



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

Date: 26 August 2016

Committee:
North Planning Committee

Date: Tuesday, 6 September 2016
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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

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

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
John Cadwallader
Gerald Dakin
Steve Davenport
Pauline Dee
Roger Hughes
Vince Hunt
David Lloyd
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Vacancy

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 12th July 2016, attached, marked 2.

Contact: Emily Marshall on 01743 257717

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 Thursday, 1st September 2016.

4 Disclosable Pecuniary Interests

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

5 Storage Hangar, Wem Road, Shawbury, Shrewsbury, Shropshire (15/02839/FUL) (Pages 7 - 36)

Construction of an Anaerobic digester facility comprising Digester, lagoon, technical building, storage tanks and flare stack.

6 Warrant Road, Stoke Heath, Market Drayton, Shropshire, TF9 2JJ (16/01575/FUL) (Pages 37 - 60)

Change of use from potato plant to a materials recovery facility; erection of soundproof fencing and a nine bay storage area.

7 Land South West Of Leondari Manor, Station Road, Hadnall, Shropshire - (15/05450/REM) (Pages 61 - 70)

Application for approval of reserved matters (layout, scale, appearance and landscaping) pursuant to 14/03159/OUT for the erection of a dwelling.

8 Proposed Residential Development Land South Of Chester Road, Whitchurch, Shropshire - (15/05047/REM) (Pages 71 - 82)

Reserved matters application pursuant to 14/02222/OUT for the erection of 52 no. dwellings to include appearance, landscaping, layout and scale.

9 Residential Development Land Adj Willow Bank, Hengoed, Shropshire - (16/02005/VAR) (Pages 83 - 90)

Removal of Condition 1 (approved site/ block plans) pursuant to 15/04481/REM to allow for an amendment to affordable housing provision.

10 Appeals and Appeal Decisions (Pages 91 - 152)

11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 4th October 2016 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and Date

North Planning Committee

9th August 2016

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 12 July 2016

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 3.23 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Gerald Dakin, Steve Davenport, Pauline Dee, Roger Hughes, Vince Hunt, David Lloyd and Peggy Mullock

15 Apologies for Absence

Apologies for absence were received from Councillors Joyce Barrow and Councillor John Cadwallader.

16 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 14th June 2016 be approved as a correct record and signed by the Chairman.

17 Public Question Time

There were no public questions, statements or petitions received.

18 Disclosable Pecuniary Interests

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

Councillor Paul Wynn declared his interest in relation to planning application 14/03484/OUT, proposed residential development South of Ash Hall, Ash Magna, Whitchurch due to perception of bias. Councillor Wynn knew the applicant and would leave the table but remain within the room during consideration of the application.

19 Shavington Grange, New Street Lane, Market Drayton, Shropshire, TF9 3RH (16/01936/COU)

The Principal Planning Officer introduced the application for the Change of use from C3 Use (residential dwelling) to C2 Use (residential institution) for the an 8-bedded

children's home with staff and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Councillor Joyce on behalf of Moreton Saye Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- He shared some of the concerns raised by the Parish Council;
- As a farmer himself he understood the concerns in relation to health and safety of the neighbouring farm; and
- He didn't think it was the appropriate location for this type of accommodation.

Karen Blackhouse, Manager of a Residential Care Home on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate, the question was raised as to whether the adjoining orchard could be included as part of the garden area. In response the planning officer explained that the orchard did not fall within the application site, however the land owner was present and gave an assurance that residents could have access to this area of garden.

Members expressed their support for the proposals, commenting that the house would provide safe, comfortable accommodation in a rural setting for young people in need. Members of the Committee also acknowledging the concerns raised by the speaker in relation to health and safety and the neighbouring farm. The Committee noted that regular risk assessments would be undertaken by managers at the home and Shropshire Council's own Public Protection Officers had provided detailed comments and raised no objection.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the proposal, subject to an amendment to condition 4 to require the submission of details regarding the boundary treatments.

RESOLVED:

That planning permission be granted subject to:

The conditions set out in Appendix 1 and an amendment to condition 4, relating to boundary landscaping.

20 **Proposed Residential Development South Of Ash Hall, Ash Magna, Whitchurch, Shropshire (14/03484/OUT)**

In accordance with his declaration at Minute 18 Councillor Paul Wynn left the table but remained in the room during consideration of this application.

The Principal Planning Officer introduced the outline application (access for approval) for residential development (some affordable housing) and associated amenity space.

Carol Heyes on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- The development would bring advantages and disadvantages to the village;
- He requested clarification as to whether the affordable dwelling would be built on site; and
- Questioned what the proposals were in relation to the Old Smithy.

Councillor Joyce on behalf of Whitchurch Rural Parish Council spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Peter Richards Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In response to questions, the Agent confirmed that one affordable dwelling would be provided on site and confirmed that the Old Smithy would be converted into a residential dwelling in line with the request from conservation officers.

Having considered the submitted plans and listened to the comments made by all of the speakers and whilst recognising that circumstances had changed since the original decision had been made member's felt that the proposals were still acceptable given that the site was in a sustainable location, supported by the Parish Council, included improvements to the pavements and highway network and would provide an affordable dwelling on site.

RESOLVED:

That planning permission be granted subject to:

- The Conditions set out in the planning officers report dated 17th February 2015; and
- A Section 106 legal agreement to secure affordable housing

21 Residential Development Land South of Bay Tree Close, St Martins, Shropshire (14/04980/FUL)

The Principal Planning Officer introduced the application for the erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme).

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Steve Davenport as local ward councillor, stated that he supported the officer's recommendation to grant permission, he then left the table, took no part in the debate and did not vote on this item.

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

RESOLVED:

That planning permission be granted subject to the conditions set out in Appendix 1 of the planning officer's report dated 12th May 2015.

22 Proposed Development Land South Of B5063, Welshampton (14/01063/OUT)

The Principal Planning Officer introduced the outline application (access) for the erection of 7 dwellings. The Principal Planning officer informed the Committee that the Parish Council had submitted a representation to confirm that their objection previously submitted, namely the site being in open countryside still stood.

During the ensuing debate, Members were pleased to note that the development would include much needed improvements to highways safety.

RESOLVED:

That planning permission be granted subject to;

- The conditions as set out in appendix one of the planning officer's report dated 23rd September 2014; and
- A Section 106 legal agreement to secure affordable housing.

23 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area be noted.

24 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 9th August 2016 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date
 North Planning Committee
 6th September 2016

Item
5
 Public

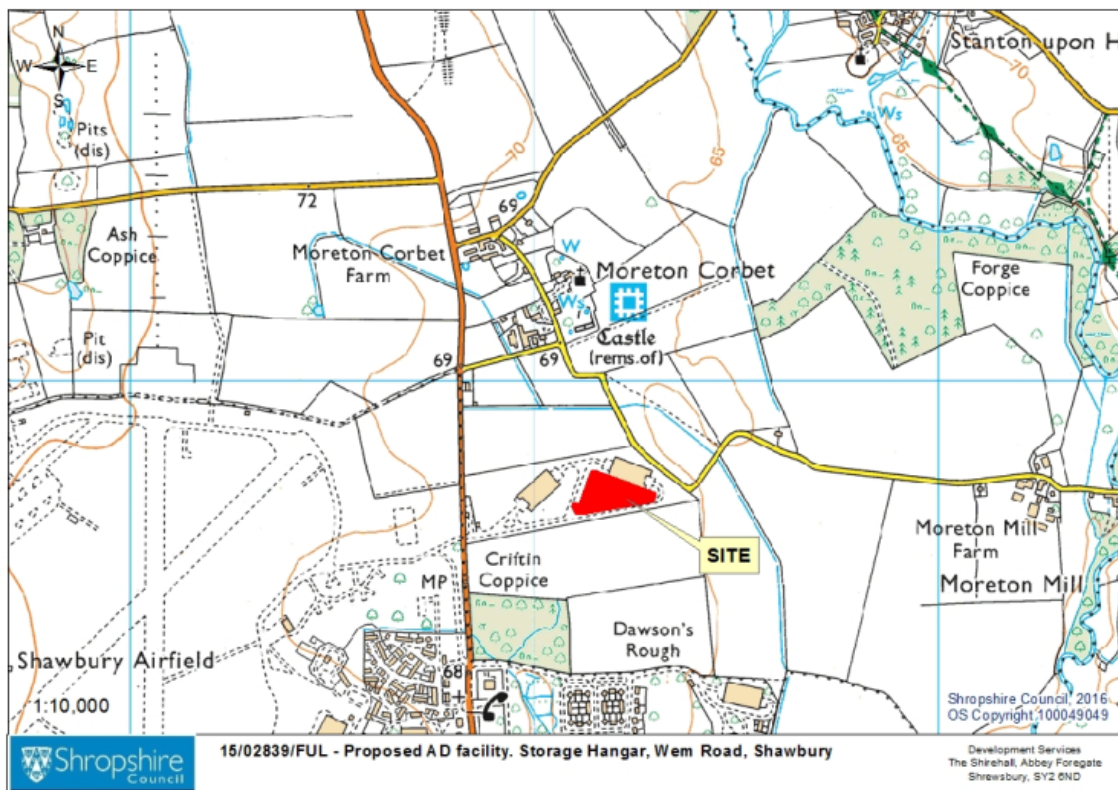
Development Management Report

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

Summary of Application

Application Number: 15/02839/FUL	Parish: Moreton Corbet And Lee Brockhurst
Proposal: Construction of an Anaerobic digester facility comprising Digester, lagoon, technical building, storage tanks and flare stack	
Site Address: Storage Hangar, Wem Road, Shawbury, Shrewsbury, Shropshire	
Applicant: Oakland Farm Eggs Ltd	
Case Officer: Graham French	email: planningdmsw@shropshire.gov.uk

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



REPORT

1.0 THE PROPOSAL

1.1 It is proposed to construct a 1.5MW anaerobic digester (AD) plant in order to process poultry manure from the applicant's egg production business which is based at a nearby farm, The Oaklands at Edstaston 2.2 miles north of Wem and 8.6 miles from the application site. The proposed AD facility will process and manage in the region of 50,000 tonnes of poultry manure per annum.

1.2 The AD plant would include the following structures:

- Digester –a rectangular flat roofed concrete structure 90m x 44m x 5m high (only 2m above existing ground level), contained within a 3m grassed earth bund;
- Digestate lagoon – 4,500m² in area, mostly underground and contained by 3m earth bunding;
- Control and electrical room – 40m x 15m x 6.5m high, located adjacent to the digester;
- Flare stack with associated small plant;
- Ammonium sulphate tank 21m diameter x 4.5m high
- Sulphuric acid storage tank, located within the technical building;
- Flare stack – 5.5m high steel pipe work;
- Reception pit – This will be covered to ensure no release of odour. Fresh manure will be fed straight into the system, instead of being stored in the building. An area of the existing hangar will be reserved for temporary manure storage in case the plant is temporarily down for maintenance.

