides of the application site. The bund is planted with trees, a hedge and low level planting and the Council Tree Officer has raised concerns about the loss of the row of lime trees planted approximately 10 years ago and establishing well. These trees were replacements of trees which were TPO'd and therefore should be replaced or should be shown on the existing layout plan and considered as a valuable established feature worthy of retention and inclusion in the proposed landscaping scheme.

6.7.2 A proposed landscaping plan has been submitted showing new planting around the application site providing a mix of grassed area, low level shrubs and 36 new trees. The agent has advised that the existing Lime trees are to be removed as they would not survive the removal of the bund and the bund need to be removed to provide sufficient parking spaces and pedestrian access to Oteley Road. The Tree Officer has recommended that, rather than attempt to submit revised landscaping plans before a decision is made that a condition can be imposed to require the landscaping details to be submitted for approval prior to commencement of the development on site. The condition can include the requirement to replace the Lime trees to ensure that the feature is retained in the long term.

6.7.3 The Council Ecologist has recommended conditions and informatives. Additional survey work may be required to consider the impact on great crested newts which can also be dealt with by condition as the work could commence before February 2017. Furthermore the Council Ecologist has recommended that the landscaping be provided with native species. This could also be dealt with under the condition proposed by the Tree Officer. Overall it is considered that the development of the site can be undertaken without significant impact on ecology and that the impact on landscaping can be mitigated by condition to require a more appropriate, native, landscaping scheme and the replacement of the existing Lime trees. As such the proposal can comply with the requirements of CS17 of the Core Strategy.

6.8 **Impact on residential amenity**

6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. NPPF paragraph 109 also seeks to ensure existing development is not put at risk of unacceptable noise or pollution whilst paragraph 123 recognises that development will often create some noise but seeks to avoid significant adverse impacts on health and quality of life.

6.8.2 A Statement of Community Involvement was submitted with the application which details

the community consultation that the applicant undertook prior to submitting the application. The SCI notes that the feedback was mainly in favour of the proposal on the basis that it was for a discount food store on the south side of the town and would provide competition to other stores. However, concerns were raised about match day traffic, store traffic, access, the loss of the community sports pitch and impact on other food stores.

- 6.8.3 Objections to the current application have raised the same issues and the main concern of local residents relates to traffic and pedestrian safety. These matters have been considered in section 6.6 above. No objections have been received on matters of noise, privacy or light. Councillor Tandy has questioned what the proposed store opening hours are but has not raised any objection to the proposed hours.
- 6.8.4 The application form advises that the store open hours are proposed to be Monday to Friday 7am to 10pm, Saturday 7am to 10pm and Sunday 10am to 5pm. The latest information regarding car park management requests that deliveries to the store are permitted to be carried out outside of store opening hours. This will mean that deliveries are between 10pm and 7am. Officers have noted that the consent for Percy Throwers/ Waitrose includes a condition preventing deliveries during these hours and as such the Lidl proposal would be different to the Waitrose consent. However, the outline consent for the SUE advises that deliveries to the employment land, to the south of the proposed Lidl store, should use the access serving the football club between 10pm and 7am.
- 6.8.5 Therefore the SUE consent permits delivery vehicles to use the access which would be used by Lidl over night. The nearest neighbouring resident to the proposed Lidl store is Rallywood on Oteley Road which is over 100m from the proposed site and on the same side of Oteley Road. There are no residential properties directly opposite the Lidl store entrance. Waitrose site is closer to the nearest residential dwelling, the new dwellings being constructed opposite, and Waitrose is also accessed off a junction which is directly opposite housing development. As such officers consider that the sites and potential impacts are not the same and that the distance from the Lidl store to the nearest neighbour is considered to be sufficient to ensure that there is no impact from the proposed use on this dwelling or any other dwelling in the wider area. This presumably was the same conclusion reached in proposing the condition on the SUE consent.
- 6.8.6 In conclusion it is officers opinion that the development of the site as proposed will not result in a significant adverse impact on the amenities of the neighbouring residents or the residents of the wider area and therefore complies with the relevant parts of Core Strategy policy CS6.
- 6.9 **Flooding, drainage and contamination**
- 6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Policy CS6 'Sustainable Design and Development Principles' also requires all developments to consider ground conditions including potential contamination.
- 6.9.2 A Flood Risk Assessment (FRA) has been carried out and submitted with the application. The FRA notes that the site is in flood zone 1, the lowest probability of flooding and sequentially preferable zone to build in. However, the FRA also accepts that the proposed development of the site will significantly increase the impermeable area as the site will go from grassed recreation land to hard standing and building. The FRA notes that the site is

currently 10% impermeable and post development it will be 70% impermeable. The proposal is for surface water to be dealt with by sustainable urban drainage (SUDs) with attenuation to ensure that the run off does not exceed the existing rate of run off and therefore does not increase flood risk.

- 6.9.3 Foul drainage from the proposed development is indicated to be sent to the existing mains drainage system in the area. Severn Trent Water have confirmed to the applicant that there is capacity to accommodate the flow from this development.
- 6.9.4 The Council Drainage Engineer has confirmed that the surface water drainage strategy in the flood risk assessment is technically acceptable and has recommended that the drainage details be conditioned so that the full details are submitted for approval by the Engineer before work commences on site.
- 6.9.5 A contamination report has been submitted with the application which concludes that there is no contaminate or asbestos but that the site would need further gas monitoring during the construction of the proposed store. Gas monitoring was also undertaken and a report submitted which advises that ground gas precautions will be required within any proposed construction at the site. The Council Public Protection Officer has advised that the report is acceptable and that if this application is approved they recommend a condition.

6.10 **Other matters**

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

7.0 **CONCLUSION**

- 7.1 The proposed development has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of a food store on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable sites.
- 7.2 Furthermore it is considered that the layout, scale and design of the site, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; that the development will not have an unacceptable detrimental impact on the amenities of the neighbouring properties, ecology, flood risk or drainage.
- 7.3 Accordingly the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the

proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

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<u>Committee and date</u>
Central Planning Committee
13 April 2017

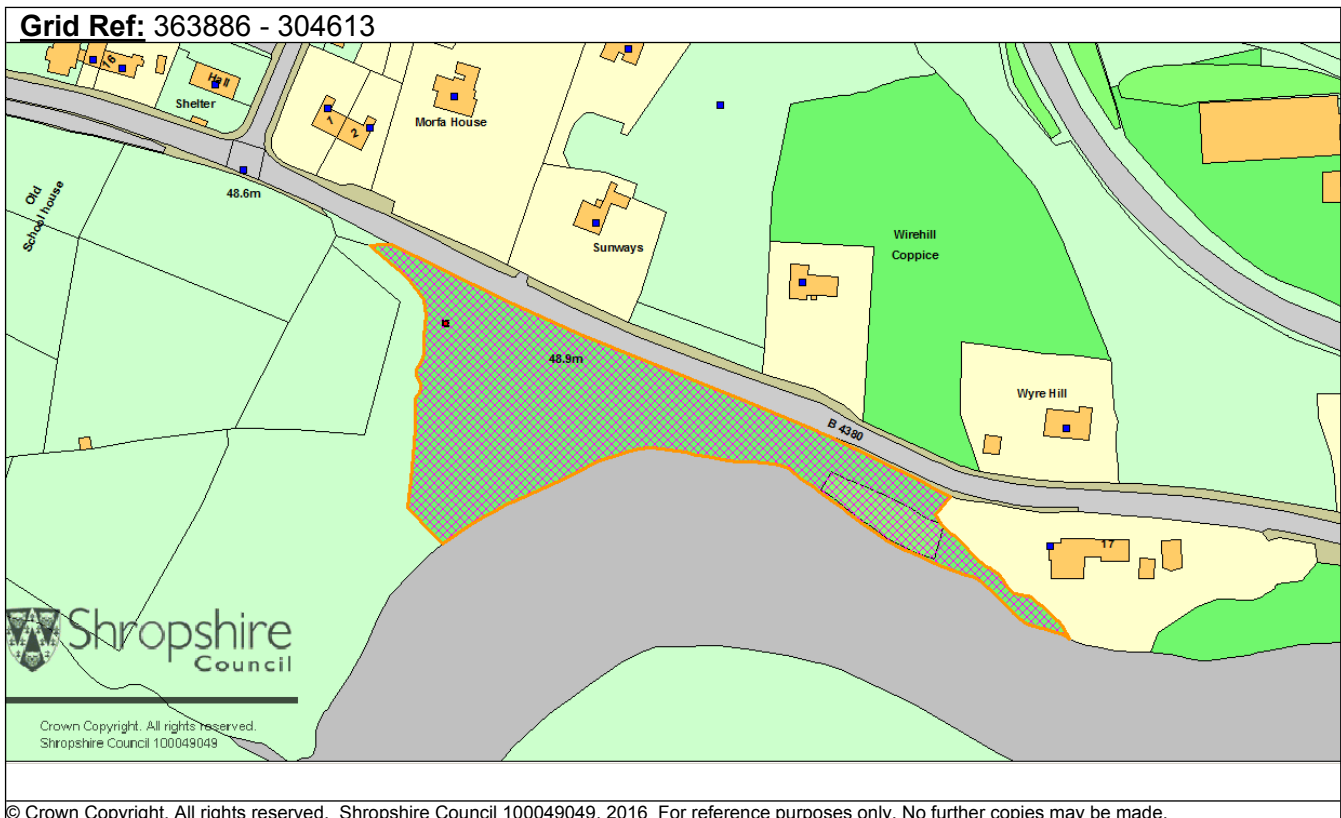
<u>Item</u>
8
Public

Development Management Report

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

Summary of Application

Application Number: 16/05379/FUL	Parish:	Buildwas
Proposal: Erection of detached building to provide two separate cabins of accommodation for overnight use by fishermen		
Site Address: Proposed Fishermans Cabin Buildwas Shropshire		
Applicant: Mr Roy Hill		
Case Officer: Mandy Starr	email: planningdmsw@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 This proposal to erect a detached building to provide 2 No separate semi-detached cabins of holiday let accommodation for overnight use by fishermen in association with the existing use of this 1.30ha land with the existing 5 No fishing pegs at Buildwas Glebe following the removal of two metal sheds on steeply sloping land to the south of Buildwas Road that faces onto the River Severn. This is a re-submission of 12/05157/FUL.
- 1.2 The building would be of block construction with a green flat roof and timber elevations and would be on stilts above the sloping ground. The units would be semi-detached and provide a single bedroom with two beds, a shower room and a kitchen/living area with bi-folding doors opening out onto a veranda overlooking the River Severn to serve as fishermen's bunkhouses. Inside each porch would be a storage area for fishing equipment. Foul sewage treatment would be to a package treatment plant and surface water drainage would flow into the River Severn.
- 1.3 Access to the block would be via the existing vehicular access on the south side of Buildwas Road where the existing metal and wire gates are, but these would be re-sited 5m into the site to allow for sufficient room for a car to stand clear of the highway and allow vehicles to exit the site in a forward gear. Two parking spaces will be provided adjacent to the cabins allowing for 2 No more to be parked in the highway layby to the west of the site that is currently used by fishermen. The floor arrangement of the cabin have been designed with accessible thresholds, entrance doors and internal circulation widths suitable for wheel chair user.
- 1.4 The applicant submitted a Pre-application enquiry in 2011. The Council took the view that the proposal would be acceptable in principle as the proposed cabins would be appropriate to their location due to their small scale, they would not be prominent within the landscape due to their size and siting and proposed materials would be sympathetic to the surrounding environment, and such a scheme would promote opportunities for accessing and engaging with Shropshire's landscape. The scheme would also demonstrate that it is intended to utilise and enrich, rather than harm the character of the countryside and is suitably placed adjacent to an existing settlement.
- 1.5 In 2012, the applicant submitted a full planning application under 12/05157/FUL for this development and was approved on 20th June 2013 by Planning Committee. However due to personal circumstances, the applicant was not able to implement the scheme and so that permission lapsed. This application is identical to the previous planning permission.
- 1.6 The application includes a detailed Phase 1 Environmental Survey by Greenscape Environmental Ltd dated October 2016. The application site is an area of mixed woodland which is predominantly ash and oak with typical undergrowth and an invasive species (Himalayan Balsam (*Impatiens glandilifolia*)). The Survey states that the development involves the removal of two small metal sheds further into the site and the erection of a timber cabin in the north-west corner of the site. None of the metal sheds show any signs of being used by bats and none of the trees on the

site that would have the potential for bat roosts would be removed. The land where the timber cabins would be sited has been used for quarrying in the past with subsequent dumping of road planings. The Surveyor considers that the proposed development would not affect the conservation status of the protected species.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within the Shropshire Hills Area of Outstanding Natural Beauty adjacent to the settlement of Buildwas and is positioned between the banks of the River Severn where it curves round to the north side of the extended floodplain and the B4380 above to the north. The area is also a SSSI designated for its geological value due to containing highly fossiliferous rocks from the Silurian age. The SSSI has a roughly rectangular shape along the river bank, but the site where the cabin itself would be sited is just outside the designated area being in the north west corner of the site.
- 2.2 The site itself is mainly covered in a thick canopy of semi-mature and mature trees and is generally quite steep near the northern half of the site with the ground steeply curving round to the east and then the ground levels out to form part of the functional flood plain below. It has a depth of some 77m and is some 90m wide along the roadside. There is an existing gated access into the site directly from the B4380 just in front of the 30mph sign. The road side boundary is post and wire netting with some shrubs and small trees in the vicinity, so during the winter months there is clear access into the site from the road.
- 2.3 At least half of the application site is within Flood Zone 3 being land liable to flood from the River Severn and detailed drawings have been submitted indicating where the highest river level locations are in relation to the site of the proposed cabins.
- 2.4 There is a property to the north of the application site, known as Morfa House, on the other side of the road that has its existing sewage/septic tank arrangements actually within the application site. A revised drawing: New Fishing Units Drainage O1 was submitted on 14th March 2017 shows the approximate location of the drainage pipe and septic tank from the property that would appear to be sited in the SSSI itself to the south of the location of the new cabin. This sewage pipe is sited below the proposed site for the cabins and the occupiers of Morfa House have rights to access this land for maintenance and access.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Application was requested to be referred by the Local Member to the relevant Planning Committee following the objection of the scheme by the Parish Council on 7th March 2017 and was agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reason.

4.0 Community Representations

- Consultee Comments

4.1 SC Affordable Housing

No affordable housing contributions required in this instance

4.2 County Archaeologist

The proposed development site is located c.60m north, and within the setting, of the Scheduled Monument of Buildwas Abbey (NHLE ref. 1015813).

The proposed development site itself has been occupied by woodland since at least the late 19th century and much of it is on a significant gradient. There is currently no known archaeological interest record on the Historic Environment Record on the site itself. Given the above factors, the potential for currently unrecorded archaeological features or deposits to be present is also considered to be low negligible.

4.3 SC Public Protection

Having considered the application I have no objections and no conditions to recommend.

4.4 County Highways

No objection – subject to the development being constructed in accordance with the approved details and the following conditions and informatives. Details are discussed in Other Matters section below.

4.5 SC Ecology

An updated Phase 1 Environmental Appraisal was carried out on this site in October 2016 by Greenscape Environmental. Details are discussed in Other Matters section below. Recommend conditions and informatives

4.6 SC Trees

I have read the submitted plans which are a renewal of a lapsed approval. Trees were not consulted on the original application but having read that as well I am satisfied that although the site is well treed there will be no loss of amenity from the proposal. Recommend condition

4.7 SuDS

(Original comments 5th December 2016)

The following Flood Risk Statement should be submitted for approval prior to the determination of the planning permission.

The proposed dwelling slightly encroaches into Flood Zone 2 and 3.

As the development is for a single dwelling, a simple Flood Risk Assessment Statement should be submitted for approval:

Alternatively, locate the new dwelling outside the Flood Zone. The Flood Zone should be plotted on the Drainage Plan.

(Revised comments 20 February 2017)

Asked for same information but attached conditions if scheme were acceptable

(Further Revised comments following submission of detailed drainage plan 2nd March 2017)

On the Amended Site Plan, flood resilience measures have been included.

Recommend conditions and informatives. Details are discussed in Other Matters section below.

4.8 **Shropshire Hills AONB Partnership**

The Shropshire Hills AONB Partnership notes that this application affects the nationally designated area and, as such, the Planning Authority has a statutory duty to take the AONB designation into account in determining it.

Particularly important in this respect are national policies which give the highest levels of protection to AONBs, including NPPF para 14 footnote 9; para 115; and, in the case of major development, para 116. In addition to other local planning considerations, the application clearly also needs to conform with Shropshire Council Core Strategy policies CS 5, 6, 16 and 17 and SAMDev policies MD 2, 7, 8, 11, 12 and 13 that make specific reference to the Shropshire Hills AONB.

The statutory Shropshire Hills AONB Management Plan 2014-2019

(<http://www.shropshirehillsaonb.co.uk/a-special-place/management-plan/>) formally approved and adopted by Shropshire Council contains further Council policies that are material planning considerations which the Core Strategy requires should be given due weight. As a non-statutory consultee, the Partnership is not resourced to respond to all planning applications affecting the Shropshire Hills AONB, and has not in making this response studied the detail of this application. The AONB Partnership may choose to make further comments on this application, but if not, the absence of detailed consideration and comments by the Partnership should NOT be interpreted as suggesting that this application raises no issues regarding the

AONB designation. This remains a matter for the Council to take fully into consideration, fulfilling its statutory duty in respect of the AONB, in reaching a decision on the application.

4.9 **Natural England**

No objection – no conditions requested

This application is in close proximity to Buildwas River Section Site of Special Scientific Interest (SSSI). 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. Should the details of this application change, Natural England draws your attention to Section 28(1) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

4.10 **Historic England**

The proposal is for two cabins on the north bank of the River Severn opposite Buildwas Abbey, the site of a medieval Cistercian Abbey. The Abbey's economy made full use of the river with diverted watercourses to service drains for kitchens and reredorters, and for fishponds and industrial activities. Many of these activities are represented by earthworks, some slight, in the wider Abbey area, on both sides of the river. It is not, therefore, appropriate to develop alongside the riverbanks in this area as this would unduly affect the significance of the Abbey and ability to understand the importance of the river to the medieval economy and why the Abbey was located at this site. This application, however, is set back from the river bank and is screened from the Abbey side of the river by undergrowth. We therefore have no objection to the proposed cabins, subject to the design being small scale and having a low visual impact in the wider area.

4.11 **Environment Agency**

No response to initial consultation on 30th November 2016
Second consultation sent 22nd March 2017 – awaiting response

4.12 - Public Comments

Buildwas Parish Council: The initial impression is that the scheme is an over elaborate one for the needs of fishermen who have hitherto been satisfied with overnight bivouacs or in one case in thirty-something years, a campervan.

The proposed development is substantial in terms of accommodation and provides the amenities of a permanent residential dwelling. The Parish Council are wary from experience of proposed holiday-type lets within the parish which later secure a quickly granted retrospective change of use and become a home.

It is worrying, for instance, that the accompanying paperwork alludes to possible 'other' uses outside of the fishing season, especially as the fishing rights along the River Severn within the Parish are contingent ones and not necessarily secure.

These cabins should not be erected within this northern extension of the Shropshire Hills Area of Outstanding Natural Beauty, particularly as they would establish an unwanted precedent for development to the south of the B4380 on the northern bank of the River Severn. They would also be visible from the grounds of, and the land surrounding, the English Heritage site of Buildwas Abbey.

The cabins are also planned upon ground, two thirds of which, regularly floods; twice so far this month, for example. It is no accident that the Environment Agency's measuring station for flood monitoring is located at the western extremity of this site.

The septic tank and soakaways would all be located in the part of the site vulnerable to regular flooding. Furthermore, the proposed location of the cabins appear to impact upon the existing sewage / septic tank arrangements for the Old Vicarage (Morfa House, the neighbour consultee).

The principle of this development has already been granted in 2013 when 12/05157/FUL was considered at the Central Planning Committee on 20th June 2013 subject to conditions.

4.13 The application was advertised by way of a site notice displayed on the north side of the road opposite the application site and 7 local residents were notified of the scheme.

No representations have been received

5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design of structure
- Visual Impact from Buildwas
- Visual Impact on the setting of the Shropshire Hills AONB

- Visual Impact on the setting of Buildwas Abbey Scheduled Ancient Monument
- Other Matters: Flooding, Drainage, Access & Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The site is located outside of a development boundary and so is situated in the open countryside where Policies CS5, CS6, CS16 and CS17 of the Core Strategy and Policies MD2, MD7, MD11, MD12 and MD13 of the SAMDev apply and control the provision of new holiday let accommodation.
- 6.1.2 Adopted Core Strategy
CS5 Countryside And Green Belt. This states that new development will be strictly controlled in the countryside in accordance with National Planning Policies. Development proposals in appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve sustainability of rural communities by bringing economic and community benefits. Amongst the types of development listed in this policy as being appropriate rural developments are:
- Small scale new economic development diversifying the rural economy and
 - Sustainable rural tourism and leisure and recreation proposals which require a countryside location.
- 6.1.3 CS6 Sustainable Design And Development Principles. This policy deals with sustainable design and development principles states that development should conserve and enhance the built, natural and historic environment and be of an appropriate scale and design taking into account local character and context. It also needs to take into account the health and wellbeing of communities including safeguarding residential and local amenity and that development is designed to a high quality consistent with good practice standards including appropriate landscaping and taking account of site characteristics and ground contamination.
- 6.1.4 CS16 Tourism, Culture And Leisure. This supports development that delivers high quality sustainable rural tourism and cultural and leisure development which enhances the vital role that these sectors play in the local economy, benefits local communities and visitors and is sensitive to Shropshire's intrinsic natural and built environment qualities. Emphasis shall be placed on specific types of development which includes development of high quality visitor accommodation in accessible locations served by a range of services and facilities and which enhances the role of Shropshire as a tourist destination to stay. In rural areas, proposals must be of an appropriate scale and character for their surroundings, be close to or within settlements or an established and viable tourism enterprise where accommodation is required.
- 6.1.5 CS17 which deals with Environmental Networks is also concerned with design in relation to the environment and places the context of a site at the forefront of consideration so that any development should protect and enhance the diversity, high quality and local character of Shropshire's built, natural and historic environment and it does not adversely affect the values and function of these

assets.

- 6.1.6 CS18 Sustainable Water Management requires that developments will need to integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on the water quality and quantity including ground water resources and to provide opportunities to enhance biodiversity by ensuring that all developments include appropriate sustainable drainage systems (SUDS) to manage surface water so that all development should aim to achieve a reduction in the existing runoff rate, but must not result in any increase in runoff rate.
- 6.1.7 Shropshire Sites Allocations and Management of Development (SAMDev) Plan MD2 Sustainable Development. This requires that for a development to be considered acceptable it must achieve local aspirations for design in terms of visual appearance and how a place functions as set out in local community led plans and it must also contribute to and respect local distinctive or valued character and existing amenity value by a number of specific criteria such as responding to the form and layout of the existing development and the way it functions including building heights, lines, scale etc. It must also reflect local characteristic architectural design and details. There is also a requirement to consider the design of the landscaping which responds to the local character and context of the site.
- 6.1.8 MD7a Managing Housing Development in the Countryside.
Holiday lets are essentially residential properties in the countryside which are limited in the extent of their occupation by conditions attached to the planning permission. They encompass a wide range of building types, from chalets to barn conversions, and may have been supported, as dwelling units in the countryside, on the basis of their contribution to economic sustainability, in particular the local tourism base. The policy sets out the criteria that will be taken into consideration when applications are received to use holiday properties as permanent dwellings. It seeks to limit potential full time occupation to appropriately located, permanent dwellings meeting relevant building regulations and other housing standards.
- 6.1.9 MD11 deals with Tourism facilities and visitor accommodation. Proposals that require a countryside location will be permitted where the proposal compliments the character and qualities of the sites immediate surroundings and meets the requirements set out in Policies CS5, CS16, MD7, MD12, MD13 and other relevant local and national guidelines. All proposals need to be well-screened and sited to mitigate the impact on the visual quality of the area through the use of natural on-site features, site layout and design and landscaping and planting schemes where appropriate. Proposals which are within and adjoining the Shropshire Hills Area of Outstanding Natural Beauty will need to pay particular regard to landscape impact and mitigation.
- 6.1.10 MD12 deals with the Natural Environment which in connection with other associated policies seeks through applying guidance, the conservation, enhancement and restoration of the county's natural assets which will be achieved by ensuring that the social and economic benefits of the development can be demonstrated to clearly outweigh the harm to the natural assets where proposals are likely to have an unavoidable significant adverse effect, directly or indirectly or cumulatively on any of the following: locally designated biodiversity sites; priority

species and habitats; woodlands, trees and hedges and landscape character and local distinctiveness. In these circumstances a hierarchy of mitigation then compensation measures will be sought. There is also a need to encourage development which appropriately conserves, enhances, connects, restores or recreates natural assets particularly where this improves the extent or value of these assets are recognised as being in poor condition. Finally there is a need to support proposals which contribute positively to special characteristics such as adjacent high priority biodiversity areas.

- 6.1.11 MD13 deals with the historic environment. This requires that all of the County's historic assets should be conserved, sympathetically enhanced and restored by considering their significance in terms of a heritage asset as well as ensuring that the social or economic benefits of the development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset or its setting taking into account the degree of harm. There is also a need to encourage development which delivers positive benefits as set out in the community led plans.
- 6.1.12 Supplementary Planning Documents
Type and Affordability of Housing Supplementary Planning Document & Much Wenlock Place Plan
- The provision and maintenance of facilities and equipment for sport, recreation and leisure is a Priority for Buildwas as part of the Social and Community Infrastructure requirements
- 6.1.13 It is noted that the Parish Council objections are similar to the one that was submitted for the last scheme where they make the point that the development site is outside of the Parish Plan's preferred options sites under SAMDev.
- 6.1.14 The site is located adjacent to the settlement of Buildwas and with its vehicular access onto the B4380 is in an accessible location that links via the main road network to Shrewsbury, Telford and Much Wenlock and the village is supported by several different bus routes. It is therefore considered to meet the locational criteria for new tourist accommodation as set out in Policy CS16. Also as Buildwas is halfway between Shrewsbury and Ironbridge, the site provides easy access to the countryside and the nearby heritage assets and museums in both these towns. The site is within walking distance of Buildwas Abbey Scheduled Ancient Monument, the River Severn and is close to the Ironbridge Gorge World Heritage Site. It is also close to Much Wenlock and its historic Priory remains and to the Roman town at Wroxeter. There are walking opportunities in the Ironbridge Gorge and on Wenlock Edge.
- 6.1.15 The site is therefore considered to be in principle an appropriate location for new tourist accommodation being located adjacent to the settlement of Buildwas in easy reach of both a range of visitor attractions and the attributes of the surrounding AONB countryside. It is considered that the concern about the preferred option site in the SAMDev has been overcome by the appropriateness of the location for this proposal.
- 6.1.16 In this instance, it is considered that the proposed erection of a pair of semi-detached holiday cabins in support of an existing fishing enterprise would provide

an activity that requires a countryside location, it would also be appropriate as a small-scale new economic development which would demonstrate that it would result in diversification in the rural economy without any adverse impact on the visual or ecological values or functions of the rural assets present; their immediate surroundings or connecting corridors. The proposed development would therefore be in compliance with the Council's policies.

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

6.2.1 The proposed position of the double cabin would be the north west corner of the site which is currently a steep slope leading to the flood plain. There are several metal sheds in the vicinity of the site, but these are lower down the slope and would be removed as part of this scheme. The block would be partially sited on the ground surface itself and partly on supports but would be viewed as being level from the road. This position has been carefully chosen so as to be above the highest recorded flood level (from 1947) which was 2.84m higher than the January 2013 flood level. It is also outside of the SSSI designated area too. Therefore as a result of these topographical and geological constraints, there is only a very limited area where development would be acceptable along this stretch of the River Severn.