The above structures would be located close to the existing hangar in order to screen the facility. A scheme of landscaping enhancement is also incorporated into the design to support the existing landscaping measures on site.

1.3 This application is a joint venture between Oakland Eggs Ltd and Rika Biofuel Developments Ltd (Rika Biofuels). The applicant's egg production business at the Oaklands started in 1967 and now produces nearly 500 million eggs per year. The business is managed by J.A & O Griffiths and Sons and employs around 162 people.

1.4 The proposed AD plant would divert all poultry manure produced on the holding through the AD process. The plant would process only poultry manure, which would be delivered throughout the week. The manure would be delivered directly into the digester reception pit. This will have a sealed automatic lid that will only be opened to allow unloading of the incoming manure. The fresh incoming manure will be put into the system as soon as it arrives.

1.5 The manure would be utilised as an energy resource by using biogas from the AD process to power a Combined Heat and Power (CHP) engine. The resulting liquid would be heated to remove ammonia gas which would be bubbled through a sulphuric acid tower to produce ammonium sulphate solution. This is a widely used agricultural fertiliser, normally produced by an energy intensive chemical manufacturing process.

1.6 The digestate end-product is virtually odour-free and would be separated into solid and liquid. Some of the liquid digestate would be used as a nutrient rich soil conditioner,

giving significant amenity benefits relative to the spreading of raw manure. The remainder would be used to dilute the fresh incoming manure, thereby reducing the usage of fresh water and the amount of material that needs to be exported off site and spread to land.

- 1.7 Foul odours would be eliminated throughout the process. The AD process is a sealed system (oxygen) and does not create any odour emissions under normal operating conditions. The system is designed to ensure that all biogas is captured as this product is the source of income for the plant.
- 1.8 A gas flare is proposed in common with all AD plants. This would ensure that if surplus gas is produced it can be safely released. Any “flaring” would be intermittent and would be an odourless, flameless and smokeless operation. Only a heat haze would be visible.
- 1.9 The AD process would capture methane (a strong greenhouse gas) from the manure, which would otherwise be released directly into the atmosphere from spreading of raw manure. The CHP engine would produce enough renewable electricity per annum to meet the needs of around 4000 homes, thereby helping the UK to shift away from fossil fuel technologies.
- 1.10 The digestate by-product has a lower biological oxygen demand than raw manure and is a more uniform and easily used fertiliser. This would help Oakland Eggs Ltd to address current Environmental Regulations which prevent manure being used as fertiliser throughout the year. The use of the digestate as a fertiliser also helps displace the fossil fuels used in the manufacture of artificial fertiliser, which the Government and DEFRA estimate can save 5 tonnes of CO₂ for every tonne of nitrogen displaced.
- 1.11 The proposals would generate 2 new full-time jobs. Other employment would include feed delivery drivers, digestate collection drivers, construction workers, cleaning teams, maintenance technicians, ground workers and landscape contractors.
- 1.12 The site will be monitored by computer systems 24 hours a day and will automatically alert site operators of any issues during non-working hours. CCTV will also be in operation. The management and operation of the proposed AD plant would also be subject to strict controls under the Environmental Permit Regulations administered by the Environment Agency.

2.0 SITE LOCATION / DESCRIPTION

- 2.1 The site (known as ‘Site E’) is located approximately 1.4km to the north of Shawbury Village Centre immediately adjacent to the B5063 Wem Road from which access is obtained. The site is flat and surrounded by arable land. The site area of 1.23 hectares and sits within a wider ownership boundary totalling 7.88 hectares. The adjoining land is in separate ownership and in arable cultivation.
- 2.2 The two existing aircraft hangars on the site are currently used for agricultural operations, weighbridge facilities and storage of manure, fertiliser, feedstock and grain. The surrounding landscape is either in military use forming part of the Airbase at Shawbury or in arable use interspersed with further woodland blocks. The site is otherwise unaffected by the relevant statutory designations.

- 2.3 The Hangars and associated infrastructure were constructed in 1940 as part of the Shawbury Airbase. The Ministry of Defence sold Site E during 2005. Since then it has been used as touring caravan storage facility and light industrial processes. In recent years it has been used for storage of vehicles associated with the farming enterprise, and storage of manure, Grain, fertilizers and other agricultural products/by-products. Oakland Eggs Ltd currently have an Operator's Licence to operate goods vehicles from the site for 15 Motor Vehicles and 45 Trailers (valid until May 2017).
- 2.4 Oakland Eggs Ltd is a family run business, farming both arable and livestock enterprises on farms across North Shropshire. The business farms over 1800 hectares, producing potatoes, cereals and oilseeds.
- 2.5 The site is adjacent to a business unit occupied by Oaklands Farm Eggs Ltd. The two nearest residential properties are located 290m to the east and 340m to the northwest. Other groups of properties are centred around Moreton Corbet 500m to the north, Moreton Mill 1.1km to the east and RAF Shawbury 470m to the south west and 440m to the south.

3. REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The proposals have attracted objection from the Parish Council and relates to major development of a complex nature. Accordingly the application is referred to the committee under the Council's Scheme of Delegation.

4. CONSULTEE RESPONSES

- 4.1 Moreton Corbet Parish Council - Objection on the grounds that the transportation of incoming and outgoing materials will substantially increase the amount of large vehicles using the busy A53 through Shawbury, turning at the traffic light junction and then travelling along the Wem Road. This will increase the inherent danger to other road users and pedestrians, including children who have to access this route to and from school. The recent placement of speed cushions on the Wem Road will certainly be an increased noise factor for that section.
- 4.2 Environment Agency (10/03/16) – No objection.
- i. Groundwater Vulnerability; Based on the site investigation report provided by the applicant, the 6 site investigation boreholes drilled in December 2015 confirm that the drift under the site to be composed of gravelly medium to coarse sand deposits to a minimum depth of 3.5 to 5mbgl. The borehole logs record groundwater levels at between 2 to 2.5mbgl, which coincide with the collapsing of the borehole at the groundwater contact demonstrating unstable running sand conditions. This is consistent with our initial hydrogeological assessment, and coincides with the regional groundwater head in the underlying Permo-Triassic sandstone Principal Aquifer contoured at 65 to 66mAOD (2 to 2.5mbgl). The borehole logs reinforce assessment of the site as being of high vulnerability, with very permeable drift over lying Principal Aquifer. The shallow groundwater level provides only 2 to 2.5mbgl of unsaturated zone in the underlying sand and gravel. This zone is likely to be reduced further once the foundation for the proposed structures is excavated in to the existing ground elevation. However, based on the information submitted we are satisfied that there should be no sub water table storage. This is also consistent with the tank design drawings as indicated on the amended plans. Preliminary Design – Clancy Consulting Ltd Drawing Ref: 4-5865-01-1 Preliminary Secondary/ Tertiary Containment details for AD Plant

submitted June 2016. Ideally the applicant should have twin tracked the planning application and permit as we currently have no sight of the detailed design for the principle components of the plant. We have some concerns on the preliminary design detail submitted at this stage (Drawing Reference 4-5865-01-1). However, we acknowledge the commitment to designing to CIRIA 736 and appropriate engineering standards. In the absence of further information, or the permit being twin tracked, the applicant should be made aware that improvements will be sought to ensure safe containment and protection of the groundwater environment from the out-set of the detailed design Bespoke Environmental Permit application. Whilst there is a commitment to designing to CIRIA 736 and engineering standards, we do have some concerns about the current preliminary design proposed, as part of the planning application, for the digester and storage lagoon structures. Further design discussion and assurances will be required at the permit stage to ensure safe containment and protection of the groundwater environment.

- ii. Comments on design: The design concerns relate to the proposed use of a bentonite lining system and the use of it on the vertical concrete walls of the digester as well as underneath it. As there is limited technical data at this stage it is presumed that the bentonite lining systems will comprise a Geosynthetic Clay Liner (GCL). Generally speaking where a GCL is to be used on slopes, the slopes should not exceed 1v:3h unless a slope stability analysis has been carried out which demonstrates that there is a factor of safety (FOS) of 1.5 or more. The slope stability analysis should consider the interface friction angles of the saturated GCL with the other components of the design. Issues can arise with respect to the internal shear strength of the GCL when used on slopes exceeding 1v:3h. Furthermore from the designs provided it is unclear how the bentonite liner is to be attached to the concrete walls in a manner that will prevent the forces created by the weight of the GCL exceeding its tensile strength and causing it to stretch or tear. GCLs are normally held in place with /secured using anchor trenches to prevent this scenario occurring. In addition if the predominately clay mineral component of the clay is sodium montmorillonite, and it comes into contact with liquids or vapours containing ionic species, the sodium can be replaced as a result of ion exchange. Such a process would result in the reduction in the swelling abilities of the bentonite and an increase in its permeability characteristics. Concrete structures such as the digester could provide such a source for ion exchange to occur. Has the load bearing capacity of the bentonite lining system for the AD plant and lagoon in its saturated state been taken into account? The weight of the digester could cause the benoite in the GCL to decrease in places if the load is not evenly distributed. Altering the thickness of the GCL could impact on the hydraulic performance of the GCL. The hydraulic performance of geotextile supported GCLs depends on the distribution of bentonite mass/area within the material. Once hydrated the bentonite has a very low shear strength, it is possible in this case that stress concentration activities and permanent structural loads may cause the bentonite to squeeze laterally and lead to a local reduction in thickness which in turn can cause a higher flux at these locations (Koerner and Narejo, 1995; Fox et al., 1996). To avoid local bentonite displacement and consequent possible impact on the hydraulic performance of a GCL, a cover soil of suitable thickness and particle size should be placed over a GCL before it hydrates and before it is subjected to concentrated surface loads. The presence of coarse -grained material such as gravel, proposed in the preliminary design, can also be another cause of bentonite migration due to stress concentration. What assurances can be given that will prevent the drainage stone beneath the base of the digester from been pushed into the bentonite liner, and thus compromising containment. Furthermore, like the cover soil, the subgrade on which the GCL is installed should also

be suitable with respect to particle size. Regards the soil beneath the bentonite liner, the surface on which a GCL is to be laid must be smooth, flat and free from any materials which threaten the physical or chemical properties of the GCL. An uneven subgrade may cause point loading on a GCL or bentonite migration, creating a higher area of permeability. It must not be laid against any subgrade rich in calcium or any other substances which could exchange ions with the sodium in the GCL and must have appropriate shear strength values. For sand the material must be >90% of its maximum dry density to ensure no movement will occur during or after placement. To ensure these criteria will be met an appropriate soils testing programme will need to be undertaken. The preliminary design as submitted makes no reference to the presence of an engineered subgrade. GCLs have been used as a single liner but are more commonly used and better suited to be used as a component of a composite lining system. All the above comments are applicable to the lagoon structure also, given that it is to be constructed to the same design as the digester.

iii. Summary:

1. The borehole logs submitted by the applicant reinforce the hydrogeological assessment of the site as being of high vulnerability. With very permeable drift overlying Principal Aquifer, and a shallow groundwater level encountered 2 to 2.5mbgl.
2. The very thin unsaturated zone will mean that any contaminants escaping to ground from the containing structures will quickly enter controlled waters and impact upon the groundwater quality of the underlying principal aquifer receptor. It is suggested that groundwater monitoring will be required and controlled as part of the Bespoke Permit application.
3. We currently have no sight of the detailed design for the principle components of the plant other than the limited set of drawings submitted in June 2016.
4. We have some concerns about the preliminary design proposed for the digester and storage lagoon structures. However, it is likely that an appropriate system can be developed and in the absence of further information at this stage, or the permit being twin tracked, this would be looked at in more detail and controlled at the permitting stage.