6.2.2 Details in the Design and Access Statement indicate that the dimensions of the proposed block would be 20.8m wide by 6m deep that would give a building of 124m², that floor area divided into two would give a floor area of some 62m² per cabin. The basic accommodation of an open plan living area and kitchen with a single two- bedded bedroom plus shower room off the bedroom clearly demonstrates that they are intended for a basic holiday let or a fisherman's bunkhouse. Indeed the limited bed space accommodation and lack of any bedroom windows would make such accommodation unlikely to be suited to the requirements of long-term residential occupation, nor would the removal of inner dividing wall result in more suitable accommodation typical of a single dwellinghouse either. As for the overall scale of the building, this is considered to be appropriate to the site being single storey in nature and with a minimal footprint that is similar to the small area of land around it.

6.2.3 The external appearance of the block is simple, clean and functional giving the appearance of a modern log cabin, but without the physical mass and more common domestic appearance of some types of traditional structures. The primary material is horizontal boarding with a turf flat roof. Such a design would be sympathetic to the partially wooded site and only the south elevations of the units would have large areas of glazing. 2No small secondary lights are also provided for the living area.

6.3 **Visual impact from Buildwas**

6.3.1 Although the application site is adjacent to the B4380, apart from the vehicular entrance and the top of the access track itself, much of the land is sited well below street view as the site drops away quite steeply. Indeed there is a drop in levels of some 10m from the road level to the river across the site.

6.3.2 Currently there is a post and wire chain link fence with some shrubs along the road side boundary, but it is intended to plant a new hedgerow here. This would help to

screen the site from the road and from pedestrians as it should also be noted that there is no footway on this side of the road; that is on the other side of the road. Furthermore the cabin would be sited 1.5m below the road level and sideways views of the cabin would also be obscured by the well treed aspect of the site from surrounding views.

6.4 **Visual Impact on the setting of the Shropshire Hills AONB**

6.4.1 There is also a need to consider the visual impact on the Shropshire Hills Area of Outstanding Beauty. There is a requirement to ensure that development should identify, protect, enhance, expand and connect to the County's environmental assets. Within the Shropshire Hills AONB, there is a requirement that development should contribute to local distinctiveness having regard to the quality of the environment. The design of this double cabin is quite simple using traditional materials that can be conditioned and it would be clearly sited below the road level. In the winter, the cabin may be more easily seen from the south from the floodplain and wider views, but it is likely that much of the time, there would only be fleeting glimpses of the development and it would allow for the current old metal sheds to be removed from the site altogether.

6.5 **Visual impact on the setting of the Special Site of Scientific Interest**

6.5.1 Much of the application site is within a Geological SSSI that is known as the Buildwas River Section Site of Scientific Interest (SSSI). The rock types here are Silurian in age forming part of the Buildwas Formation whose exposures span the boundary between the Llandovery and Wenlock Series which are two of the major divisions of the Silurian age. The beds here are highly fossiliferous.

6.5.2 The comments of Natural England (NE) are noted as the application is in close proximity to this SSSI. Nevertheless Natural England are satisfied that provided that the proposed development would be carried out in strict accordance with the details of the application, as submitted, they consider that the development would not damage or destroy the interest features for which the site has been notified. As such NE advises that the proximity of the SSSI does not represent a constraint in determining this application.

6.6 **Visual Impact on the setting of Buildwas Abbey Scheduled Ancient Monument**

6.6.1 The application site is sited c 60m north of the Scheduled Monument of Buildwas Abbey and is therefore within its setting. The site has been occupied by woodland since the late nineteenth century with much of it on a steep gradient

6.6.2 In their consultation response of 22 December 2016, Historic England state that in the medieval period the Cistercian house at Buildwas made extensive use of the river and that the associated activities are now represented by earthwork remains, some quite slight, on both sides of the river.

6.6.3 As a consequence, they state that development would not be appropriate on either riverbank at this location, since it would unduly affect the significance of the Abbey and the ability to understand the importance of the medieval economy and why the Abbey was located at this site.

- 6.6.4 However, they acknowledge that the proposed cabins would be set back from the riverbank and screened from the Scheduled Monument by existing vegetation. As such, they raise no objection to the proposed development, subject to them being small scale and having a low visual impact
- 6.6.5 The Council's Archaeologist agrees with Historic England's conclusions with respect to the effects on the setting of the Scheduled Monument, and it is therefore confirmed that there is no objection to the development. However, to prevent the urbanising effect that the subsequent incremental erection of storage sheds or other minor structures encroaching towards the riverbank might have, there would be a need to remove permitted development rights.
- 6.6.6 Under Section 12 of the NPPF, there is a requirement to assess whether the impact of the proposed development would affect the significance of the designated heritage asset of the Scheduled Ancient Monument of Buildwas Abbey. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting as is the case here. As heritage assets are irreplaceable, any harm to the setting should require clear and convincing justification. Substantial harm to the setting and also loss of designated heritage assets like Buildwas Abbey and its environs would need to be wholly exceptional.
- 6.6.7 It is clear from the Archaeological record that earthwork remains on both sides of the river are associated with Buildwas Abbey. However the actual site for the new cabin structure would be towards the top of the site near the Buildwas Road which is where there was evidence of quarrying and more recent dumping of road planings. It is considered that provided that the existing tree cover is retained and the building is constructed in accordance with the submitted drawings, that there would be less than substantial harm to the acknowledged significance of this important scheduled ancient monument.
- 6.6.8 There is also a requirement to weigh up the public benefits of the proposal including securing its optimum viable use. Firstly the removal of the two sheds as part of this scheme would be of clear public benefit to this part of the site. Secondly, the erection of a simple timber clad flat roofed structure near the north west corner of the site for purpose-built fisherman's accommodation for up to four people that would be well screened from the river and scheduled ancient monument beyond is considered to be compliant with the requirements in paragraph 134 of the NPPF.
- 6.7 **Other Matters:**
Flooding and Drainage Issues
- 6.7.1 As much of the application site is within Flood Zone 3, there is a requirement to provide detailed Flood Resistance Measures including reference to where the highest flood level is on the site in relation to the proposed cabin platform. The revised drawing – New Fishing Units Drainage/01 Rev A submitted on 14th March 2017 lists out the Flood Resistance Measures proposed. These include:
- The use of flood resistant external doors;
 - Non-return valves to be provided to all ground floor discharge points from toilets, sinks and white goods;

- All inlets to be sealed below the anticipated flood water level;
- Doors and windows to be manufactured from synthetic materials
- Specialist hinges to allow for the easy removal of door
- Skirting boards to be of flood resilient material
- Water resistant plaster board to be used
- Electrics to be raised in height.

6.7.2 In addition, a new driveway from the highway to the cabin platform would be constructed from a permeable stone surface to reduce rainwater run-off. This would link into the existing sloped access that leads down to the floodplain that would left as existing.

6.7.3 The proposed cabin building would also have 2No storm water butts with overflow to proposed soakaways at a minimum of more than 5m from any boundaries. These would restrict the surface water run-off to 5 litres per second per hectare. In addition 4No new soakaways are proposed to be sited to the south of the proposed cabin platform with one extending down to just below the northern boundary of the SSSI designated area. In addition a Marley Surface Water attenuation system for the storage of surface water would be sited between the siting of the two metal sheds to be removed.

6.7.4 The SuDS team originally objected to the scheme due to lack of Flood Risk Assessment. This was submitted along with the Flood Resilient Measures listed above. This is now considered acceptable subject to standard drainage conditions.

Foul Drainage

6.7.5 The application drawings indicate that a new Tricel septic tank would be installed on the site to handle the sewage from the cabin. This is shown on Drawing Drainage/01 Rev A (received 16th February 2017) as being sited just to the north of the SSSI boundary, nearby the location of the second shed.

6.7.6 However there is a further issue that has been raised by the Parish Council, that of the third party sewage pipe and septic tank for Morfa House already within the application site. It would appear that this foul drainage system has been in situ for many decades and following discussions with the agent, the location of the sewer pipe is now shown on a revised surface water drainage plan received on 14 March – Drainage 01/Rev A. This shows the location of the pipeline from Morfa House, under the B4380 apparently terminating 00.00m OD within 7m of the proposed cabin platform.

6.7.7 Normally it would not be acceptable to build over a third party sewer pipe run, but the proposed cabin would have a finished floor level of 101.750m which is would be 1.75m higher than the location of the manhole and the pipe entry would be below this. Concern is raised that the proposed fisherman's cabin would be built over the top of this pipe run, but due to the ground levels dropping away to the west, the cabin would be raised off the ground here. The finished floor level of platform supporting the cabins would be 101.750m and it would be constructed on stilts.

6.7.8 The Case Officer has re-consulted with Gavin Wong from the Suds Team and the Environment Agency regarding concerns relating to the third party sewer run that

would be sited below the proposed siting of the platform for the fisherman's cabin. Their comments are still awaited.

- 6.7.9 The Council's drainage engineer has not objected to the installation of a septic tank and has recommended that a further condition be imposed seeking full details and sizing of the septic tank including percolation tests along with the submission of Foul Drainage Assessment Form (FDA1 Form)

Highways

- 6.7.10 The proposed development is for residential overnight accommodation for fisherman in connection with the permitted use of the site. The proposed access to serve the new units is located on the southern side of Buildwas Road, B4380 just within the 30 mph speed limit.
- 6.7.11 The application site has been the subject of an earlier pre planning application PREAPP/11/01543 and full application 12/05157/FUL. The current application is a resubmission of that full application. The earlier pre planning enquiry was of a different context to the subsequent proposal which had previously proposed that there was no vehicular access to the site as fishermen would be using the nearby unofficial layby just to the west of the application site.
- 6.7.12 When 12/05157/FUL was considered in 2013, the Highway Authority noted that the vehicular access would be via the existing pedestrian gateway on the carriageway edge and this would be proposed to be moved back into the site by 5m. Concerns were raised that visibility for an emerging driver may not be sufficient for them to see approaching traffic before the vehicle exits onto the highway.
- 6.7.13 The access point is very close to the boundary between the 40mph and 30 mph speed limit restriction and this would result in there being a technical requirement for different visibility distances in each direction. It is acknowledged that vehicle movements into the site are likely to be low, there is nevertheless a requirement to consider the interests of highway safety an acceptable level of intervisibility between emerging and passing traffic. Therefore in this instance between the two speed limits, drivers approaching the 30mph speed limit from the 40mph section will be slowing down and therefore a reduced standard would be acceptable here, but in the other direction, drivers would be accelerating. Nevertheless, there was no in principle objection to the scheme subject to a condition requiring specific visibility splays be provided in both directions and that all obstructions within the visibility splay should not exceed 900mm in height above the adjoining carriageway level.
- 6.7.14 Notwithstanding the clear requirement for detailed visibility splays to be shown, it would appear that current submitted drawings have not included revised the access details or taken account of the earlier highway recommendations. The actual layout of the road has not changed since 2013 and as a consequence the Highway Authority still require the visibility improvements to be sought and should be conditioned accordingly
- 6.7.15 It is also considered that once the vehicle access has been formed in accordance with the required site lines; that the on-site vehicular parking with its proximity to the fishing pegs would reduce the distance that fishing equipment would need to be

carried and as a result this may well increase the demand/use of the nearby parking facility in addition to those staying overnight.

Trees

- 6.7.16 It is noted that when the previous scheme was considered that the Council's Tree Officer was not consulted. Nevertheless, it is considered that the proposal would not result in any loss of amenity on this site due to the presence of a number of semi-mature oak and ash. It is felt appropriate that a condition be imposed to protect the existing trees from the development in accordance with the requirements of BS 5837: 2012 'Trees in relation to Design, Demolition and Construction – recommendations for tree protection.'