- iv. Emissions to air: We have reviewed the letter of 30 June 2016, from George Bagley at E4 Environment, to our objection letter of 15 August 2015; the air quality screening assessment of 11 July 2016 and subsequent revised air quality report of 23 July 2016 (received 25 July 2016). The air quality screening report confirms that the following pollutants are considered to require a further more detailed investigation with respect to the human health impact of releases to air: Nitrogen dioxide Nitrogen monoxide Formaldehyde. The further revised report of 23 July 2016 provides some more detail and concludes that the concentrations (conservative estimate) are based on pollutant contributions to ground level concentrations and at the nearest sensitive receptors would be insignificant. It is noted that the engine flue height is greater than 3 m and the report confirms the nearest 'residential' sensitive receptor is more 200 m from the site. However, there is a sensitive receptor – workplace unit within 50m. This is identified as Oaklands Farm Eggs Ltd general commercial unit. The report summary appears to suggest that the levels are down to the intricacies of the model parameters. There are technical reasons as to why the levels are present for Nitrogen dioxide, Nitrogen monoxide and Formaldehyde. They are generally present in all such emissions and in this instance, without prejudice to any future bespoke permit application, are unlikely to cause it to fail the H4 assessment. However, in the absence of the permit being twin tracked, we cannot give full certainty -this could be fully

confirmed through a H4 permit application technical assessment. Any necessary measures to avoid or control the elevated levels would be further considered as part of the Permit.

- v. Odour: We note the comments on odour and consideration of nearby receptors. A more detailed H4 assessment will likely be required as part of the Bespoke Permit. The further information at this stage provides some reassurances on the risk and control measures for odour and bio-aerosol risk management. It also confirms that an Odour Management Plan will be produced following H4 guidance.
 - vi. Noise: Similar to the above, the Bespoke Permit will likely require a noise assessment and secure a Noise Management Plan. The further information as submitted provides some reassurances on the likely impacts from the CHP engine upon local receptors and suggests measures to help reduce and minimise nuisance.
- 4.3 Natural England: No objection, no conditions requested. This application site is within the impact risk zone for Hencott Pool 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. Account should be taken of any local sites (biodiversity and geodiversity); local landscape character and local or national biodiversity priority habitats and species in determining the application. Standard comments are made with respect to protected species.
- 4.4i. Historic England: No objection subject to appropriate agreement on all details, and considering the balancing exercise required by the NPPF section 12. The site is within a disused part of an old airfield, to the east of the B5063, formally part of RAF Shawbury. The main part of the airfield, now to the west of the B5063 remains an active air force base. Although the development will be partially screened behind a c.12m tall c.WWII hanger, it is within the setting of the scheduled ancient monument of Moreton Corbet Castle, Heritage List for England ref: 1015317, and the adjacent Church of St Bartholomew, listed Grade I, Heritage List for England ref: 1307235. Moreton Corbet Castle is an impressive medieval castle that was developed into an early post-medieval mansion with formal gardens laid out to the south. The remains of the Castle and manor house survive as full height roofless ruins and are operated as a visitor destination by English Heritage. The former gardens to the south of the main facade are now largely altered and obscured by more recent incorporation into agricultural land and airfield construction activities. Two detached areas, one to the west and one to the south of the castle, do contain earthwork remains relating to the post-medieval mansion and are also protected as part of the scheduled ancient monument.
- ii. The development would include a very large concrete tank and associated landscaping and buildings. The site is largely screened behind the old hanger, and the tank would appear from the Castle area as a low mound c.2-3 metres tall, and covered in grass. It appears that the majority of associated buildings will be behind the hanger and hidden from direct view from the Castle, and its outlying scheduled areas that relate to the best surviving earthwork remains.
 - iii. Historic England attended a site visit on 14th May 2015 with the applicant and agents,

and representatives of Shropshire Council. The development will have an impact upon the setting of the designated heritage assets but this could be minimised by agreement on details. In order to minimise the impact upon heritage assets we recommend that the local authority consider conditions to ensure that:

- support buildings (including the flare) are located behind (i.e. to the south of) the hanger.
- the sides of the lagoon tank are landscaped and grassed over.
- that details are agreed regarding the use of recessive colours, materials, fencing and lighting in order to minimise overall impact.
- that noise impacts are minimised, including by considering routes and volume of heavy vehicle movements to and from the site.
- details of connection to the grid are agreed. We recommend that undergrounding of cables is considered within the vicinity due to the potential for impact within a generally open aspect.

We note that in accordance with the NPPF paragraphs 128 and 129, the application is accompanied by a Heritage Assessment. We are in broad agreement with the mitigation measures proposed within that report, and within the Planning Statement that also accompanies the planning application.

Internal Comments:

- 4.5i. SC Archaeology (Historic Environment): – No objection. The proposed development site is located c.400m south, and within the setting, of the Scheduled Monument and Grade I Listed Building of Moreton Corbet Castle (NHLE ref. 1015317 and 1366802), and Grade I Listed St. Bartholomew's Church (NHLE ref. 1307235).

The proposed development site itself is located to the south and adjacent to a World War II aircraft hanger that was built as part of RAF Shawbury (HER PRN 21982). This building will partially screen the proposed development in views towards the site from the above designated heritage assets. Otherwise, Shropshire Historic Environment Record contains no records relating to non-designated heritage assets with archaeological interest on the proposed development site itself. The site is, however, located c.400m west of the main Roman road north from Wroxeter to Whitchurch (HER PRN 00066), and the Heritage Assessment submitted with the application identifies the five archaeological cropmark sites within a 1km radius of it (HER PRNs 02261-2; 02264-66). As a consequence, whilst the archaeological potential of the proposed development site is assessed as being low, there remains a possibility that currently unknown archaeological remains may be present on it.

- ii. Recommendation: A Heritage Assessment has been submitted to support the planning application, and it is advised that this meets the requirements set out in Paragraph 128 of the NPPF and Policy MD13 of the Local Plan. Historic England have also confirmed in their consultation response of 16 June 2016 that they are in broad agreement with the recommendations contained within the Assessment. Historic England acknowledge that a significant proportion of the proposed development will be located to the south of the hanger building, and therefore screened by it from the designated heritage assets cited above. The development includes a large concrete tank that will be up to 2 ' 3m high but in views from the castle and church would appear as a low, turf covered mound. Historic England state that the proposed development will have an impact on the setting of the designated heritage assets listed above but that this impact can be

minimised by agreement of details. They advise a series of measures which they consider would achieve this and recommend that conditions are included on any planning permission to achieve this. We confirm that we concur with Historic England's advice and, without repeating it in full here, therefore recommend that appropriate conditions, including the standard conditions listed below, are included as part of any planning permission. With regard to the archaeological interest of the proposed development site itself, in with reference to Paragraph 141 of the NPPF Policy MD13 of the Local Plan, it is advised that a phased programme of archaeological work should also be made a condition of any planning permission for the proposed development. This should comprise an archaeological watching brief during all intrusive ground works for the proposed development.

- 4.6 SC Drainage: No objection. The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted. Conditions and informatives are recommended.
- 4.7 SC Ecology: – To be reported verbally.
- 4.8i. Highways Development Control: – No objection subject to the development being carried out in accordance with the approved details. It is assumed that the current storage hanger enjoys the benefit of a B2/B8 use class, with unrestricted use. It is further assumed therefore that this current planning application has been required due to the proposed 'waste' operations. It is considered, from a highway perspective, that under the existing use class, this site could potentially be used for many industrial/commercial activities generating similar HGV and general traffic than is currently proposed, without the need for further planning consent or highway consultation. The application indicates that the use of the building will have a positive effect upon the number of tractor and trailer movements on the local highway network by virtue of the current operations at the egg production unit at Edstaston. The proposal however results in HGV movements that are currently undertaken by tractor and trailer.
- ii. Notwithstanding the above, ultimately it is difficult to reconcile between the current permitted/potential use of the building set against the proposed waste activity but quite clearly the 'fall-back' position of the use of the building is a key factor in the decision making process. This proposed level of vehicular activity is commensurate with this type of development and is considered to sustainable, as the import and export of material/waste is relatively localised. It is sustainable in terms of the production of electricity from the chicken waste product with the final waste product from the AD Plant being spread on agricultural land. What the application does not indicate is the traffic routing between the Edstaston site and the A53 site. The highway authority would strongly recommend that routing through Wem is avoided and would request that a routing agreement is entered into which avoid routing through the town of Wem.
- 4.9 Public Protection: - No objection. Having considered the air quality report and noted the concentrations of potential pollutants emitted at source I can confirm that the concentrations noted are a conservative estimate based on release at ground rather than at the height of the flue which has taken place for technical reasons based on heights of surrounding buildings associated with the proposed development. Taking into consideration the potential impact of pollutants at nearest residential properties and the concluding remarks made by the consultant in report by E4 Environment Limited reference 160740 dated 21/7/2016 I confirm that I am in agreement with these

comments and do not consider there to be any likelihood of pollutant concentrations occurring at levels which would have an impact on the health of nearby residents and require any future mitigation. In respect of potential odours and noise I am satisfied that the land use proposed is suitable and therefore leave controls for the appropriate permitting regime which in this case falls to the Environment Agency to issue and regulate a permit.

Public Representations

- 4.10 The application has been advertised and the nearest private properties have been individually notified. Four objections have been received. The main concerns are:
- i. Traffic: Adverse impact on the B5063. The Planning Statement states that there will be a reduction in the number of vehicle movements by moving the deliveries from tractors to 29 tonne HGV's, but I feel this masks the overall increase in activity. The B5063 is a poor road. Its geography will build up frustrations for following traffic such that they will be more eager to overtake. Certainly, locally, it is in a poor state of repair. After rain and in winter there can be significant amounts of standing water. From the traffic movement schedule the applicants envisage 51 round trips each week which averages out at approx. 7 round trips per day. It will be 7 days per week (excluding bank holidays), every week, thereby giving a level of consistency that is not present in the existing situation. Importantly all the trips from Oaklands are coming to this site rather than being spread over the road network. Based on this analysis the visits to the site will increase from 400 visits per annum (para 8.1.3) to 2652 per annum (51 x 52weeks). Before reaching a conclusion, a small committee of Councillors met with a representative of Ashley eggs to address concerns over this application. Some of these were effectively dealt with but the Parish Council still has reservations particularly in relation to the increased amount of HGVs using local roads, especially the B5063. It is still not clear to us precisely what the flow of traffic using this road and others for the movement of manure and digestate will be, but the B5063 from Rockhall Crossroads on the A49 to beyond Besford is narrow and winding and unsuitable for increased use by yet more HGVs. Further south towards Shawbury, the comments of Mrs Doxey and indeed Shawbury PC are very relevant. Significant work to improve the B5063 will be an essential prerequisite. The increased volume of traffic, over 20 tractor and trailer loads of chicken manure every day passing our home, is on top of the already existing Haulage Business running from the site. In addition all farming vehicles moving to and from the grain store on the same site. My drive comes out onto the B5063, travelling at National Speed Limit (more often or not over) with semi blind access. This makes approaching vehicles very difficult and dangerous to see. This road is in a poor state of repair, with no pavement and a very small grass verge. It is regularly used by the military from RAF Shawbury as a jogging route.
 - ii. Health and safety: When up and running the digester will have 30 days worth of input in situ at any one time (see para3.1.2) so response times are important to have men and machines on site in order to minimise the effect of potential pollution, noise etc. so it is important that site maintenance, organisation, and cleanliness is consistently maintained.
 - iii. Precedent for industrialisation: I would not want this becoming the "thin end of the wedge" application that will see applications for increases almost immediately this is allowed. This application increases the chances of success of future unrelated applications for other types of activity. This may have the effect of making the site more

of an industrial "eyesore" in an area of natural rural beauty and heritage. In the last 7 years since we moved into our existing family home, the increased activity and parked lorry trailers has become an ever increasing eyesore. Will we be subjected to even more industrialisation?

- iv. Pollution: Environmental issues-pollution of water courses, noise, and odour are natural concerns. Although extensively covered in the planning statement I would want these matters to be exhaustively reviewed, tested, and assessed during the application process. I am sure they will be, as already demonstrated in the recent response from the Environment Agency.
- v. Amenity: We are concerned to note that the AD could impact on residential property close to it and if this is the case we could not support the application. We are awakened frequently at 3am by the Haulage Lorries starting work, their reversing alarms sounding and very bright headlights shining into our property. With this proposed development are we going to be subjected to even more noise and light pollution 24 hours of the day? A similar Digester already exists in the village. The only thing the Anaerobic Digester offers is a sickening, stomach churning smell on a regular basis. Should this proposal be granted, it will significantly affect local people's quality of life (e.g. deterring locals and inhabitants of RAF Shawbury from spending time outdoors and in particular the play parks), it will deter people from visiting the English Heritage site to the North and also the neighbouring Church. Most people are in favour of green energy but if it makes people drive elsewhere to get fresh air, it's self-defeating.
- vi. Choice of site: Why is this development not being built nearer to the source of supply, surely it would be more environmentally friendly and economically sound? Why make over 20 tractor per day travel 14/15 miles round trip? What benefit is this development to the local community?

5. THE MAIN ISSUES

- The planning policy context;
- Assessment of the justification and benefits of the proposals;
- Whether the site is an appropriate location for the proposed development;
- Whether other off-site impacts are acceptable including with reference to:
 - Visual impact;
 - Residential amenity (noise, odour);
 - Water resources;
 - Traffic and vibration;
 - other environmental issues.

6. OFFICER APPRAISAL

6.1 Policy context:

- 6.1.1 The NPPF in paragraphs 97 and 98 recognises the need for renewable and low carbon energy. Shropshire Core strategy policy CS5 supports the retention and expansion of an existing established business. Policy CS8 positively encourages infrastructure, where it has no significant adverse impact on recognised environmental assets, that mitigates and adapts to climate change, including, low carbon and renewable energy generation. Policy CS13 seeks to promote economic development and recognizes the important role that

local food production has to the rural economy.

- 6.1.2 SAMDEV policy MD7b states that agricultural development will be permitted where:
1. it is of a size/scale and type consistent with the required purpose and the nature of the agricultural enterprise
 2. it is well designed and...functionally and physically closely related to existing farm buildings
 3. There will be no unacceptable impacts on environmental quality and existing residential amenity.

Policy MD8 confirms that new energy infrastructure will be supported to help meet national priorities and locally identified requirements, where the contribution to agreed objectives outweighs the potential of adverse impacts. The policy goes on to state that “particular attention will also be paid to the potential opportunities to recover heat and power” in anaerobic digestion schemes. Core Strategy Policy CS17 and SAMDev Policies MD12 and MD13 refer to the need to protect and conserve Shropshire’s natural and historic assets.

- 6.1.3 The scheme is therefore capable of being supported in principle by adopted national and local planning policy provided there are no unacceptably adverse environmental impacts.

6.2 Justification and benefits of the proposals

- 6.2.1 The site will contribute to the local electricity supply and reduce the need for energy produced from other, more environmentally damaging sources. The CHP engine would produce enough renewable electricity per annum to meet the needs of around 4000 homes. The facility would capture and offset energy from fossil fuels by some 60,000 net tons of CO₂ every year, or 1.2million tonnes over the anticipated 20 year minimum lifetime of the facility. The renewable energy and climate change benefits of the scheme are significant material planning considerations.

- 6.2.2 The proposals would help to eliminate the current practice of spreading raw manure from the applicant’s poultry egg operation direct onto the land with its consequent odours and environmental issues. Manure can only be spread at certain times of the year due to its high biological oxygen demand and the fact that much of the local area is within nitrate vulnerable zones. There are no equivalent restrictions for digestate, so the scheme provides an improved solution for manure management. Once the feedstock has been exhausted the resulting digestate will be used as a high-grade organic conditioner for farmland. The scheme would also produce ammonium sulphate which would replace the energy intensive production of artificial fertilisers.

- 6.2.3 In addition, the proposals would help to diversify the income of the business through renewable energy generation. This would help to sustain the 160+ jobs associated with the poultry enterprise, whilst creating 2 new full-time positions plus construction and maintenance jobs supporting local trades.

- 6.2.4 The NPPF advises that local planning authorities should not require applicants to demonstrate the overall need for low carbon energy and should approve the application if its impacts are (or can be made) acceptable (s98). The applicant has however put forward a number of justifications for choosing the current site:

- The immediate the area already has two large former aircraft hangars and access roads and so the proposals will represent an extension of the existing built industrial form, as opposed to isolated development in the countryside. The design of the

scheme has been carefully considered to minimise any visual impact by using the screening afforded by the large hangar buildings and due to the low profile nature of the proposed plant.

- Processing of manure through an AD plant would reduce the volume of material which needs to be disposed of and ensures that the remaining material has significantly less odour issues.
- There is also a reduction in vehicle movements to and from the Farm as the manure can be taken in bulk by HGV to the proposed AD plant and handled in a more efficient manner.
- The proposals allow heat from the CHP engine to be used in order to remove ammonia from the digestate;
- The site adjoins the hangar building which is an existing management hub for the poultry enterprise and is well located in relation to surrounding fields for digestate application.
- A connection can be made to the electrical grid;
- It has been surveyed and found to be suitable to accommodate the development.

6.3 Assessment of off-site environmental impacts:

- 6.3.1 Traffic: Objectors have expressed concerns about the potential for the proposals to generate additional traffic and of the limitations of the B5063 to accommodate such traffic. The applicant advises however that overall traffic levels will reduce whilst continuing the use of the established HGV routeing and timing of HGV movements to and from the site will continue to ensure that any impact on residents living adjacent to the public highway are minimised.
- 6.3.2 Access to the development site will be directly off the B5063. There is an existing access splay leading into the original Hangar access roads. Internal vehicular movements will be over the existing concreted areas. The proposed AD plant would process circa 50,000 tonnes of poultry manure per annum which would be imported from the main egg production unit at Edstaston. The farming operation already moves manure to the site for covered storage and in order to comply with Nitrate Vulnerable Zone regulations. The majority of lorries delivering manure will be loaded with digestate for a return trip, thus minimising the traffic movements in and out of the site.
- 6.3.3 The poultry manure currently produced at the Oaklands is transported by tractor and trailer loads to the end user at numerous locations around the County. During much of the winter months and in adverse weather, manure cannot be spread on land so is stored at the Shawbury hangar site until conditions allow onward transportation. The current operations involve importation of 400 loads (800 individual movements) of manure to the facility using tractors and trailers (15 tonne loads). The majority of these movements are between January and April each year when manure cannot be spread directly to farmland. This equates to approximately 25 tractor and trailer movements to the site per week during the peak period.
- 6.3.4 In addition, when conditions are favourable for spreading approximately 1000 tonnes of manure will be removed from the site each week resulting in a total of 64 tractor and trailer loads (128 individual movements) over a further 6 week period. The total duration of poultry manure movements to and from the site is therefore 5½ months. This leads to a total of 800 return movements or 1600 individual movements taking place over the 5½ month period.