Ecology

- 6.7.17 The site consists of mixed woodland (containing semi-mature and mature trees), ruderals, several clumps of Himalayan balsam, 2 metal sheds, debris (logs and metal) and some planted laurel. Himalayan balsam is a non-native invasive species and is listed on Schedule 9 of The Wildlife and Countryside Act 1981 (as amended).
- 6.7.18 The site lies within *Buildwas River Section* Site of Special Scientific Interest (SSSI), is adjacent to *River Severn (Cressage Bridge to Coalport)* Local Wildlife Site (LWS) and is within an Environmental Network core area. Natural England have stated in their consultation comment (dated 20 December 2016) that '*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.*'
- 6.7.19 Given the small scale of the development, no adverse impacts on the SSSI, LWS or Environmental Network are anticipated. The removal of the Himalayan balsam and laurels would increase the ecological value of the site.
- 6.7.20 Many of the trees on the site are suitably mature so that they could support roosting bats but since none of the trees are going to be directly affected by the proposed development it is not considered necessary to condition any bat or bird boxes on this occasion. Nevertheless any lighting on the site should be sensitive to bats and follow the Bat Conservation Trust's guidance. In addition. Vegetation removal and the removal of the sheds should only take place between October and February to avoid harming nesting birds.
- 6.7.21 In addition, Natural England were also consulted due to the location next to the Buildwas River Section SSSI. They did not object to the scheme but stated that there may be possibilities to incorporate features in the design that would be beneficial to enhancing wildlife provision by providing roosting opportunities for bats or installing bird nest boxes.
- 6.7.22 The Council's Ecologist has considered the information in the Phase 1 Environmental Assessment and has recommended a condition be imposed requiring the details of a lighting plan be submitted prior to commencement of the site and informatives dealing with the Himalayan Balsam which is a notifiable

invasive species; nesting birds; reptiles and general wildlife protection. However she has taken the view that it is such a minor development that it is not necessary to impose a condition on either bat or bird boxes this time

7.0 CONCLUSION

- 7.1 The site is located adjacent to the settlement of Buildwas and is within a short distance of a range of visitor attractions and the Shropshire Hills Area of Outstanding Natural Beauty and is considered to be an appropriate location for new tourist accommodation and the development would with the criteria set out in CS5 and CS16 of the Core Strategy and MD2, MD7 and MD11 the Shropshire Sites Allocations and Management of Development (SAMDev) Plan.
- 7.2 The erection of a two semi-detached fisherman's cabins for tourist accommodation in support of an existing fishing business is a small-scale new economic development which requires a countryside location and diversifies the rural economy without adverse impact on the visual or ecological values or functions of the site; its immediate surroundings or connecting corridors and would comply with the criteria set out in CS5, CS6, CS16 and CS17 of the Core Strategy and MD2, MD7, MD11 and MD12 of the Shropshire Sites Allocations and Management of Development (SAMDev) Plan.
- 7.3 The Scheduled Ancient Monument of Buildwas Abbey extends well beyond its environs to include the fields on the southern side of the River Severn that are directly opposite the application site. Therefore had the proposed fisherman's cabin being proposed to be sited any further to the south of the site, this would have had a harmful impact on the setting of this designated heritage asset. It is clear from the submitted plans, that the new fishermen's cabin would be sited towards the north west side of the site and this would allow the canopy of mature trees to be retained intact. The proposed removal of the two metal sheds would also reduce the impact on the significance of the heritage asset. The development is considered to be compliant with the criteria set out in CS5, CS6 and CS17 of the Core Strategy and Policies MD2 and MD13 of the Shropshire Sites Allocations and Management of Development (SAMDev) Plan.
- 7.4 The building is of a scale and design that would integrate well with the natural context of the site whilst contributing positively to its visual appearance. This in combination with the topography and existing screening into the site would minimise the impact of the proposals from the surrounding environment. The increase in traffic from the proposed holiday accommodation is unlikely to have any significant impact on highway safety and the visibility of the access point onto the B4380 will be improved.
- 7.5 The proposal is considered acceptable subject to being built strictly in accordance with the submitted plans and subject to the submission of details to discharge conditions on external materials, foul drainage, surface water drainage, finished floor levels and the provision of a Flood Management Plan and external lighting details.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

National Planning Policy Framework 2012
National Planning Practice Guidance 2014

Adopted Core Strategy

CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS16 Tourism, Culture and Leisure
CS17 Environmental Networks
CS18 Sustainable Water Management

Shropshire Sites Allocations and Management of Development (SAMDev) Plan

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

Supplementary Planning Documents

Type and Affordability of Housing
Much Wenlock Place Plan

Relevant planning history:

PREAPP/11/01543 Proposed detached building to provide two separate cabins of accommodation for overnight use by fishermen PREAIP 27th February 2012

12/05157/FUL Erection of detached building to provide two separate cabins of accommodation for overnight use by fishermen GRANT 20th June 2013

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 Claire Wild

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

4. Full details and sizing of the proposed septic tank including percolation tests for the drainage fields should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the number of persons for the proposed development i.e. for a dwelling up to 3 bedrooms, the population equivalent should be 5 and the sizing of the septic tank and drainage fields should be designed to cater for a minimum of 5 persons and in accordance with the Building Regulations H2 Paragraph 1.18. These documents should also be used if other form of treatment on site is proposed.

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

5. On the Drainage Drawing, it showed that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

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

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

6. Visibility splays shall be provided at the access point at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43.0 metres in a westerly direction, and 59 metres in an easterly direction from the access along the highway. All growths and structures in front of these lines shall be lowered to and maintained at a height not exceeding 0.9 metre above the level of the adjoining highway carriageway and shall be fully implemented prior to the accommodation being occupied.

Reason: To provide a measure of visibility from the access in both directions along the highway in the interests of highway safety.

7. No development approved by this permission shall commence until details of the proposed finished floor levels set 600mm above the 1 in 100 year plus climate change flood level of 44.06 AOD have been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the flood risk to the development is minimised

8. A Flood Management Plan utilising the Environment Agency's free Flood Warning Service shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved plan should be in place prior to the first occupation of the holiday lets hereby approved.

Reason: To ensure that the buildings can be evacuated/closed prior to the onset of flooding.

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

9. All trees which are to be retained in the approved plan shall be protected in accordance with BS5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection. The protective fence shall be erected prior to commencing any approved development related activities on site, including the removal of the two metal sheds, ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the Local Planning Authority.

Reason: To safeguard the amenities of the local area by protecting trees.

10. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan drawing No: GLEBE/03 prior to the accommodation being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

11. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 80 mm thickness of 20 mm aggregate binder course, 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the accommodation being occupied.

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

12. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

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

13. Notwithstanding Classes C2 and C3 of the Schedule to the Town and Country (Use Classes) Order 1987 as amended, the development hereby permitted shall be used to provide holiday accommodation only and it shall not be occupied as permanent unrestricted residential accommodation or as a primary place of residence.

Reason: The site is in an area where unrestricted residential accommodation would not be appropriate.

14. A register shall be maintained of the names of occupiers of the units, the period of their occupation together with their main home addresses. This information shall be made available at all reasonable time to the local planning authority

Reason: General residential development in this location would be contrary to adopted local and national policy.

15. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety

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

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



Committee and date
 Central Planning Committee
 13 April 2017

Item
9
 Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 17/00878/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of a dwelling		
<u>Site Address:</u> Land East Of 62 Middlegate Shrewsbury Shropshire		
<u>Applicant:</u> Mr D Perry		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 349812 - 316330



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

REPORT

1.0 THE PROPOSAL

1.1 This application relates to full planning permission for the erection of a single dwelling.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site relates to the side garden of 62 Middlegate (an end of terrace in a row of five).

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 **SC Affordable Housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

4.1.2 **SC Drainage:** Provides advice on sustainable drainage.

4.1.3 SC Highways:

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

Observations/Comments:

Middlegate is an urban unclassified estate road. The property is an end of terrace and it is proposed to erect a further single terraced property with parking spaces. Further parking is available in a communal parking area. A number of properties in the surrounding area have constructed off street parking and it is considered that the added movements associated with the development will not have a significant impact on the current situation and the proposal is acceptable from a highways perspective.

The proposed new parking for the existing property is accessed over private land and permission will need to be sought from the land owner. The applicant will need to contact Shropshire Council as landowner to discuss the proposal. The applicant will also need to gain permission from any utility companies regarding any apparatus located within the development area.

The first few metres of any drive/parking area should be given to a sealed surface so as to prevent re-location of loose material onto the highway. This is a highway safety issue where the braking surface could be compromised.

4.2 - Public Comments

4.2.1 **Shrewsbury Town Council:** Objects - Considers these proposals to be overdevelopment of the site and therefore objects. There will be a loss of green amenity space for both the new building and existing dwelling (no. 62) and Members consider reversing out onto a junction is unsatisfactory.

4.2.2 A site notice has been erected and the adjoining neighbours notified but no response has been received to this publicity.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale, design and appearance
Impact on neighbouring residents
Access and parking

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is within the development boundary for Shrewsbury on the proposals map of the adopted SAMDev DPD. Development of this site would therefore be acceptable in principle as it would also accord with Core Strategy Policy CS2 that identifies Shrewsbury as the main focus for all new residential development.

6.2 Siting, scale, design and appearance

6.2.1 Policy CS6 requires new development to be designed to a high quality that is appropriate in scale, density, pattern and design taking into account the local context and character of the area and make effective use of land whilst protecting the natural and built environment. MD2 of the recently adopted SAMDev amongst other things requires proposals to:

Contribute to and respect locally distinctive or valued character and existing amenity value by:

i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and

ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion;

6.2.2 The area is predominantly characterised by a mix of semi-detached houses and terraces of between four and eight properties. This proposal will add an additional house on to the end of the existing terrace of five and is designed to be the same scale, design and appearance of surrounding properties and is therefore considered to be an appropriate design given the context of the site. The proposal will result in the loss of the side garden for the existing property but the front and rear garden for both the existing property and the proposed new dwelling will be comparable to those in the remainder of this terrace and the locality. It is therefore considered that the proposal would not appear cramped, makes effective use of land and would not represent over development of the site and would have no adverse impact on the character and appearance of the locality.

6.3 **Impact on neighbouring residents**

6.3.1 Policy CS6 requires new development to safeguard residential amenity. The main consideration with residential amenity is to ensure that new development does not appear overbearing and obtrusive, does not result in a loss of light and does not include windows that could result in overlooking of neighbouring properties and a loss of privacy. It is considered that the proposed end of terrace dwelling would have no adverse impact on residential amenity.

6.4 **Access and parking**

6.4.1 There is a single parking space for the existing property (no. 62) and the proposal indicates that this space will be allocated to the new dwelling and that two additional spaces will be provided to the front of no. 62. The access to these two additional parking spaces will require access over Council land and an extension to the dropped kerb but there is no objection to this from highways.

6.4.2 Whilst cars will either have to reverse into or out of these spaces on to the Highway this will be no different to the existing situation and Highways have no objection. The road and junction is very wide at this point and has excellent visibility all round and there are also numerous parking spaces available that are shared by all residents. It is therefore considered that the proposal provides more than adequate parking provision and that there are no adverse highway safety implications associated with this proposal. If it is considered that the two additional spaces for number 62 was undesirable there is sufficient parking nearby that the proposal would still be considered acceptable without this additional parking. Furthermore all of the front and side garden could be hard surfaced and used for the parking of vehicles without the need for planning permission.

7.0 **CONCLUSION**

7.1 The proposed development is acceptable in principle and accords with CS2 that identifies Shrewsbury as the main focus for all new residential development. It is

considered that the scale and design is appropriate given the context of the site, makes effective use of land and that it would not appear cramped and would not represent over development of the site and would therefore have no adverse impact on the character and appearance of the locality. The proposal makes adequate parking provision and would have no adverse impact on neighbouring residents. The proposal is therefore considered to accord with CS6 and MD2.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ② As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDev Policies: CS2, CS6 and MD2

11. Additional Information

View details online:

List of Background Papers: File 17/00878/FUL
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Vernon Bushell
Appendices APPENDIX 1 - Conditions

APPENDIX 1: Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

4. Prior to commencement of development full details for the parking of vehicles shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

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

5. Any hedge or other boundary treatment fronting the property shall be kept at a height of less than 1 metre at all times

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

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Committee and date
 Central Planning Committee
 13 April 2017

Item
10
 Public

Development Management Report

Responsible Officer: Tim Rogers

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

LPA reference	16/03405/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr Russell Hamer
Proposal	Erection of 1.no open market detached dwelling with balcony and revised access.
Location	Proposed Dwelling North Of Nevada Pontesbury Hill Shrewsbury
Date of application	01.08.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	22.11.2016
Date of appeal	24.11.2016
Appeal method	Written Representations
Date site visit	28.02.2017
Date of appeal decision	28.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	16/03558/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr John Jones
Proposal	Erection of detached dwelling.
Location	Proposed Dwelling North Of 174 Underdale Road Shrewsbury Shropshire
Date of application	10.08.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	23.09.2016
Date of appeal	28.11.2016
Appeal method	Written Representations
Date site visit	28.02.2017
Date of appeal decision	28.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	15/05527/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr Selwyn Lakelin
Proposal	Outline application for the erection of 1 No dwelling (to include access, appearance, layout and scale) (re-submission)
Location	Land At Pontesford Hill Pontesbury
Date of application	18.12.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	20.07.2016
Date of appeal	23.11.2016
Appeal method	Written Representations
Date site visit	02.03.2017
Date of appeal decision	23.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	16/01530/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs J Pike
Proposal	Erection of a subterranean residential dwelling
Location	Land North Of Solitaire Exfords Green Shrewsbury
Date of application	11.04.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	08.06.2016
Date of appeal	04.11.2016
Appeal method	Written Representations
Date site visit	02.03.2017
Date of appeal decision	23.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	14/05676/OUT
Appeal against	Appeal Against Refusal
Appellant	Messrs. Davies
Proposal	Outline planning application (all matters reserved) for mixed residential development
Location	Proposed Residential Development North Side Of Station Road Dorrington Shrewsbury Shropshire
Date of application	19.12.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	14.07.2015
Date of appeal	14.01.2016
Appeal method	Hearing
Date site visit	10.05.2016
Date of appeal decision	31.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED – AWAITING COSTS
Details	

LPA reference	15/04653/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs C Goode
Proposal	Erection of 3 No dwellings and garages (amended description)
Location	Land South Of Mill Race Cottage Longmeadow Drive Shrewsbury
Date of application	29.10.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	12.04.2016
Date of appeal	11.10.2016
Appeal method	Written Representations
Date site visit	24.01.2017
Date of appeal decision	31.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS REFUSED
Details	

Appeal Decision

Site visit made on 28 February 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 28 March 2017

Appeal Ref: APP/L3245/W/16/3163970

Nevada, Top Road Lower Road Junction to Polesgate, Pontesbury Hill, Shrewsbury SY5 0YJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Russell Hamer against the decision of Shropshire Council.
 - The application Ref 16/03405/FUL, dated 28 July 2016, was refused by notice dated 22 November 2016.
 - The development proposed is a single open market dwelling and associated curtilage to include means of access.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would accord with the Council's housing strategy.

Reasons

3. The development plan comprises the Shropshire Council Adopted Core Strategy (CS) 2011 and the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015.
4. Policies CS1, CS3 and CS4 of the CS state that 35% of the Council's housing provision during the plan period of 2006-2026 will be provided within the rural area through a sustainable "rural rebalance" approach. These will be predominantly focused within identified Key Centres, Community Hubs and Community Clusters. Whilst Policy MD1 of the SAMDev identifies Pontesbury (along with Minsterley) as a Key Centre, the appeal site is not within its development boundary and therefore is considered to be an open countryside location. Policy S12 of the SAMDev sets a target of 260 new homes to be built in the Key Centre of Minsterley/Pontesbury.
5. Policy CS5 of the CS allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities and provides a list of particular development that it relates to. The proposal would not fall within any of these developments. Policy MD7a of the SAMDev, goes on to further state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, whilst Policy CS5 of the CS does not explicitly restrict new market housing in the open

- countryside, Policy MD7a of the SAMDev does. As the proposal is for a single, open market dwelling it would fail to accord with Policies CS5 and MD7a.
6. In addition to allocated sites, Policy MD3 of the SAMDev also supports other sustainable housing development. Paragraph 3 of Policy MD3 goes on to state that where settlement housing guidelines appear unlikely to be met, additional sites outside settlement development boundaries may be acceptable. The appellant states that Policy MD3 allows windfall development in the countryside. However, as set out in the first paragraph to the policy, it should not be read in isolation from other policies, including Policies CS3, CS4, CS5, MD1 and MD7a.
 7. The Council confirm that as of March 2016 the number of commitments/completions for Minsterley/Pontesbury totalled 243 dwellings. In addition, a further 89 dwellings on allocated sites in the SAMDev, at the time, had not yet received planning permission. Therefore, there is no indication that the target of 260 homes to be provided during the lifetime of the development plan (2006-2026) is unlikely to be met. Accordingly, I find that the proposal would be contrary to Policy MD3.
 8. I have had regard to the appellant's contention that the extant planning permission¹ was granted on the basis that it was sustainable development and therefore, as only the proposed size of the site has changed, it must still be considered as sustainable development. I do not have full details of the Council's consideration of the previous proposal. Nevertheless, I note that the appellant states that the Officer's Report indicated that greater weight shall be given to the SAMDev the closer it got to its adoption and there would still be a presumption in favour of development under the National Planning Policy Framework (the Framework) if the adverse impacts do not significantly and demonstrably outweigh the benefits of the development.
 9. However, in accordance with paragraph 14 bullet point 4 of the Framework, this test is only to be applied where the development plan is absent, silent or relevant policies are out-of-date. The SAMDev was adopted relatively recently and the above policies are generally consistent with the aims and objectives of the Framework. There is no evidence before me to suggest otherwise. Furthermore, the Council confirm that they have a five year supply of deliverable housing land, which the appellant has not disputed. Accordingly, I find that the relevant policies for the supply of housing are considered to be up-to-date and I afford them full weight. Consequently, the development plan is not absent, silent or out-of-date. Therefore, paragraph 14 bullet point 4 of the Framework is not engaged.
 10. Although the physical similarities of the current and previous proposals are obvious, the policy contexts in which they fall to be considered are markedly different. Following the granting of the extant permission, the Council has since adopted the SAMDev, which at the time did not form part of the development plan for Shropshire Council. I find therefore that notwithstanding that the previous proposal was found to be sustainable development, when considered against the current development plan the proposal would fail to accord with the Council's housing strategy as embodied in Policies CS1, CS3, CS4 and CS5 of the CS and Policies MD1, MD3, MD7a and S12 of the SAMDev.

¹ LPA Refs 14/02981/OUT and 16/00060/REM

Planning Balance

11. The construction of the dwelling would provide some benefit, albeit limited, to the local economy through supporting the construction industry. In addition, the occupants of the dwelling would utilise shops and local services and facilities. Therefore, it would have limited economic benefit.
12. Whilst the proposal would offer some social benefits by way of the occupants making a contribution to the general community life, this benefit is significantly less than the approved scheme, which included a contribution towards affordable housing. Nevertheless, there would be some, albeit very limited, social benefit.
13. In terms of the environment, the Council previously found that the appeal site is a sustainable location for a single dwelling. The appeal site forms part of the large garden associated with Nevada and is open to views from the adjacent lane. The site has a steep incline from west to east. To the south is the existing dwelling, Nevada, which forms part of a ribbon of sporadic development along this stretch of Pontesbury Hill. To the north and west is woodland. To the east are open, verdant fields. The openness of the garden makes a positive contribution to the character and appearance of the area. The introduction of a dwelling on the site would diminish this openness and therefore harm the character and appearance of the area. However, given the scale of the development this harm would only be moderate.
14. The proposal would provide limited economic and social benefits, and would result in moderate harm to the environment. However, as I have found above, it would fail to accord with the Council's housing strategy, which itself aims to ensure sustainable growth in Shropshire throughout the lifetime of the development plan. Accordingly, I do not find that the proposal would represent sustainable development and would therefore fail to accord with Policy CS6 of the CS, which seeks to ensure that new development is sustainable.

Other Matters

15. The appellant has referred me to two appeal decisions² relating to development outside settlement development boundaries. The appeal proposal at Queens Head was for four dwellings. The site formed a gap within a linear development. The proposal before me would extend an existing ribbon of built form and therefore represent an encroachment into the open countryside rather than a consolidating form of development. Therefore I cannot draw any direct comparison with the current proposal.
16. With regard to the appeal at Harmer Hill, the site was closer to the nearest settlement boundary and both parties agreed that it was previously developed land, which comprised a large building similar in size to the proposed dwelling. In addition, the Inspector remarked that they did not have any evidence of housing commitments/completions. Furthermore, it was not clear at the time whether or not the Council could demonstrate a five year supply of deliverable housing land. Therefore, I do not find that there are direct comparisons with the proposal before me.

² Appeal Refs APP/L3245/W/16/3150307 and APP/L3245/W/16/3143041

17. I acknowledge that my conclusions differ to the Inspectors for the above appeals with regard to the effect on the Council's housing strategy. However, the details of these schemes are limited. In any event, I have determined the appeal based on an assessment of its own merits and the evidence before me.
18. I acknowledge the correspondence the appellant has referred me to with regard to the Council refusing to negotiate affordable housing contributions. However, the Council sets out their position on this matter in their statement of case stating that in light of national guidance on affordable housing provision, they are no longer seeking contributions towards affordable housing for applications for ten or less dwellings and less than 1000sqm floor area. I find no reason to disagree with this position. Accordingly, affordable housing contributions are not necessary.

Conclusion

19. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

Appeal Decision

Site visit made on 28 February 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 28 March 2017

Appeal Ref: APP/L3245/W/16/3164152
174 Underdale Road, Shrewsbury SY2 5EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Jones against the decision of Shropshire Council.
 - The application Ref 16/03558/FUL, dated 8 August 2016, was refused by notice dated 23 September 2016.
 - The development proposed is the erection of a detached dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the living conditions of the occupants of the neighbouring properties, with particular regard to outlook and daylight, and the character and appearance of the area.

Reasons

Living Conditions

3. The appeal site comprises part of the large garden associated with No 174 Underdale Road. The dwelling would accommodate almost the full width of the site. It would sit forward of No 176 Underdale Road and would be adjacent to the boundary between the two neighbouring properties. The boundary between the site and No 176 consists of a close boarded timber fence with shrubs, which restricts some outlook from its ground floor windows and reduces the amount of light entering them. The proposed two-storey building would rise substantially above the boundary fence and given its close proximity it would significantly reduce the outlook from the windows in the front elevation of No 176 resulting in an unacceptable over bearing impact on the occupants of the property.
4. Furthermore, the amount of daylight entering these windows in No 176 would be significantly reduced, which would be exacerbated by the positioning of the dwelling to the south of No 176, and would have a particularly detrimental effect on the usability of the rooms served by the windows in the front elevation.
5. The dwelling would also be adjacent to the southern boundary of the site with No 174, which has ground floor and first floor windows within close proximity of the boundary. Although it is not clear exactly which windows serve what

rooms, the Inspector for the previous appeal¹ noted that they are principal windows serving a lounge and kitchen. The appellant also confirms that the side window serves the kitchen. Given the proximity of the flank elevation to these windows and its two-storey height, it would significantly reduce the outlook from the windows. In addition, the amount of light serving the kitchen would be significantly reduced due to the proximity of the dwelling and its northern position to the window.

6. I find therefore that the dwelling would significantly harm the living conditions of the occupants of the neighbouring properties, Nos 174 and 176, with regard to outlook and light. As such it would be contrary to Policies CS6 of the Shropshire Council Core Strategy 2011, which, amongst other matters, seeks to safeguard residential amenity. Furthermore, it would also fail to accord with the Shropshire Council Type and Affordability of Housing Supplementary Planning Document (SPD), which seeks to protect the living conditions of neighbouring occupants.
7. In their second reason for refusal, the Council also cite Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan 2015. However, there is no evidence of how this policy relates to living conditions and therefore it seems to me that it is not relevant to this main issue.

Character and Appearance

8. This stretch of Underdale Road is primarily residential and comprises a mix of detached and semi-detached, two-storey dwellings. The western side of the road consists of detached, modern properties, set-back from the road with large open frontages. The eastern side has more modest, traditional semi-detached properties that are much closer to the road. To the north of these semi-detached properties are more modern properties that are set much further back from the road. Overall, the variety of house designs, sizes and building lines make a positive contribution to the character of the area.
9. The width of the appeal site is similar to other plots nearby. Although other properties on the street generally have external access to their rear garden, the spacing between the dwellings is very tight. The dwelling would be adjacent to the boundary with No 174. Whilst the space between the properties would be narrow, I do not consider that it would represent a cramped form of development that would be unacceptably harmful to the streetscene.
10. Furthermore, the dwelling would be set back behind the front elevation of No 174 and the other traditional semi-detached properties, which together form a uniform building line. However, the adjacent property to the north, No 176 Underdale Road, is set back significantly further. As a result of its significant setback position, No 176, and its adjoining neighbour No 178, is not read in the same streetscene context as other properties on the road. The Council argues that the appeal site currently assists in separating these properties. However, I do not see find that this is a negative aspect of the proposal. The proposed dwelling would provide a transition between these properties, thus improving the legibility between the two groups of dwellings.

¹ Appeal Ref APP/B3220/A/08/2081744

11. I find therefore, that the dwelling would not significantly harm the character or appearance of the area. As such, it would comply with Policy MD2 of the SAMDev, which, amongst other matters, seeks to ensure that development responds positively to local design aspirations and respect locally distinctive or valued character. Furthermore, it would also accord with advice contained within the SPD.

Other Matters

12. I have had regard to the previous appeal decision and the Inspector's findings. I note that the Inspector found that the effect on No 176 would be less significant than on No 174. However, the proposed dwelling before me would be sited significantly further forward than the previously considered dwelling. As a result, the effect it would have on the occupants of No 176 would be significantly greater than for the previous scheme.

Conclusion

13. Whilst I have found that the dwelling would not significantly harm the character and appearance of the area, this does not outweigh the unacceptable harm it would have to the living conditions of the occupants of the neighbouring dwelling by way of loss of outlook and light.

14. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

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Appeal Decision

Site visit made on 2 March 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 23rd March 2017

Appeal Ref: APP/L3245/W/16/3163875

Land adjacent to Grove Lane, Pontesford Hill, Pontesbury, Shropshire, SY5 0UH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Lakelin against the decision of Shropshire Council.
 - The application Ref. 15/05527/OUT, dated 17 December 2015, was refused by notice dated 7 July 2016.
 - The development proposed is the erection of a single open market dwelling and construction of a new access.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The application is in outline format but with the details of 'Access' 'Appearance', 'Layout' and 'Scale' for consideration at this stage. Only 'Landscaping' is reserved for future consideration.

Main Issues

3. The main issues are:
 - Whether the new house would accord with the housing strategy in the development plan;
 - The effect on the landscape character of the area including the setting of the Shropshire Hills Area of Outstanding Natural Beauty;
 - Whether the proposal constitutes sustainable development.

Reasons

Background

4. The appeal site comprises a narrow wedge shape area of open land/paddock which lies to the east of Grove Lane, a narrow rural lane/bridleway which runs around the lower slopes of Pontesford Hill. The land slopes away from the lane towards open fields and there is a rural hedge along the frontage. The surrounding area is characterised by woodland on the hill and sporadic individual houses mainly sited along the lane and the area forms part of the Shropshire Hills Area of Outstanding Natural Beauty (SHAONB).

5. It is proposed to erect an open market dwelling and the submitted plans show that it would have two storeys of accommodation with the upper floor partly formed in the roof space and lit by small dormer windows on the elevation facing the lane. The rear elevation looking west would have a pronounced gable feature with extensive fenestration on the ground and first floor. Because of the slope of the land and the need to 'cut and fill' part of the site, the first floor of the accommodation would be about the same height as the lane.

Policy context

6. The development plan for the area includes the Council's Core Strategy (2011) and the Site Allocations and Management of Development (SAMDev) Plan (December 2015).

Accord with housing strategy

7. Within the overall strategy for sustainable development in the country, Core Strategy Policy CS3 identifies Pontesbury and Minsterley as a combined key centre that will accommodate development. Outside of these centres Policy CS5 indicates that new development in the countryside will be strictly controlled to defined exceptions, none of which apply to the open market dwelling proposed in this case. This policy position is amplified by Policy MD7a of the SAMDev Plan.
8. The SAMDev Plan defines the settlement boundary of Minsterley and Pontesbury but the appeal site lies well to the south of the recognised extent of the village, and in the open countryside. The appellant's agent describes the site as about 1 km from the centre of the village. At my site visit, I observed a distinct area of open fields between the site on the edge of the hill and the village of Pontesbury and the character of the area and the position of the site is well shown on the aerial photograph in Fig.2.1 of the appellant's agent's Statement of Case.
9. On this topic I agree with the Council that physically and geographically the appeal site lies in a remote location in open countryside and it is not within close proximity of the village as the appellant submits, even though it is suggested that the site would be within walking distance of local services and facilities. Given the character and nature of the appeal site, with local dispersed houses, and the intervening land with the village being open countryside, it is appropriate to apply Policy CS5 and the proposal is not one of the recognised exceptions specified in this policy. Further, the proposal is not 'infilling' as there is a substantial distance to other properties along either side of Grove Lane and the site is not a small gap in an otherwise mainly built-up frontage.
10. The appellant refers to policy MD3 in the SAMDev. This deals with the continued delivery of housing and advises that in addition to the allocated housing sites, other housing development may be acceptable subject to specific criteria, especially where local housing guidelines appears to be unmet as per part 3 of the policy. While the appellant's statement refers to many appeal decisions where the inspector has applied policy MD3 and concluded in favour of development, in this case the appellant's evidence does not show that there has been a failure in housing supply at either the county or local parish level to meet the housing guidelines. The Council's evidence shows that the number of

permissions already granted locally so far in the plan period is broadly in accordance with the local guideline.