- 6.3.5 The applicant states that the proposed AD plant would reduce traffic between The Oaklands and the hangar site. This would be achieved by using vehicles with 29 tonne loads rather than smaller tractor and trailer loads. These movements would also be evened out over the year, thereby avoiding the seasonal peaks of the current practice. The 29 tonne loads would all be covered, thereby reducing odour. The applicant states that in total there would be 51 return movements by 29 tonne vehicles per week, which equates to just over 7 movements per day. This assumes that 75% of vehicles importing manure to the site are 'backloaded' with digestate for the return trip and includes a further 18 vehicle movements per week associated with deliveries and export of other materials required in the AD process (sulphuric acid import and ammonium sulphate export). The running of the plant will be carried out by existing staff at the business and will therefore generate no additional vehicular movements to/from the site over and above the existing position.
- 6.3.6 The hangar site has an established storage and distribution use with a vehicle operator's license for 12 goods vehicles and a unit of this size could potentially generate significantly greater levels of traffic than that proposed under the AD facility. The AD facility would supersede the current use of the hangar as a manure storage facility. Therefore, a new use could potentially become established within the hangar which would be in addition to the traffic generated by the proposed AD facility. Notwithstanding this, it is considered that the reduction in size and peak numbers of vehicle movements to the site and the better containment of poultry manure during transport represents a general improvement in highway and amenity terms.
- 6.3.7 The highways officer has not objected to the proposals and has acknowledged the established business use of the hangar building. The highways officer has requested that consideration is given to a voluntary routing agreement to avoiding use of the access route through Wem. It should be noted however that the proposals would reduce peak traffic from 25 loads to 7 loads per day and would improve the containment of manure so the proposals would deliver an overall highway improvement. An alternative use for the hangar building with its operator's license for 12 vehicles could also potentially generate greater levels of traffic.
- 6.3.8 The planning case officer does not consider that a routing agreement would meet relevant legal tests in this context. The officer does consider however that a condition requiring submission of a traffic management code of conduct would be justified and this has been discussed with the highways officer. Such a condition would allow the Planning Authority to exercise an appropriate level of control to ensure the following:
- that the assumed rate of back-loading (and hence overall traffic movements) is achieved;
 - that despatch of vehicles in convoys is avoided;
 - that despatch of vehicles at peak times for other road traffic is avoided or minimised;
 - that the company's vehicles travelling to the AD site can be identified by clear markings in the event of any complaints;
 - that a procedure is agreed for dealing with any traffic related complaints.

Subject to this condition it is considered that the proposals can be accepted on balance | highway terms.

- 6.3.9 Odour: Poultry manure is already stored on site during periods when it cannot be spread to land. The proposed AD facility offers benefits in terms of odour containment. The odour free digestate would be spread to the surrounding land in place of raw manure. The AD process is completely sealed in order to facilitate anaerobic gas collection and to eliminate odour release. Transfer of materials from the feeder to the digester tank is within fully enclosed pipework. Having left the feeder, at no time would any material be exposed directly to the atmosphere until digested and released as the odour-free digestate.
- 6.3.10 The AD plant would be subject to strict permitting by the Environment Agency who have not objected to the proposals. The permit would control potential releases to air, water and land. An Odour Management Plan has been prepared and is currently subject to review by the Environment Agency. Public Protection officers have also not objected. There are currently over 20 operational AD sites in Shropshire. None of these facilities has encountered any sustained odour problems. Notwithstanding this, an appropriate amenity complaints condition has been recommended to provide additional reassurance.
- 6.3.11 Noise: The applicant advises that scale of development proposed, the distance to sensitive receptors and the detailed design measures will ensure that there are no noise issues arising from the proposed development. The AD process itself is silent. The pumps and manure loading system will operate intermittently. The only continuous noise would emanate from the CHP unit, which is to be fitted within acoustic sound proofed housing. As such the proposed development is not anticipated to give rise to any impacts on residential amenity. The applicant states that noise tests carried out as part of similar projects have indicated that levels are satisfactory and this is generally supported by the experience of operational AD sites in Shropshire. Notwithstanding this, an amenity condition has been recommended to provide added reassurance.
- 6.3.12 Ecology: The proposed development site currently comprises a former RAF hangar site and associated hardstandings and managed grassland. Accordingly it is considered to be ecologically poor. A Phase 1 Ecological Survey concludes that the proposed development will not give rise to an adverse impact on protected species. The ecological report recommends that grass around the proposed site is regularly cut and this has been incorporated into the design of the scheme.
- 6.3.13 Flooding: The site is not located within an area at risk of flooding. A Flood Risk Assessment advises that surface water run-off from the new areas of impermeable surfaces will be directed into soakaways designed in accordance with relevant guidance. Appropriate drainage conditions have been recommended.
- 6.3.14 Drainage / Pollution: The site will be located within a bunded area, with capacity to deal with process overflow. The applicant has provided details to the Environment Agency indicating that there would be no contact between the base of the proposed tanks and groundwater. The scheme has been amended to take account of
- 6.3.15 Landscape Setting: The tallest of the AD structures have been positioned behind the larger Hanger building in order to shield the facility from Moreton Corbett Castle scheduled ancient monument and surrounding properties. Overall, it is considered that the AD plant would represent a minor addition visually to the existing hangar complex. None of the proposed tanks or silos would extend above the profile of the existing hangars. The proposed AD plant will be agricultural in appearance, with many of

the site components commonplace in the surrounding rural countryside (e.g. silage clamps). Relevant AD structures will be clad in an appropriate colour such as juniper green.

- 6.3.16 The applicant has included a schematic 3d view of the proposed site as seen from Moreton Corbet Castle. This demonstrates that the majority of the AD site will be completely screened from this scheduled ancient monument by the hangar building. Part of the proposed 'tank farm' would extend beyond the eastern edge of the hangar building, but would appear as a small feature relative to this larger building. Earth excavated as part of the levelling process would be reused in the bunding of the digester and lagoon and to soften above ground elevations of these structures. Landscaping would be completed during the first available planting season. Historic England and the Council's Historic Environment team have not objected on this basis.
- 6.3.17 Lighting: External lighting would be required for use during in the winter months to ensure a safe working environment. This would be at the minimum required level and would be directed downward and shielded to minimise any unnecessary light spill. There would be no round the clock external lighting. Any lighting would also be well screened from most views by the neighbouring hangar buildings. An appropriate lighting condition has been recommended.
- 6.3.18 Heritage: There are no known heritage assets within the application site itself. A heritage report advises that the site has been consistently disturbed in the past due to previous uses so has low archaeological potential. However, a condition requiring a phased programme of archaeological work has been included in appendix 1 based on the recommendation of the Historic Environment section.
- 6.3.19 Pollution: The proposed AD plant would comprise a sealed system. Once poultry manure is transferred to the digester tank, the process is totally enclosed and no material would leave the plant other than treated digestate. Plant design allows easy inspection of areas where leakage could occur, and where applicable, pipelines and joints are at low level and key areas would be subject to daily inspection. Prior to commissioning, all tanks would be hydraulically tested to check the integrity. Detailed records of inputs and outputs will be maintained so any loss of material can be detected early.
- 6.3.20 The applicant has provided further information regarding containment of the proposed facility and the Environment Agency has withdrawn a previous holding objection on this basis. The Agency refers in its consultation response to some detailed technical matters which would be addressed as part of the environmental permit application. However, there is no indication at this stage that appropriate technical solutions would not be available in principle.
- 6.3.21 Poultry manure is not considered a polluting waste when it is used directly as a fertiliser on land. However, the digestate produced by the plant would have environmental benefits by avoiding any impact of manure wash off into local watercourses. The air emissions from the CHP engine are equivalent to those released by a small car. The majority of this will be Carbon Dioxide, which would be reabsorbed by the crops growing the following year. CHP emissions would be monitored closely to ensure optimum combustion. The detailed design of the control equipment would be subject site will be subject to Environment Agency approval as part of the Environmental Permit.

6.3.22 Health and safety: All on-site personnel would undergo thorough training. A fire and gas detection system would monitor the plant. The fabric of the plant does not represent a fire hazard. The site has been designed to avoid the unnecessary need for vehicles to operate in close proximity to the tanks. In the event of surplus biogas production or if the CHP is shut down the biogas will automatically be diverted to the gas flare for burning. There would be no visible flame or smoke, just a slight heat shimmer. The site layout has good access for fire tenders and an on-site supply of water.

6.3.23 EIA screening: The proposals have been screened to determine whether the application should be accompanied by an Environmental Impact Assessment. Whilst highlighting detailed issues which the application would need to address it has been determined that the proposals would not meet relevant thresholds for EIA.

7.0 CONCLUSION

7.1 Objections to the scheme have been received from four local residents and the Parish Council. These mainly relate to concerns about traffic, pollution and amenity. In terms of traffic the proposed site is immediately adjacent to a large hanger building which already forms an important hub in the farms current manure management strategy. The proposals will remove seasonal peaks in traffic movements to and from the site from the applicant's egg production facility at Oaklands farm near Wem. Available evidence also indicates that the total annual number of vehicle movements would be significantly reduced.

7.2 In addition, there would be improved containment for poultry manure during transit and the proposals would allow improved manure management. This would be achieved by spreading digestate instead of raw manure on agricultural fields, because digestate is not subject to the seasonal spreading restrictions of raw manure. Additionally, the revenue generated by the renewable energy strengthens the foundation of the business, supports the significant number of associated jobs and helps augment the broader local economy. (Core Strategy Policies CS5, CS11)

7.3 In terms of other environmental and amenity impacts the applicant has demonstrated that the development would be well screened from Moreton Corbet Castle due to the large intervening hanger building. Appropriate safeguards have also been built into the design of the scheme to prevent any adverse impacts such as odour or noise. Existing on-site controls would be supplemented by the recommended planning conditions and by stringent controls under the environmental permitting system.

7.4 In terms of renewable energy and climate change the proposals would produce enough renewable electricity to meet the needs of around 4000 homes. This would capture and offset energy from fossil fuels by some 60,000 net tons of CO₂ every year, or 1.2million tonnes over the anticipated 20 year minimum lifetime of the facility. The climate change and renewable energy benefits of the scheme are significant material considerations. The NPPF advises that where renewable energy development can be accommodated without adverse impact it should be supported (NPPF s98, Core Strategy key objective 9, SAMDev Policy MD8).

7.5 It is concluded on balance that the proposals can be accepted in relation to relevant development plan policies, guidance and other local considerations, subject to the

recommended conditions.

8. RISK MANAGEMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

8.2.1 Article 8 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

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

8.4 Financial Implications

8.4.1 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.

9. BACKGROUND

RELEVANT PLANNING POLICIES

Central Government Guidance:

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

9.1.1 The National Planning Policy Framework (NPPF) supports the transition to a low carbon economy in a changing climate, for instance, by the development of renewable energy (s17). To help increase the use and supply of renewable and low-carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low-carbon sources. They should:

- have a positive strategy to promote energy from renewable and low-carbon sources, including deep geothermal energy;
- design their policies to maximise renewable and low-carbon energy development while ensuring that adverse impacts are addressed satisfactorily;
- consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers (s97).

9.1.2 When determining planning applications, local planning authorities should apply the presumption in favour of sustainable development and:

- not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once opportunity areas for renewable and low-carbon energy have been mapped in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying opportunity areas (s98).