11. Even if there was a shortage of supply, Policy MD3 makes it clear that if additional sites outside of a settlement are put forward, the cumulative impact of development has to be considered. I have concluded that the proposal does not amount to 'infilling' but I noted at my visit many other open areas along Grove Lane and around the foot of the Hill that are similar to the appeal site. If the same considerations were put forward, the cumulative impact would be to change the character of the area to a more intensive ribbon of development which would seriously detract from the appearance of this area of countryside.
12. Turning to the appeal decisions highlighted, it appears to me that the sites involved are reasonably close to other notable development or community facilities and therefore do not have similar physical characteristics and the degree of remoteness as the appeal site. I therefore do not place much weight on these decisions as setting a precedent for the consideration of this case.
13. Overall on this issue, I find that the proposal does not accord with the development strategy set out in the development plan as it conflicts with Policy CS5 and Policies MD3 and MD7a

Effect on landscape character

14. As described in the background in paragraph 4 above the appeal site fronts a road/bridleway which runs around the western edge of Pontesford Hill and the area forms part of the SHAONB. The Council does not take issue with the design of the dwelling put forward but with the general impact of the presence of the dwelling on the landscape.
15. The appeal sites lies at the transition between the mainly woodland area of the Hill and the fields of open countryside. Its open quality contributes to the special landscape character of the area. The site also affords long distance views of open countryside from Grove Lane and such views of the Hill are likely to be returned. I acknowledge that because of the difference in land level only the upper floor and roof of the building would be seen from the lane but the two storey north-west facing elevation would be seen in views from the north-west for a long distance.
16. The presence of the new house would upset the present balance of the mainly dispersed form of individual houses and would result in a more developed character both as a result of the development on its own and by the precedent for more similar development that is likely to be set. This change in character would detract significantly from the special landscape character of this part of the SHAONB.
17. Overall on this issue I find that the proposal does not accord with the provisions of Policies CS17 and MD12 because the development proposed would significantly harm and not contribute positively to the distinctiveness of the landscape of the AONB

Whether sustainable development

18. The appellant says that the proposal constitutes sustainable development and accords with the provisions of the National Planning Policy Framework (NPPF). This national guidance promotes sustainable development in rural

areas and within this advises that new housing should be located where it will enhance or maintain the vitality of rural communities and gives the example of where there are groups of smaller settlements, development in one village supporting the services in another.

19. It appears to me that this is the form of strategy put forward in the Core Strategy and the SAMDev. However, the policy in paragraph 55 of the NPPF goes on to advise that new isolated homes in the countryside should be avoided unless there are some special circumstances. It will be obvious from my comments above that I consider that the appeal site lies in an isolated location in open countryside away from Pontesbury and Minsterley and there are no special circumstances put forward that clearly justify an exception to this as a form of development that has to be located in the countryside.
20. Further, paragraph 115 of the NPPF advises (along with other aspects) that great weight should be given to conserving the landscape and scenic beauty of AONB which it acknowledges have the highest status of protection. Given my assessment of the impact on the SHAONB above, I find that the proposal would not be in accordance with the national objective.
21. For these reasons I do not consider the proposal fulfils the 'environmental role' described in the NPPF for the proposal to constitute sustainable development.

Planning balance

22. Bringing together my conclusions on the main issues I have found that the proposed dwelling does not accord with the housing strategy set out in the development plan because of the site's isolation away from any settlement or collection of other local facilities. Further, the new house would significantly harm the landscape of the local part of the SHAONB and would not positively enhance this special landscape character. The proposal therefore conflicts with the specific policies in the development plan that I have referred to.
23. I have also found that the proposal does not accord with the guidance in the NPPF about the location of the new houses in the countryside because of the isolated nature of the site, and the NPPF also highlights the need to conserve the scenic beauty of an AONB to which great weight should be given.
24. The conflict with the development plan has to be balanced with other considerations. I acknowledge that other appeal decisions have supported various forms of residential development in the county under the same development plan policies but the circumstances of these sites do not appear to me to be similar to the appeal proposal. To the contrary, I consider that an approval of the appeal scheme would be likely to result in other similar development, the cumulative effect of which would have a significantly harmful impact on the character and nature of the existing sporadic development along Grove Lane.
25. The NPPF seeks to encourage sustainable development and as part of this the government seeks to significantly boost the supply of housing and the proposal would make a very modest contribution to this supply to help towards alleviating the housing shortage. There would also be limited benefit to the local economy and employment generation during the construction period. Subsequently the occupiers of the house proposed may contribute to the local economy and local facilities and help keep these operating.

26. I recognise the economic and social benefits which would add to these roles of sustainable development. I also acknowledge the degree of support for the proposal from some in the local community. However, the benefits highlighted would be relatively limited and in any event the NPPF indicates that for development to be sustainable the three roles are mutually dependent and given my comments above the 'environmental role' is not met by the proposal.
27. Overall, I find that the adverse impacts would be substantial and the other considerations raised do not outweigh the conflict with the development plan, when read as a whole, and national guidance

Conclusions

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

David Murray

INSPECTOR

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Appeal Decision

Site visit made on 2 March 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 23rd March 2017

Appeal Ref: APP/L3245/W/16/3162518

Land off Round House Lane, Exfords Green, Nr Shrewsbury, Shropshire, SY5 8HH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs J Pike against the decision of Shropshire Council.
 - The application Ref. 16/01530/FUL, dated 8 April 2016, was refused by notice dated 8 June 2016.
 - The development proposed is the erection of a subterranean dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal accords with the development strategy set out in the development plan;
 - Whether the proposal constitutes sustainable development.

Reasons

Background

3. The appeal site comprises part of an area of open field which is located to the east of Round House Lane, a minor rural lane, and is generally situated in open countryside. There is a mature rural hedge along the frontage of the lane and three small agricultural/equestrian buildings lie on the land.
4. The land rises up from the lane and it is proposed to utilise the slope and build a mostly subterranean house with the majority of the accommodation below ground level under a flat 'living grass' roof but one elevation of the building, containing main windows to the lounge/dining/kitchen area, together with the double garage doors, would face out of the site and look westwards. Bedrooms at the rear of building would have windows facing a sunken internal courtyard.

Policy context

5. The development plan for the area includes the Council's Core Strategy (2011) and the Site Allocations and Management of Development Plan (SAMDev) (December 2015).
6. At the time of the formal consideration of the SAMDev the Examining Inspector concluded in late 2015 that the Council could demonstrate a five year supply of housing sites (HLS) and the Council refer to a number of subsequent appeal decisions where the Inspector concluded that the Council continued to so demonstrate. The appellant's agent says the HLS is in dispute but the only evidence in support of this is a reference to appeal decision APP/L3245/W/16/314673 for housing development in Ellesmere. However, this decision was challenged by the Council and was quashed by the High Court in December 2016. There is therefore no evidence before me to support the contention that a five year supply cannot be demonstrated at the moment in accordance with paragraph 47 of the National Planning Policy Framework (NPPF). Therefore I find that neither paragraph 49 nor the fourth bullet point of paragraph 14 of the NPPF are engaged in this case.

Accord with the development strategy

7. Within the overall strategy for sustainable development within the county set out in the Core Strategy, Policy CS4 focuses development in rural areas to 'Community Hubs' and 'Community Clusters', while outside of these areas policy CS5 indicates that development in the countryside will be strictly controlled unless a proposal falls with the defined exceptions, none of which apply to the open market dwelling proposed in this case.
8. The settlement of Exfords Green falls within a 'Community Cluster' as per the SAMDev Policy S16.2(xi) which, amongst other aspects, says that development by infilling, conversions and small groups may be acceptable on suitable sites within the villages, subject to a guideline on the overall number of additional dwellings.
9. The Council says that the appeal site lies well outside the main group of residential properties associated with Exfords Green and I agree. At my site visit I noted that although there is an existing house adjacent to the site, otherwise individual houses and farmsteads are well separated and dispersed in open countryside. The appeal site does not have the setting amongst other houses for a new property here to be regarded as infilling within the cluster and therefore policy CS5 applies. The proposal for an open market house, albeit of subterranean form, is not one of the specified exceptions to this policy which would maintain and enhance the countryside vitality and character.
10. Policy MD3 of the SAMDev deals with the continued delivery of housing and advises that in addition to the allocated housing sites, other housing development may be acceptable subject to specific criteria, especially where local housing guidelines appears to be unmet. In this case, the Council has provided evidence to show that planning permission has been granted for new houses within and around Exfords Green which already exceed the local housing guideline and this position is also acknowledged by the Parish Council. The appellant has provided a table of permissions in the Longden Parish area (the cluster) which purports to show that insufficient permissions

for new dwellings have been granted to meet the guidelines. However, these details appear to cover the period December 2015 to February 2017, whereas the Council's evidence of 5 dwelling permitted in the period since 2012 is better aligned with the Core Strategy and SAMDev operational period of 2006 to 2026. I therefore place more weight on the Council's evidence which suggests that at the moment there is not a clear justification for additional development outside the settlement for Policy MD3 to take effect. In any event, the remoteness of the site from the main fabric of any village means that the proposal would have a harmful overall impact that would not accord with part 2.iv of the policy.

11. Overall, I find on this issue that the proposal in principle does not accord with the strategy set out in the development plan.

Whether sustainable development

12. The appellants say that the proposal constitutes sustainable development and accords with the provisions of the NPPF, particularly the guidance set out in paragraph 55.
13. This national guidance promotes sustainable development in rural areas and within this advises that new housing should be located where it will enhance or maintain the vitality of rural communities and gives the example of where there are groups of smaller settlements, development in one village supporting the services in another. It appears to me that this is the form of strategy put forward in the Core Strategy and the SAMDev. However the policy in paragraph 55 of the NPPF goes on to advise that new isolated homes in the countryside should be avoided unless there are some special circumstances. It will be obvious from my comments above that I consider that the appeal site lies in a very isolated location in open countryside away from the main fabric of any settlement and there are no special circumstances put forward that clearly justify an exception to this.
14. The fourth bullet point of paragraph 55 refers to the exceptional case of where a house is of an exceptional quality or innovative nature of design to be truly outstanding in its architecture and enhance the immediate setting of the site. While the house proposed in this scheme would be relatively novel by involving party subterranean living, I do not consider that the overall form of the scheme would result in a truly outstanding example of individual architecture. It is a form of development that could easily be repeated on similar sloping sites.
15. I conclude on this issue that the proposal does not constitute sustainable development as defined in the NPPF but would result in a new dwelling in a remote location in open countryside, contrary to the specific guidance in the NPPF and without clear justification as an exception.

Planning balance

16. Bringing together my conclusions on the main issues, I have found that the proposed subterranean house would conflict with the provisions of the development plan when read as a whole because of the isolated nature of the site in open countryside and there is no clear evidence submitted to show that new housing development is not being delivered within the county or locally in a way that accords with the plan. I have also found that the

proposal is not sustainable development as it does not accord with the guidance of the NPPF regarding sites in remote rural locations.

17. This conclusion on the development plan has to be balanced with the other considerations which apply. I recognise that the scheme would add a single unit to general housing supply which the government seeks to boost significantly at the moment. Further, the occupiers of the property may help support local services, and there would be economic activity and employment during the construction phase. I also acknowledge the letter of support from a local resident.
18. However, the positive effects of the scheme are relatively limited and do not outweigh the substantial harm that arises from the conflict with the development plan and national guidance which indicates that development which is not 'sustainable' should be resisted.

Conclusions

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

David Murray

INSPECTOR

Appeal Decision

Hearing held on 10 May 2016

Site visit made on 10 May 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 31st March 2017

Appeal Ref: APP/L3245/W/16/3142479

Land North of Station Road, Dorrington, Shrewsbury, Shropshire SY5 7LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr James and Mr Edward Davies of Messrs Davies against the decision of Shropshire Council.
 - The application Ref 14/05676/OUT, dated 18 December 2014, was refused by notice dated 14 July 2015.
 - The development proposed is for mixed residential development.
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Shropshire Council against Mr James and Mr Edward Davies of Messrs Davies. This application is the subject of a separate Decision.

Procedural Matter

3. The application was submitted in outline, with all matters reserved for future consideration. I have determined the appeal on this basis.
4. Prior to the Hearing, the Council stated, in light of the additional evidence submitted by the appellants with regard to the ecological survey, it had withdrawn its second reasons for refusal. This was also confirmed at the Hearing. Based on the evidence submitted, I concur with this view and find that, subject to appropriately worded conditions, the development would not significantly harm protected species.
5. As part of their appeal submission, the appellants' case was that the Council could not demonstrate a five year supply of housing land. Prior to the Hearing, the appellants' evidence of a demonstrable five year supply of housing land was withdrawn and replaced with a Housing Land Supply and Delivery Statement. Whilst they no longer contested the five year supply of housing land, their argument centred on it not being delivered.
6. Following the Hearing, the appellants submitted an appeal decision concerning a site at Teal Drive in Ellesmere¹. The Inspector found that the Council was

¹ Appeal Ref APP/L3245/W/15/3067596

unable to demonstrate a 5 year forward housing land supply as required by paragraph 49 of the National Planning Policy Framework (Framework). The Council lodged a legal challenge to that the decision and the decision has subsequently been quashed in the High Court.

7. Furthermore, the Council published an up-dated Full Objectively Assessed Housing Need Report (FOAHN) on 6 July 2016 and following that published a Five Year Housing Land Supply Statement on 26 August 2016. The appellants have provided me with a written response to both of these documents and the Council has had the opportunity to comment on these responses. I have taken the comments of both parties on these matters into consideration in my assessment of the proposal.
8. A signed and dated section 106 agreement, dated 9 May 2016, was submitted at the Hearing. The agreement relates to the provision of affordable housing and I shall refer to this later in the Decision.