9.1.3 Relevant areas covered by the NPPF include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 8. Promoting healthy communities;
- 9. Protecting Green Belt land;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

9.2 Core Strategy:

9.2.1 Policies of relevance to the current proposals include:

- Policy CS5: Countryside and Green Belt;
- Policy CS6: Sustainable Design and Development Principles;
- Policy CS7: Communications and Transport;
- Policy CS13: Economic Development, Enterprise and Employment;
- Policy CS17: Environmental Networks;
- Policy CS18: Sustainable Water Management;
- Policy CS19: Waste Management Infrastructure.

9.3 Site Management and Allocation of Development Document (SAMDEV)

9.3.1 Relevant policies are:

- MD2 – Sustainable Design
- MD7b– General Management of Development in the Countryside
- MD8 – Infrastructure Provision
- MD12: The Natural Environment
- MD13: The Historic Environment
- MD14: Waste Management Facilities

9.4 Other relevant considerations:

9.4.1 Sustainable Design Supplementary Planning Document Shropshire Council has a Sustainable Design SPD including a sustainability checklist, which is currently subject to consultation. The document promotes renewable forms of energy as part of a move away from fossil-power generation.

9.4.2 DEFRA's Climate Change Plan 2010 sets out how DEFRA will deal with the challenges of climate change. It refers to anaerobic digestion and states: "Anaerobic Digestion can reduce methane emissions from manures and slurries, whilst at the same time producing renewable energy in the form of biogas and digestate that can be used as fertiliser. The Anaerobic Digestion Implementation Plan published by DEFRA in March 2010, provides a framework for joint action by Government and Industry to drive a major increase in the use of anaerobic digestion."

9.5. RELEVANT PLANNING AND SITE HISTORY:

- PREAPP/10/00241 Potential development REC;
- 15/01240/SCR Proposed anaerobic digester EAN 21st April 2015;
- 15/02839/FUL Construction of an anaerobic digester facility comprising Digester, lagoon, technical building, storage tanks and flare stick PDE.

10. ADDITIONAL INFORMATION

10.1 Policies Material To The Determination Of The Application

In determining the Local Planning Authority gave consideration to the policies listed in section 9 of this report.

List of Background Papers: Planning application reference 15/02839/MAW and associated location plan and documents

Cabinet Member (Portfolio Holder) Cllr M. Price; Local Member: Cllr Simon Jones

Appendices: Appendix 1 – Conditions

APPENDIX 1

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

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. The applicant sought and was provided with pre-application advice by the authority. The submitted scheme, has allowed the identified planning issues to be satisfactorily addressed, subject to the recommended planning conditions.

Conditions

COMMENCEMENT OF DEVELOPMENT

- 1a. The development to which this planning permission relates must be begun not later than the expiration of three years from the date of this permission.
- b. Not less than fourteen days prior notice shall be given of the intended date for the commencement of any development under the terms of this permission, including Site preparation and construction works. Such date shall be referred to hereinafter as "the Commencement Date".

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 (1a), to define and provide appropriate advance notice of the Commencement Date for the development hereby approved (1b).

DEFINITION OF SITE AND DEVELOPMENT

2. This planning permission shall only relate to the area coloured red on the approved 1:1250 scale location plan hereinafter referred to as "the Site".

Reason: To define the area to which this planning permission relates.

3. Except as otherwise provided in the conditions attached to this permission the operations and uses hereby permitted shall be carried out strictly in accordance with the approved scheme comprising:-
 - i. The application form dated 26th June 2015 and the accompanying Planning Statement.
 - ii. The documents submitted in support of the application, namely:
 - Appendix 5, Photographs of the site;
 - Appendix 6, Ecology Report;
 - Appendix 7, Heritage Assessment , June 2015, Castlering Archaeology;
 - Appendix 8, Flood Risk Assessment
 - Appendix 9, Site E, Shawbury, Traffic Movements;
 - Letter from E4 Environment to Environment Agency dated 30th June 2006;
 - Drawing No: 4-5865-01 Containment details Rika Biofuels;

- Letter from Clancy Consulting dated 16th December 2016 (groundwater);
 - Screening assessment of releases from processes at Shawbury anaerobic digestion plant E4 Environment, 21 July 2016.
- iii. The permitted drawings accompanying the planning application. For the avoidance of doubt these include:
- Location Plan, 1:25,000;
 - Site Location Plan 1508 / PA001;
 - OE1-CAP-00-XX-DR-M-0001-P1 - Plan View Of Anaerobic Digester Plant;
 - OE1-CAP-00-XX-DR-M-0002-P1-1 - Iso View of Buidling layout;
 - OE1-CAP-00-XX-DR-M-0003-P1 - Plan View & Site Layout Of Anaerobic Digester Plant;
 - OE1-CAP-00-XX-DR-M-0004-P1 - Section Views;
 - OE1-CAP-00-XX-DR-M-0005-P1 - Section Views;
 - OE1-CAP-00-XX-DR-M-0006-P1-1 - Isometric View of Plant Layout;
 - OE1-CAP-00-XX-DR-M-0007-P1 - Isometric View of Plant Layout Castle View.

Reason: To define the permitted development.

TRAFFIC AND ACCESS

4. No access to or egress from the Site shall take place other than by means of the approved internal track linking to the B5063 Wem Road.

Reason: In the interests of highway safety.

5. The site access road and internal circulation areas shall be cleaned as necessary with a tractor mounted brush or other similar device in order to prevent the trafficking of mud onto the public highway.

Reason: In the interests of highway safety.

6. Prior to the bringing into use of the facility a traffic management code of conduct scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be designed to allow the Planning Authority to exercise an appropriate level of control over the delivery and dispatch of heavy goods vehicles from the Site in the interests of highway safety. The submitted scheme shall in particular make provision for the following matters:

- measures for ensuring that the anticipated 75% rate of back-loading of manure deliveries with digestate is achieved in practice;
- maintenance of records of goods vehicle movements to and from the site including back-loading, to be made available to the Local Planning Authority upon prior request;
- measures to ensure that goods vehicles are dispatched individually from the site so as to avoid convoying of vehicles;
- measures to avoid or minimise the dispatch of goods vehicles at peak times for other road traffic such as school opening and closing times;
- measures to ensure that all the developer's goods vehicles used in connection with the Site can be identified by clear markings in the event of any complaints;

- submission of a procedure for investigation and taking appropriate action in the event that any traffic related complaints are received and are subsequently validated by the Local Planning Authority.

Following its approval the scheme shall be implemented in accordance with the approved details.

USE OF THE FACILITY AND CONTROL OF TONNAGES

- 7a. The AD process hereby approved shall not use any feedstocks other than poultry manure imported from the developer's own egg production business based at Oaklands Farm, Edstaston unless otherwise first approved in writing by the Local Planning Authority.
- b. The total tonnage of feedstock imported to the facility in any calendar year shall not exceed 55,000 tonnes unless otherwise first approved in writing by the Local Planning Authority. Records of annual tonnages of feedstock imported to the Site shall be maintained and shall be made available to the Local Planning Authority upon prior written request.

Reason: To ensure that the development remains within the general levels of activity specified in the planning application in the interests of highway safety and general amenity and to facilitate monitoring of tonnages imported to the anaerobic digestion facility by the Local Planning Authority.

NOISE

- 8a. All vehicles and mechanical plant employed at the Site shall be fitted with effective exhaust silencers which shall be maintained in good efficient working order.
- b. All mobile plant based at and operating within the Site shall be fitted with attenuated reversing alarms.

Reason: To minimise the possibility of adverse noise impact from Site operations at the closest receptor locations.

PESTS AND VERMIN

- 9a. No delivery of waste to the Site shall occur until a detailed scheme for the control of pests and vermin has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall in particular provide for:
- i. measures to reduce the attractiveness of the Site to pests and vermin, including maintenance of secure silage store areas;
 - ii. a timetable for the prompt implementation of appropriate control measures in the event that a pest control problem becomes apparent, with details to be provided to the Local Planning Authority upon implementation of the measures.
- b. Following its approval the Site shall thereafter be managed in accordance with the approved scheme.

Reason: To ensure that appropriate measures are in place to control the possible effects of pests and vermin.

ODOUR AND AIR EMISSIONS

- 10a. Prior to the Commencement Date the operator shall submit an odour management scheme for the approval in writing of the Local Planning Authority. The submitted scheme shall be designed to ensure that operations are carried out in such a way that odour is minimised so far as is reasonably practicable and that best practicable means are employed to avoid the creation of a statutory nuisance, including implementation of the following measures:
- i. management of stored feedstock materials to reduce odour emissions;
 - ii. measures to ensure that all personnel recognise the importance of odour reduction and that relevant personnel are aware of how to control odour emissions;
 - iii. ensuring that poultry manure is not imported to the Site via the public highway and site access road other than in covered loads and cattle slurry is not imported other than in tankers.
- b. Following its approval the Site shall thereafter be managed in accordance with the approved scheme.

Reason: To reduce the impact on local amenities of odour arising from Site operations.

MUD AND DUST CONTROL

11. All yard surfaces and circulation areas within the Site shall be swept as necessary to remove mud / debris and water shall be applied to such areas as appropriate during dry conditions in order to prevent the generation of dust.

Reason: To reduce the impact on local amenities and air quality of dust arising from Site operations.

HOURS OF OPERATION

- 12a. With the exception of running the generators and normal continuous running of the anaerobic digestion process no operations hereby permitted shall be undertaken at the Site, except during the following hours:

Mondays to Fridays	07.00 to 21.00 hours
Saturdays:	07.00 to 21.00 hours
Sundays / Bank Holidays	08.30 to 18.30 hours

- b. Construction activities involving external works shall be restricted to within the following times:

Monday to Friday: 07:30- 18:00,
Saturdays: 07.30 - 13:00.

No external construction works shall occur on Sundays or bank holidays.

Reason: To ensure that operational times at the Site are controlled in order to reduce the impact of the development on the local area and amenities (12a). To ensure that the times for external construction works at the Site are controlled in order to reduce the impact of construction works on the local area and amenities (12b).

BUILDINGS, STRUCTURES AND PLANT

13. Prior to the Commencement Date the detailed specifications and surface treatments including cladding colour (BS reference) of the anaerobic digester buildings and structures shall be submitted for the approval of the Local Planning Authority. The structures and associated surface treatments shall be constructed in accordance with the approved details.

Reason: To ensure a satisfactory standard of construction and in the interests of visual amenity.

14. All buildings, hard surfaces and fencing within and on the boundaries of the Site shall be maintained in an orderly state and fit for purpose, including maintenance of even, pothole free running surfaces in circulation areas for vehicles and plant.