Main Issues

9. I consider the main issues in this appeal are:
 - Whether the Council is able to demonstrate a five year supply of housing land for their area to meet a full objectively assessed housing need; and
 - Whether the development would accord with the Council's housing strategy.

Reasons

Five Year Supply of Housing Land and Full Objectively Assessed Housing Need

10. The appellants' case initially centred on the argument that whilst they did not dispute that the Council could demonstrate a five year supply of housing land, it was not being delivered. However, following the Teal Drive appeal decision, the appellants also contended that the council did not have a FOAHN. Although the Teal Drive decision was subsequently quashed², and in the meantime the Council published an up-dated FOAHN report, the appellants contend that the up-dated FOAHN is not compliant with the National Planning Policy Framework (the Framework) or National Planning Practice Guidance (PPG), and as a result it cannot demonstrate a five year supply of housing. Accordingly, they contend that paragraph 49 of the Framework is engaged and therefore relevant policies relating to the supply of housing should not be considered up-to-date.
11. Paragraph 47 of the Framework states that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area.
12. The Full Objectively Assessed Housing Need Report published on 6 July 2016, validates the CS housing requirement figure of 27,500 dwellings between 2006 and 2026. The first 10 year period of the FOAHN coincides with the last 10 years of the current plan period (2016-2026). The report identifies that the need in the final 10 years of the current plan period is 13,039 which equates to 1,304 dwellings per annum. Therefore, the Council confirms that the housing requirement figure set out in the Core Strategy is sufficient to deliver the

² *Shropshire Council v SSCLG and BDW Trading Ltd* [2016] EWHC 2753 (Admin)

FOAHN for this 10 year period. The Council state that the methodology utilised in the FOAHN is consistent with the PPG.

13. The appellants make the case that the FOAHN is not compliant with the PPG due to a number of significant shortcomings. One of the main conclusions the appellants make in their criticism of the FOAHN is that the Core Strategy requirement of 1,190 dwellings per annum was lower than the former Structure Plan requirement of 1,260 dwellings per annum. The Framework has not resulted in any increase over the former Regional Planning Guidance (RPG) and Regional Spatial Strategy (RSS) approach. The appellants assert that both the housing requirement looking forward and the underprovision figure to date, require revising in order to provide a Framework-compliant objectively assessed need figure. Whilst the intention of their FOAHN report rebuttal is not to provide an alternative FOAHN, the appellants suggest an alternative housing requirement of 2,223 per annum.
14. Whilst the Teal Drive appeal decision was quashed, the judgement made in its High Court challenge is pertinent to the consideration of the FOAHN and the housing requirement figure. A decision must be made on the Council's current FOAHN or housing requirement based on the evidence available, regardless of its imperfections. Therefore, it is incumbent upon me to reach a decision on the Council's housing requirement based on the evidence before me. The judgement also acknowledged that the Inspector is not required to undertake the kind of analysis which would be appropriate at a development plan level.
15. Notwithstanding the appellants' significant criticism of the FOAHN report and their alternative housing requirement figure, as this is not a local plan examination it is not for me to set the housing requirement figure. The updated FOAHN will be the subject of examination during the forthcoming development plan review, which is due to begin in early 2017. Nevertheless, in light of the *Shropshire Council v SSCLG and BDW Trading Ltd* judgement, I must make a judgement on the housing requirement, regardless of any imperfections in the evidence. The CS sets out the Council's housing requirements throughout the lifetime of the plan. Whilst the CS pre-dates the Framework, these requirements are validated in the recent FOAHN report, which, on the face of it, has adopted an appropriate methodology. The PPG³ advises that when attributing weight to an FOAHN it must be taken into account whether or not it has been tested.
16. The appellant's criticisms of the FOAHN include that it is based on demographic projections only, does not adequately take into account market signals, and does not make adjustments for employment trends. Consequently, the appellant contends that the FOAHN does not accord with the advice within the Framework and PPG. Whilst it may be that there are some criticisms of the FOAHN, the PPG states that establishing future need for housing is not an exact science⁴. In the absence of any convincing evidence to contradict the FOAHN, in this instance, I am satisfied that it is the correct assessment basis and that the proposed development should be considered against the Council's housing requirements as set out in the adopted CS, which the up-dated FOAHN endorses.

³ PPG Paragraph: 030 Reference ID: 3-030-20140306

⁴ PPG Paragraph: 014 Reference ID: 2a-014-20140306

17. In respect of the publication of the Five Year Housing Land Supply Statement on 26 August 2016, the appellants maintain that as the FOAHN is not Framework-compliant the Council cannot demonstrate a five year supply of housing land. The statement identifies a 5.97 years' supply of deliverable housing land. As I have found that the CS housing requirement is the appropriate figure to use, as supported by the FOAHN, the content of the Five Year Housing Land Supply Statement is sound. Based on the evidence before me, I am satisfied that the Council can demonstrate that they have at least a five years supply of deliverable housing land. Accordingly, the policies within the development plan that are relevant to housing supply are considered to be up-to-date and therefore paragraph 49 of the Framework is not engaged.

Housing Strategy

18. The development plan comprises the Shropshire Council Adopted Core Strategy (CS) 2011 and the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015.
19. Policy CS1 of the CS sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that development in rural areas will be predominantly in Community Hubs and Community Clusters.
20. Policy CS4 of the CS sets out how new housing will be delivered in the rural areas by focusing it in identified Community Hubs and Community Clusters. Policy MD1 of the SAMDev identifies Dorrington, Stapleton and Condober as a Community Cluster.
21. The Council accept that a large number of the dwellings required in the rural areas must be provided through windfall sites, which the Examining Inspector for the SAMDev found to be proportionate. The explanation for Policy MD3 of the SAMDev also reinforces the importance of windfall development, both within settlements and in the countryside, including, where sustainable, greenfield sites.
22. Whilst the proposal does not specifically state the number of dwellings proposed, the indicative plans submitted indicate 24 units. Given the scale of the proposal I do not find that it would threaten the 35% set out in Policy CS1. Furthermore, although outside the settlement boundary, the appeal site is located adjacent to the village of Dorrington. I find therefore that the proposal would generally accord with Policies CS1 and CS4 of the CS and Policy MD1 of the SAMDev.
23. Policy S16.2(vii) of the SAMDev states that the Community Cluster has a settlement housing guideline of around 30-35 dwellings for Dorrington and that development by infilling, groups of houses and conversions may be acceptable within the development boundary. Two sites have been allocated for housing within the development boundary of Dorrington, both providing 15 dwellings each.
24. The opening paragraph to Policy MD3 clearly states that it is to be read in conjunction with the Local Plan as a whole, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a. Therefore, it is not to be considered in isolation. Paragraphs 2 and 3 of Policy MD3 relate to the settlement housing guidelines,

- with paragraph 2 confirming that they are a significant policy consideration. Where the settlement housing guideline is unlikely to be met, paragraph 3 allows for additional sites outside the development boundary, subject to satisfying paragraph 2.
25. The appellants argue that based on the number of dwellings that have been completed in the first 9 years of the Core Strategy period (2006-2015) the rate of housing delivery needs to increase in order to meet the Core Strategy requirement of 27,500 dwellings. This could be achieved by allowing development in the countryside. In accordance with this approach, the appellants contend that the proposal would represent a sustainable windfall site that satisfies Policy MD3.
26. Whilst the two allocated sites in Dorrington have not submitted planning applications, given the infancy of the SAMDev, as it was only adopted in December 2015, there is no evidence to suggest that these sites would not be developed within the remaining plan period. Furthermore, there is an extant permission for 3 dwellings within the village that was granted permission in 2014⁵. During the Hearing it was confirmed by the Council and the appellant that a development of approximately 23 dwellings was also granted permission in 2014 and is currently under construction on the edge of the development boundary of Dorrington. There is no evidence to suggest that other windfall sites within the development boundary would not come forward.
27. Whilst Policy MD3 does allow for additional sites outside the settlement boundaries this is only if the settlement housing guideline is unlikely to be met. Based on the evidence before me, there is no substantive evidence to suggest that the settlement housing guideline would unlikely to be met and as such the proposal would be contrary to Policy MD3. I accept that the settlement housing guideline is not a maximum figure. However, were the appeal to be allowed and the allocated sites and commitment site developed, in addition to the development on the edge of the village which is currently underway, this would far exceed the guideline figure, which although is not a maximum, has been based on the Community Cluster's ability to sustainably accommodate additional growth.
28. The appeal site is located outside the development boundary of Dorrington and therefore lies within the open countryside. Whilst Policy CS4 of the CS does not restrict development in rural areas to solely sites that are within Community Hubs or Community Clusters, development outside these settlements must meet Policy CS5 of the CS. Policy CS5 allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. Whilst the development does not fall into any of the identified examples, I accept the appellant's contention that the list is not exhaustive.
29. However, Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to further state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy

⁵ LPA Ref 14/01313/FUL

MD7a of the SAMDev does. As the proposal is for open market dwellings, albeit with a proportion of them affordable, the proposal would fail to accord with Policies CS5 and MD7a.

30. I have been referred to a number of appeal decisions by the appellants whereby housing development in the open countryside has been allowed. The Council has also provided a number of recent appeal decisions where the Inspector has found that housing in the open countryside would fail to accord with the development plan. I have also had regard to the previous appeal decision⁶ with regard to the appeal site. Whilst the conclusions that have been reached in the decisions vary, this is largely due to the status of the development plan, in particular the SAMDev, at the time the decisions were made and, based on the evidence put to those Inspectors, whether or not it was considered that the Council had a five year housing land supply. Furthermore, these decisions pre-dated the publication of the Full Objectively Assessed Housing Need Report (FOAHN) on 6 July 2016 and the Five Year Housing Land Supply Statement on 26 August 2016. Whilst I have had regard to all of these decisions, I am not bound by them. I have determined this appeal on the basis of the evidence presented to me, much of which was not available to Inspectors determining previous appeals. Therefore, I cannot draw any direct comparison between previous decisions and the appeal before me.
31. The SAMDev acknowledges that Dorrington can accommodate additional housing that would contribute to the sustainable growth of the wider Community Cluster and Shropshire as a whole. This additional housing has been identified as being capable of being delivered within the development boundary. Whilst the plan allows for windfall development, the appeal site is located outside this boundary, in the open countryside where housing development is strictly controlled. As such, the development would fail to accord with the Council's housing strategy, as embodied by Policies CS5 of the CS and Policies MD3, MD7a and S16.2(vii) of the SAMDev.

Planning Balance

32. A key principle of the National Planning Policy Framework (the Framework) is that it promotes the presumption in favour of sustainable development. Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental.
33. The construction of the dwellings would provide economic benefit to the local economy through the creation of jobs in the construction industry. Once constructed, the occupants of the dwellings would also contribute to the economy by using the local services and facilities in Dorrington and the wider area. In addition, the development would make a Community Infrastructure Levy contribution, of which a large proportion would be spent on local infrastructure.
34. The development would also provide some affordable housing and a mix and range of dwellings to accommodate the needs of the local community. Furthermore, the occupants would make a contribution to the general community life of the village.

⁶ Appeal Ref APP/L3245/A/14/2222742

35. In terms of the environmental role, there is no evidence that the development would have any significant harm on protected species and appropriate landscaping could provide an enhancement of the existing ecology of the site. Furthermore, the site is within reasonable walking distance of a number of services and facilities within the village, including a convenience store, public houses, a post office and a primary school. Also, there is a bus service that provides access to the wider area, including Shrewsbury, enabling access to a wider range of services and employment opportunities.
36. Notwithstanding this, the site is a verdant field located in the open countryside. It forms part of a large open field that lies between the village and the railway line to the east. The boundary of the field generally comprises mature hedging although there is a wide gap in the hedge allowing access to the field off Station Road. An established hedge line to the western edge of the field demarcates the boundary with the urban development of the village. Overall, the field makes a positive contribution to the openness and rural character of the area.
37. I note that the site has no valued landscape designation. Nevertheless, the development of the site would result in an encroachment into the open countryside which would significantly harm its intrinsic character and value. Due to the land rising from the east to west, the site is particularly prominent on approach to the village from the east along Station Road, thereby exacerbating this harmful effect. Although the application is in outline, the dwellings would result in an extension of the settlement into the open countryside that would fail to protect or enhance the natural environment. Whilst the design and layout of the development may well accord with the neighbouring built form, subject to the reserved matters, this would not outweigh the significant harm the development of the site would cause to the rural character and appearance of the area.
38. I find therefore that the proposal would not represent sustainable development. As such, it would fail to comply with Policy CS17 of the CS and Policy MD12 of the SAMDev, which, amongst other matters, seek to ensure that development protects and enhances the natural environment, and landscape character and the visual qualities of Shropshire's natural assets.
39. In their reasons for refusal the Council rely on Policies CS6 of the CS and MD2 of the SAMDev. These policies have regard to sustainable design. Whilst they make reference to landscape character, as the proposal is in outline form, I find that these policies are not relevant to the proposal.

Other Matters

40. The planning obligations in the s106 agreement have to meet the tests in Community Infrastructure Levy Regulations (CIL) Regulation 122 in order for them to be taken into account in my determination of this appeal. These tests are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonable related in scale and kind to the development. These tests are also identical to those set out in paragraph 204 of the Framework.
41. The S106 Agreement would secure on-site affordable housing provision not less than the prevailing target rate as at the submission of the last of the reserved matters. I am satisfied that the planning obligations to secure the on-site

provision would be necessary to ensure compliance with Policies CS9 and CS11 of the CS and to help meet the need for affordable housing throughout the County. From the evidence before me, I find that the planning obligations meet the tests in CIL Regulation 122 and paragraph 204 of the Framework.

42. I understand the apprehension local residents have with regard to the effect of the development on highway safety, in particular its effect on the junction of Station Road and the A49. This stretch of Station Road is narrow and without footways. Furthermore, the visibility at the junction is restricted. However, in the absence of any substantive evidence that the development would result in severe harm to highway safety, I concur with the Council's view that it would not result in any significant harm to highway safety.