Reason: To ensure that the Site is maintained to an acceptable standard in the interests of health and safety and general amenity.

LANDSCAPING

15. The sides of the proposed earth bunds shall be grassed over using a suitable seeding mix in the first available seeding season following the completion of the construction works.

Reason: In the interests of visual amenity and to avoid the risk of surface water erosion.

ARCHAEOLOGY

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

Reason: The site is known to hold archaeological interest.

COMPLAINTS PROCEDURE

17. The operator shall implement a procedure for dealing with any verifiable amenity complaints relating to the site operations which are received by the Local Planning Authority and notified to the operator. This shall include:
- i. Investigation of the complaint;
 - ii. Reporting the results of the investigation to the Local Planning Authority;
 - iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

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

LIGHTING

- 18a. No work shall commence until an external lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include the following details:
- i. hours of use of external lighting,
 - ii. the exact location and nature of any lights;
 - iii. the specification including height any fixed or mobile structures;
 - iv. the intensity of the lights;
 - v. the identification of areas to be illuminated and any measures to prevent light spilling on to areas outside the Site;
 - vi. measures such as shrouding to minimise disturbance through glare.
- b. Following approval of the lighting scheme required under condition 18a external lighting shall be installed in accordance with the approved details.

Reason: To ensure a satisfactory standard of lighting for the development, balancing health and safety and security requirements with the visual amenity and ecological considerations.

Note: 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 to minimise disturbance to bats, a European Protected Species

DRAINAGE

19. Prior to the commencement date a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. Use of soakaways shall be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways shall be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 25% for climate change. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways shall be submitted for approval. Surface water shall pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways not be feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 25% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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

20. The proposed method of foul water sewage disposal shall be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2. If main foul sewer is not available for connection, full details, plan and sizing of the proposed septic

tank/ package sewage treatment plant including percolation tests for the drainage field soakaways shall 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 and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

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

CESSATION OF USE

- 21a. Not less than 2 weeks prior notice in writing shall be provided to the Local Planning Authority of the permanent cessation date for the operations hereby approved, or for any temporary cessation of operations for in excess of one month.
- b. Not less than 6 months prior to the planned date for any permanent decommissioning of the development hereby approved the operator shall submit proposals for decommissioning of the development within an agreed timescale for the approval of the Local Planning Authority. Such plans shall make provision for leaving the site in a condition suitable for future development, with provision to remove all buildings, hardstandings and structures which are not required in connection with the Site's subsequent afteruse.

Reason: To ensure that the Site is left in a tidy condition capable of a beneficial afteruse in the event of any permanent decommissioning of the development hereby approved.

Informative Notes

Drainage:

- i. *A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:*
www.shropshire.gov.uk/environmental-maintenance-and-enforcement/drainage-andflooding/flood-risk-management-and-the-planning-process
The provisions of the Planning Practice Guidance, in particular Section 21 'Reducing the causes and impacts of flooding', should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.
- ii. *As part of the SuDS, the applicant should consider employing measures such as the following:*
- *Water Butts*
 - *Rainwater harvesting system*
 - *Permeable surfacing on any new access, driveway, parking/paved area*
 - *Attenuation*
 - *Greywater recycling system*

- *Green roofs*

Pollution control:

- iii. *Tank design should include for an appropriate impermeable liner membrane system to be installed around the concrete digester tank(s) and appropriate leak detection systems to indicate any problems.*

Heritage:

- iv. *Historic England has recommended undergrounding of any grid connection due to the potential for impact within a generally open aspect.*

Ecology:

- v. *Where possible trenches on the site to which this consent relates should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then a means of escape should be provided in the form of a sloped board, plank or earth ramp. All open trenches should be inspected at the start of each working day to ensure no animal is trapped.*

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Committee and Date

North Planning Committee

6th September 2016

Item

6

Public

Development Management Report

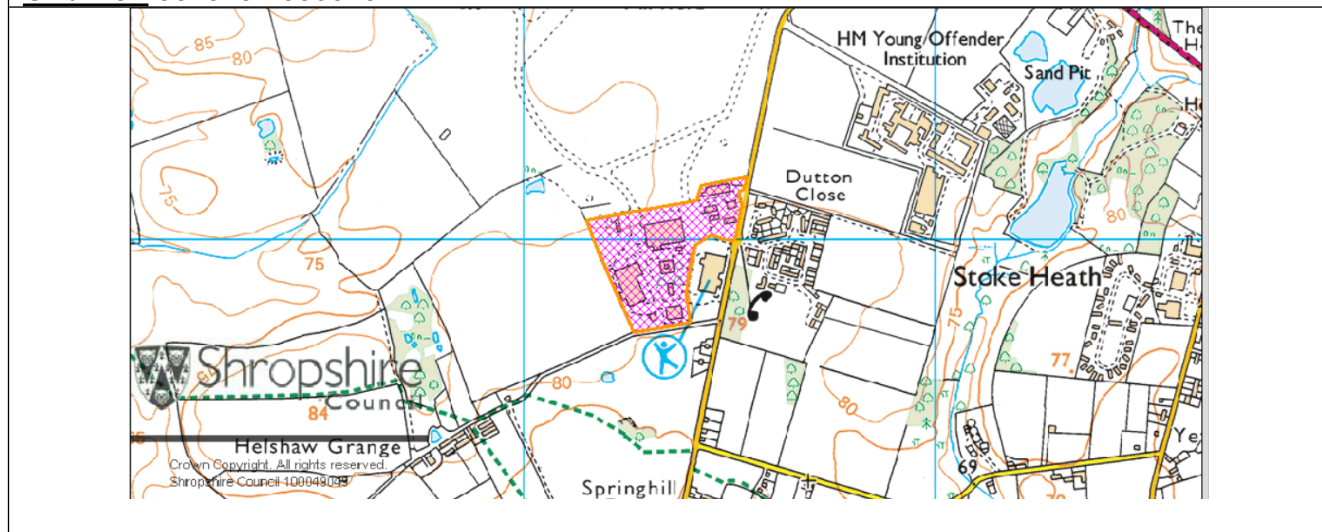
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/01575/FUL	Parish:	Stoke Upon Tern
Proposal: Change of use from potato plant to a materials recovery facility; erection of soundproof fencing and a nine bay storage area		
Site Address: Warrant Road Stoke Heath Market Drayton Shropshire TF9 2JJ		
Applicant: Mr A Richards		
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk	

Grid Ref: 364345 - 330028



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Recommendation: Grant planning permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks permission for a Materials Recovery Facility (MRF) to involve the importation, recycling and storage of waste materials at the site. The application would utilise existing land and buildings at the site, and is predominantly

a change of use application. Other development would include the erection of a soundproof fence and the provision of storage bays at the site for waste materials.

- 1.2 The site would process up to 187,800 tonnes of waste per year. The waste types comprise the following: inert waste; green waste; wood; cardboard; tyres; glass; general waste; farm waste; asbestos; waste electrical and electronic equipment (WEEE); clothes. The application states that the maximum amount of waste stored at the site at any one time would be approximately 26,000 tonnes. All of the waste would be recycled with none being sent to landfill.
- 1.3 Waste arriving at the site would be checked in at the weighbridge office and the nature of the delivery would be confirmed. Any unscheduled deliveries or loads containing unapproved wastes would be rejected. All wastes would be delivered in skips, Eurobins, on tipper lorries or HGVs. All loads would be covered.
- 1.4 Waste management operations would take place either within existing buildings, at the proposed storage bays or within storage areas, as follows:

Location	Operation/activity
Shed 1	Shredding and composting of green waste
Shed 1 or storage bay area	Crushing and screening of inert waste for use as crushed hardcore
	Grading and processing of waste wood for various uses
Shed 2	Sorting of glass for recycling
	General waste sorting
	Farm waste sorting
Shed 4	Fabric sorting for recycling
	Waste Electronic and Electrical Waste (WEEE) sorting
Storage area	Sorting and baling of cardboard for recycling
	Baling of waste tyres for recycling
Bunded store	Asbestos storage

- 1.5 Green waste would be composted to the recognised quality standard, PAS100, following which it would be screened and bagged for sale.
- 1.6 It is also proposed to store non-waste materials such as building sand, concrete sand and MOT material, and other building materials such as pipes, cement, guttering, etc., for retail sales.
- 1.7 Hours of operation: It is proposed that the site would operate 24 hours per day, 7 days per week. Night shift activities would only take place within the buildings. However there may be some movement outside such as forklift truck driving or movement of materials from one building to another.
- 1.8 Waste deliveries: 7am to 6pm Monday to Friday; 7am to 3pm Saturdays and Bank Holidays. No deliveries on Sundays.
- 1.9 External crushing: intermittently between 8am and 5pm Monday to Saturday (not Sundays and Bank Holidays).
Internal crushing: at any time other than Sundays or Bank Holidays.

1.10 External wood shredding (approximately twice a month for an 8 hour period) between 7am and 5pm Monday to Saturday (not Sundays or Bank Holidays).

1.11 Existing mature trees at the site would be retained. Some smaller trees would be removed to facilitate improved access to the proposed storage bays at the north-west corner of the site.

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The site is located approximately 5km to the south west of Market Drayton. It was formerly a World War II depot (as part of RAF Ternhill) and until recently was used as a potato packing plant owned and operated by Greenvale AP Ltd. The application site encompasses the whole of the former potato packing plant site, extending to approximately 7.3 hectares. The site includes numerous brick and metal clad buildings, with internal roadways and landscaped areas.

2.2 The RAF Ternhill Airfield lies to the north. Agricultural land borders the site to the west and south. The Maurice Chandler Sports Centre is situated adjacent to the eastern boundary. Residential properties in the vicinity are situated to the east and south. To the east is the Dutton Close residential estate, on the opposite side of Warrant Road. The nearest dwellings are approximately 35 metres from the application site boundary and approximately 132 metres from the nearest area within the site to be used for waste management operations.

2.3 In addition it should be noted that outline planning permission was granted in February 2016 for the erection of 25 dwellings on land to the south of Dutton Close, approximately 160 metres away from the proposed operational area. Outline planning permission was granted on in May 2016 for the erection of up to 38 dwellings on land at Stoke Heath Camp, Warrant Road. This site lies approximately 470 metres to the south of the proposed waste recycling site. The nearest public right of way is a footpath approximately 230 metres to the south-west of the application site.

2.4 Vehicle access to the site would utilise the existing access from Warrant Road.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Local Member has requested that the application is referred to the Planning Committee. The Principal Planning Officer, in consultation with the Committee Chairman, agrees that the application should be determined by Planning Committee.