Conclusion

43. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mrs Helen Howie MRTPI	Berrys
Mr James Davies	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Philip Mullineux	Principle Planner
Mr Edward West	Principle Planner (Policy)

INTERESTED PERSONS:

Steve Gardner	Local resident
Jane Mottram	Local resident
Keith Mottram	Local Resident
M Davies	Local Resident
J Hitchcock	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Section 106 agreement dated 9 May 2016
- 2 Appellant's response to Council's costs application
- 3 Policy MD2 of the SAMDev
- 4 Appeal Decision Ref APP/L3245/W/15/3134584 (substitution of Appendix 6 of Council's Statement of Case)
- 5 Annex 3 of the Shropshire Council – Five Year Housing Land Supply Statement (2015)

DOCUMENTS SUBMITTED AFTER THE HEARING

- 6 Appeal Decision APP/L3245/W/15/3067596
- 7 Appellants' comments on Appeal Decision APP/L3245/W/15/3067596
- 8 Council's comments on Appeal Decision APP/L3245/W/15/3067596
- 9 Shropshire Council Full Objectively Assessed Housing Need Report, published 4 July 2016
- 10 Shropshire Council Full Objectively Assessed Housing Need (FOAHN) - Accompanying Note July 2016
- 11 Appellants' Response to the FOAHN report, dated 18 July 2016
- 12 Council's Response to the Appellants' FOAHN Response, dated 15 August 2016
- 13 Council's Five Year Housing Land Supply Statement, published 26 August 2016
- 14 Council's Response to Appellants' Rebuttal of FOAHN, Published 9 September 2016
- 15 Appellants' Further Comments to Council's Response, dated 19 September 2016
- 16 Appellants' Rebuttal of FOAHN, dated 26 September 2016
- 17 Appellants' Response to Teal Drive judgement and Council's Five Year Housing Land Supply Statement, dated 26 September 2016

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Appeal Decision

Site visit made on 24 January 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 31 March 2017

Appeal Ref: APP/L3245/W/16/3160708

Long Meadow Drive, Abbey Foregate, Shrewsbury, Shropshire SY2 6NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs C Goode against the decision of Shropshire Council.
 - The application Ref 15/04653/FUL, dated 16 October 2015, was refused by notice dated 12 April 2016.
 - The development proposed is the erection of 3 dwellings and garages.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs C Goode against Shropshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the planning application, the proposal was amended from 4 dwellings to 3. It is on this basis that the Council determined the planning application and I have considered the appeal proposal accordingly.
4. The appellants have requested that I consider revised drawings which were not considered by the Council when it determined the planning application. These drawings show the scheme in relation to retained trees and vegetation which were not indicated in the drawing that the Council determined, and a drawing showing the accurate siting of the existing swimming pool. A Heritage Impact Assessment (HIA), a Landscape and Visual Appraisal (LVA) and revised Arboricultural Assessment were also submitted with the appeal, which the Council did not consider when it determined the planning application.
5. I have considered the revised drawings and reports under the principles established by the Courts in *Wheatcroft*¹. I am satisfied that they do not change the development to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application, the revised drawings and submitted reports.
6. The Council's decision notice made reference to Policy CS16 of the Shropshire Local Development Framework: Adopted Core Strategy (CS). The Council has

¹ *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

however indicated that this this policy was included in error. Accordingly, CS Policy CS16 has not formed part of my consideration of this appeal.

Main Issue

7. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Shrewsbury Conservation Area, having particular regard to the siting of the new dwellings and the design of the new access.

Reasons

8. The proposal is to construct 3 detached dwellings to the rear of Millrace Cottage on part of its rear garden. The appeal site is at a lower level than the retained garden to this property and slopes away steeply from it, down to the Rea Brook Valley Local Nature Reserve. The dwellings would provide accommodation on 3 floors and plot 1 would also provide accommodation within the roof space. The existing access to the side of Millrace Cottage would be widened and extended to provide access to the new dwellings.
9. The appeal site is located within an established, attractive residential area, characterised by individually designed dwellings of various ages, laid out in a loose form. Mature landscaping is a feature of the area, particularly to the rear of the built form of this part of the town, leading down to the nature reserve. The special character of the area has been recognised and the appeal site and its environs are designated as a conservation area. The conservation area is the Shrewsbury Conservation Area. The conservation area has a number of character areas, including the Abbey Foregate Special Character Area, within which the appeal site is located.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 131 of the National Planning Framework (the Framework) sets out matters which should be taken into account when determining planning applications, including sustaining and enhancing the significance of heritage assets (which includes conservation areas) and the desirability of new development making a positive contribution to local character and distinctiveness.
11. Amongst other matters, Policy CS6 of the CS requires development to protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design, taking into account the local context and character. Policy MD2 of the Site Allocations and Management of Development Plan (SAMDev) has a similar purpose and requires development to contribute to and respect locally distinctive or valued character and existing amenity value by, amongst other things, protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting.
12. CS Policy CS17 requires development to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Policy MD13 sets out a number of criteria which will be sought to protect, conserve, enhance and restore heritage assets including ensuring that proposals avoid harm or loss of significance to designated or non-designated heritage assets.

13. The Abbey Foregate Special Character Area, includes Abbey Foregate from which Longmeadow Drive leads off, and the nature reserve to the rear of the site. The nature reserve forms part of a long green corridor along the Rea Brook from the River Severn, and makes a significant contribution to the setting of this historic town.
14. Within the vicinity of the appeal site, development is largely concentrated on the higher ground above the nature reserve, and set back from its boundary. Given the extensive mature landscaping in the area, such development is largely screened from the nature reserve. The exception to this is a building to the rear of The Lord Hill hotel which is located adjacent the nature reserve and prominent in view from it, close to Bage Way.
15. Although not specifically referred to within the Special Character Area Assessment for Abbey Foregate, I consider that the mature landscaping within the gardens of properties accessed off Abbey Foregate makes an important contribution to the character and appearance of this part of the conservation area and the landscaped setting of the town.
16. The appeal proposal would introduce new dwellings into part of this landscaped area. A number of trees and shrubs upon the site would need to be removed to accommodate the new dwellings, however the appellants have indicated that the trees along the boundary of the site would be largely retained, as well as a number of mature trees within the proposed garden of plots 1 and 2.
17. The appellants' LVA assessed the potential visual impact of the proposed scheme and found that the new dwellings would be unlikely to be visible, apart from their roofs, from the Rea Valley, as a result of the screening that would be afforded by the mature landscaping within and surrounding the site. This concurs with the observations that I made on my site visit in the winter.
18. However, the new dwellings would be sited beyond the existing built form of this part of the conservation area. I share the Council's concern that the physical presence of the new dwellings, particularly plots 1 and 2 which would be built into the slope, close to the nature reserve, would not reflect the established character of the area. The new dwellings would intrude into an area that is not characterised by built development. They would result in an alien form of development in this area, at odds with the prevailing character. The character or appearance of the conservation area would not be preserved or enhanced in this regard.
19. Whilst the proposal would not be prominent in public views, glimpses of the scheme would be seen from neighbouring gardens, as recognised in the appellants' LVA. The siting of the dwellings would stand out as a discordant element which would detract from the special qualities of the area. Furthermore, there is no guarantee that the dwellings would be screened in perpetuity. Trees may die, become diseased or may fall down. The intended future occupants may wish to undertake work to the trees to allow more light to the rear of their properties and gardens. As a consequence the new dwellings would be more obvious from the nature reserve which would compound the harm that I have identified.

20. The Council is concerned about the impact of the new driveway on the character and appearance of the area. The submitted Arboricultural Assessment has set out a number of measures to protect trees upon the site and upon adjoining land, and I note that the Council's tree officer made no objections to the proposal in this regard. On the basis of the evidence before me, I consider that the construction of the access would not result in harm to important trees within the vicinity of the site.
21. The increase in width of the access to the side of Millrace Cottage and its neighbour would not be significant and whilst the length of driveway would increase, this would not in itself be harmful to the character or appearance of the conservation area. The fence that the Council refers to is in situ and forms the side boundary to the host property. It does not appear to form part of the appeal proposal and it does not therefore form part of my considerations.
22. Notwithstanding my findings in respect of the proposed access, I find that the siting of the dwellings, particularly on plots 1 and 2 would result in a form of development that would not respect the local context. I do not concur with the appellants' HIA that the proposal would have a neutral impact on the character and appearance of the conservation area. The proposal would neither preserve nor enhance the character or appearance of the area. Whilst this harm would be less than substantial, it needs to be weighed against the public benefits of the proposal, as required by paragraph 133 of the Framework.
23. The provision of 3 new energy efficient, family sized dwellings would make a contribution, albeit small, to the supply of new homes in the area, in a sustainable location, close to the services and facilities within the town. New jobs would be likely to be created during the construction phase and the intended future occupiers of the new homes would be likely to support local services. Such matters amount to public benefits in support of the proposal. However, I consider that given the number of dwellings proposed, such benefits would be limited and would not outweigh the harm that would be caused to the character and appearance of the conservation area.
24. My attention has been drawn to a dwelling that has been constructed at No 129a. I observed that this property does not extend beyond the existing built form of the host property, or nearby development. Its siting therefore reflects the character and appearance of the area. It is not directly comparable to the appeal scheme.
25. I have also been referred to other areas of the town including Mill Meadow, Mill Lane and The Cedars which are visible from the Rea Valley. The properties in Mill Meadow are located on the opposite side of Haycock Way; Mill Road is located on the opposite side of Bage Way, as is The Cedars. Each of these examples is located some distance from the appeal site; they are not viewed in the same context. The presence of such development is not directly comparable to that before me, and I attach limited weight to the examples quoted in my overall Decision. Each planning application and appeal must be determined on its individual merits and this is the approach that I have taken in my consideration of the appeal proposal.
26. For the above reasons, I conclude that the proposal would not preserve or enhance the character or appearance of the Shrewsbury Conservation Area. The proposal would result in conflict with CS Policies CS6 and CS17, SAMDev Policies

MD2 and MD13, the statutory test and the Framework. This harm is not outweighed by the public benefits of the proposal.

Other Matters

27. The appellants submit that following the refusal of the planning application they have had positive pre-application discussions with the Council in respect of new dwellings within the grounds of Millrace Cottage. Whilst noting this, it appears that the scheme that the Council considered was for 2 dwellings. The scheme before me is for 3 dwellings and for the reasons given I find that harm would be caused. The proposal for 2 dwellings on the site would in the first instance be the subject of a planning application to the Council. This matter is not before me.
28. Adjoining the appeal site is a grade II listed former barn which has been converted into residential use (Long Meadow Pear Tree Cottage). Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. The Council has not raised concern about the effect of the proposal on the setting of the listed building. Having regard to the characteristics of the area and the relationship of the appeal proposal to the listed building, I have no reason to reach a different view to the Council in this regard. The significance of this heritage asset would not be affected by the proposal.
29. I have considered the Council's and interested party's argument that the grant of planning permission would set a precedent for other similar developments. However, no directly similar or comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
30. The appellants assert that the proposal would comprise sustainable development. Whilst the principle of residential development is acceptable in this location, this is on the basis that harm is not caused to amongst other things, the character and appearance of the area or the significance of heritage assets. For the reasons given, I have found that harm would result which would be in conflict with local and national planning policies. I therefore find that the scheme would not comprise sustainable development for which the Framework indicates there is a presumption in favour.

Conclusion

31. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR

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Costs Decision

Site visit made on 24 January 2017

by **R C Kirby BA(Hons) DipTP MRTPI**

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

Decision date: 31 March 2017

Costs application in relation to Appeal Ref: APP/L3245/W/16/3160708 Long Meadow Drive, Abbey Foregate, Shrewsbury, Shropshire SY2 6NA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs C Goode for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the erection of 3 dwellings and garages.
-

Decision

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

Reasons

2. The Planning Practice Guidance makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Each party is required to behave reasonably in respect of procedural matters at the appeal and with respect to the substance of the matter under appeal.
3. The appellants consider that the Council's decision was based upon inadequate and insufficient information particularly with regard to the loss of trees upon the site and the consequent impact on the Rea Valley. Since the planning application was refused the appellants have presented updated information to the Council including a Heritage Impact Assessment (HIA), Landscape and Visual Appraisal (LVA) and a drawing showing the trees to be retained on the site. Pre-application discussions have been commenced and the Council has indicated that a reduced scheme on the site would be likely to be supported.
4. In light of these discussions the appellants consider that the Council should have sought to offer no evidence to support its case for refusing the planning application for 3 dwellings on the site, or at least acknowledged that the visual and physical intrusion was no longer considered an overriding issue.
5. Whilst noting the appellants' concerns, I find that it was entirely reasonable of the Council to defend its refusal of planning permission. It did not have the LVA, the HIA or the drawing showing the trees to be retained in proposed plots 1 and 2 when it determined the planning application. The appellants chose to commission the reports to support their case. They were a necessary part of the appeal process. It was at my discretion to accept the reports at the appeal

- stage, and had I not, I may have reached different conclusions in respect of the merits of the case.
6. I am satisfied that the Council considered the planning application on the basis of the evidence before it at the time and that it has substantiated its concerns within the comprehensive report submitted with the appeal. It is not necessary for a separate statement of case to be submitted at the appeal stage, particularly when the merits of the case are set out in a detailed report, including relevant policies, consultation responses, and an assessment of the merits of the scheme.
 7. The Council's support for a lesser number of dwellings on the site was drawn to my attention by the appellants as part of their submissions, and I considered this matter accordingly. The fact that the Council did not comment on this matter is not an indication of unreasonable behaviour. It seems entirely reasonable to me that the Council has engaged in discussions with the appellants about a possible solution to the development of the site.
 8. In light of my findings I conclude that unreasonable behaviour resulting in unnecessary expense has not been demonstrated. The application for an award of costs fails.

R C Kirby

INSPECTOR