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **Consultee Comments**

4.1.1 **Stoke upon Tern Parish Council** Minded not to support the application.
Comments 4/8/16

The following points had not yet received a satisfactory response and should be added to comments already sent.

In considering this application, the Parish Council asks for clarity around the

appropriateness and validity of the applicant's comparisons with the previous site owner's operations, and if they are to be considered that they are properly tested prior to consideration. The previous operation:

- Did not provide public access for deliveries and/or collections
- Provided a minibus to transport workers to and from the operation, which mitigated traffic impact,
- Was a seasonal operation, focused around potato harvests and distribution.

These do not compare to a year round waste processing plant with external material crushing and movement of materials on site, but more importantly the application should be considered against the current status of the site, rather than its historic uses, as it is this against which impact on the community is to be measured.

1. Traffic movements: in view of the Parish Councils own traffic survey of December 2013 (to be forwarded to Shropshire), the conflicting information in terms of potential traffic movements to and from the site, the congestion already experienced at the junction of Warrant Road with the A41, as well as the impact of the impending loss of a public transport connection (31st July 2016) and the more recent planning approvals for additional housing along Warrant Road. The Parish Council requests an up to date traffic survey that factors in independent data on the likely traffic movements to and from the said site. The Parish Council also seeks confirmation of who will have access to the site and that all these groups and journeys, (deliveries, distribution and collections) are properly considered in the Traffic Impact Assessments and properly documented prior to the application being considered. The Parish Council are advised that the public will be accessing the site to both deliver waste and to procure products from the site, that waste products will be stored and transferred to other sites and of course processed waste will need moving from the site.

2. Noise and pollution: The rule in the standard permit should be applied to this application, that of a refusal if within 200m of a place of work (Maurice Chandler Sports & Leisure Centre) and residencies (Dutton Close & Warrant Road) (a copy to be forwarded to Shropshire). The rural nature of the site should be considered and represents the community's serious concerns about the impact that the noise and dust pollution from activities, vehicle movements and processing will have during the day and more significantly from the 24/7 operation in the evenings, weekends and bank holidays. Clarification is sought on the recent noise assessment, as these can only have measured the background noise of a non-operational site and therefore cannot provide any basis of reassurance to the community.

3. Public Health: Although the applicant has indicated that much of the processing will take place within buildings, inadequate evidence has been produced to verify that dust particulates fine and/or coarse will be contained, especially with the proposed extraction plant and the off-loading and crushing activities being outside. The Parish Council further requests that assurances are given about the health impact on the surrounding population to the site with a commitment to baseline research data and measurements of airborne dust particles, this assurance has not been given.

4. Operating Hours: there is some confusion about the intended operating hours , in that deliveries appear to be restricted to 12 hours per day, but operations and processing are scheduled to operate 24 hours per day, seven days a week, and

access from trade and public to procure items appears not to have been clarified in the application or subsequent meeting. The Parish Council asks that, due to the rural nature of the site and its proximity to private housing, that any operations, deliveries and collections should be restricted to normal working hours (9.00 – 5.00) during Monday to Friday. The Parish Council also seeks clarity on who will be accessing the site with both deliveries and collection and how waste transported to and from the site will be properly contained to ensure no spillages and damage occur to the public highway.

5. Planning Committee: In view of the public concern about this application the Parish Council requests that the application be considered by committee and that the Parish Council be afforded the opportunity to present this case on behalf of local Parishioners.

Parish Council comments 20/6/16: The Parish Council is not minded to support the application as it stands.

Traffic movements: The application states 110,362 vehicle movements per annum. Assuming 365 days per annum, less bank holidays = 357 days per annum, so $110,362 / 357 = 309$ per day.

The stated operating hours 6am - 6pm, 12 hours, so $309 / 12 = 25.75$ per hour. On average, this equates to 1 vehicle movement along Warrant Road and the A41 T Junction every 2 minutes which exceeds the previous operation as the activity was seasonal. A traffic condition would also be required in that all traffic approaching and leavening the site should go directly via the A41.

Noise and dust: The impact upon the residential area at Dutton Close and leisure amenity at the Maurice Chandler Sports and Leisure Centre within close proximity to the site have not been satisfactory addressed in terms of the particular use of the crusher within the sites open yard and the opportunity taken to place more activity of this nature in a controlled indoor environment.

Public Health: The Parish Council further requests that assurances are given about the health impact on the surrounding population to the site with a commitment to baseline research data and measurements of airborne dust particles.

4.1.2 **Environment Agency** No objections.

Environmental Permit Regulations (2010): The proposed activities subject to this application are regulated by ourselves under the Environmental Permit Regulations (2010). The applicant has applied for, and been granted, an Environmental Permit (EP). We issued the EP on the 16 December 2015 (Ref: EAWML401954). The EP controls emissions to land, air (including odour, noise and dust) and water. Your Public Protection team should be consulted on any noise and odour reports/assessment in relation to statutory nuisance, and so that all the relevant key issues are 'joined up', to ensure the pollution control regimes are complimentary etc.

Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites

comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off. Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance.

Contaminated Land: In line with our consultation checklist, we have no comments to make with regard to contaminated land on this application. You are advised to seek the comments of your Environmental Health Officer. End 2

Export & Import of wastes at site: Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

4.1.3 **Historic England** Has confirmed that it is not necessary for them to be notified of the application.

4.1.4 **SC Public Protection** Recommends conditions.

Comments 18/8/16

This comment is in addition to my previous comment of 8/8/2016 and updates conditions proposed in relation to internal crushing and shredding operations. Having discussed internal crushing and shredding operations with the applicant's consultant the following condition is proposed in relation to internal shredding and crushing operations:

Internal crushing and shredding operations shall take place between the following times: 08.00am-19.00pm Monday to Friday and 08.00-15.00 Saturday. No internal crushing and shredding shall take place on Sundays and Bank Holidays. All openings into the building used for the operations noted shall be closed when operations are in progress. Reason: to protect the amenity of the area.

Comments 8/8/16

No objection in relation to contamination from waste water being sprayed to dampen any crushing activities. The environmental permit will consider any potential issues that may arise.

In relation to dust I do not anticipate any significant impact from dust to nearby residents given that suppression techniques will be used and the environmental permit will cover any impacts that do arise.

In relation to noxious/toxic waste processing mentioned by some in comments on this application I have no objections to the proposals put forward. There is strict legislation on working with certain substances e.g. asbestos which regulate these activities.

In relation to odour I do not anticipate any odour impact due to the positioning of any potentially malodorous material on site. The environmental permit will regulate this should any issues arise in future.

In relation to noise I have considered all comments by the applicant and consultants and have read some of the concerns put forward by objectors. In relation to road movements I do not consider this will impact on nearby residents due to the traffic plan proposed and would recommend this is considered with vehicles only coming in from the A41 and returning in the same direction. In relation to external crushing due to distances to nearby residential areas, screening from buildings and acoustic fencing proposed I have no concerns or conditions to propose other than to ensure that external crushing takes place in daytime hours only.

In relation to internal crushing and shredding activities this point has been discussed in detail. I do not agree with the noise assessment prediction that noise reductions for the whole building envelope of 62dB. The reason for this is that the roller shutter door to the south does not have a tight fit with daylight clearly visible under it during a site visit. I therefore cannot accept that this façade would reduce noise by 62dB. I would suggest a condition to limit internal crushing and shredding activities to within the hours of 08:00 - 19:00. Reason: to protect nearby residential amenity.

I have noted the acoustic fence has been proposed to run along the southern boundary. I welcome this addition and would recommend that the acoustic fence location is conditioned along with its height and density (advise at least 2m height, 10kg/m³ density).

4.1.5 **SC Highways** No objections subject to conditions.

To clarify this response it has been assumed that this application was required due to the proposed 'waste' operations on the site. The supporting statement has indicated that the overall traffic generation of the proposed development, is unlikely to exceed the level of vehicular activity enjoyed by the previous use of the site. Therefore this proposed development is considered to be acceptable from a highway perspective.

A condition is recommended to require that details of the parking, turning, loading and unloading of vehicles are submitted for approval (see Appendix 1).

4.1.6 **Natural England** No objections.

Statutory nature conservation sites: The proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species: We have not assessed this application and associated documents for impacts on protected species. Standing advice should be applied to the application.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006: The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If

significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

4.1.7 **SC Ecology** No objections. The applicant has confirmed that there will be no removal of existing vegetation or buildings on the site. Ecological survey work is not required to support this change of use application.

4.1.8 **SC Trees** No objections. The submitted tree removal plan shows trees to be removed, not all trees on site which are to remain as part of this planning application. The site is very well tree'd with a good age range of older and younger plantings throughout which give the site a wooded and green aspect. The trees give excellent screening and greening of the site. The trees to be removed are a small group of young semi mature Lime and Hazel of limited significance and 2 mature Horse Chestnuts which, along with others on site, are extensively infected with bleeding canker which has limited their life span.

Overall the site has good tree cover in apparent good arboricultural management and I have no objection to the proposal.

4.1.9 **SC Drainage** An informative should be added to the decision notice advising that a sustainable drainage scheme for the disposal of water from the development should be designed and constructed in accordance with the Council's guidance document.

4.1.10 **Shropshire Fire Service** As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications".

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice and in the local press. Initial further publicity included the direct notification of the nearest properties to the site. Subsequently, more than 60 properties in the local area were directly notified of the application.

4.2.2 Objections have been received from 56 residents on the following grounds:

Noise

- Large vehicles like HGVs will be constantly using Warrant Road
- Loud operation processes such as crushing, especially external crushing activities
- 24-hour operating machinery, including Sunday
- Sound can still permeate through the sound-proof fences of the facility
- Concerns over no noise restrictions

Pollution; Health and Safety

- Potential leakage of harmful substances
- Textile combustions could produce hydrogen cyanide
- Bioaerosols spreading from rubbish
- Asbestos, a "silent killer" that could cause respiratory problems such as respiratory tract irritation, and further exacerbates asthma and cardiovascular

diseases

- Increased risk of various types of cancer
- Forced to breathe in polluted air
- Potential hazard, e.g. operation failure of facility
- Potential damage to well-being
- Many elderly and children live in the area; they are more likely to be exposed to health risks
- Poor hygiene when rubbish is not covered properly in a tractor lorry
- Fire is likely to be caused in waste and recycling sites according to Environmental Agency statistics
- Potential chemical waste disposal contaminating water
- Rubbish blowing off the lorries
- Combustion creates air pollution
- Unfiltered dust produced by the facility

Transport/traffic

- Local roads are not suitable to sustain the excess heavy traffic
- Potential increase of traffic on a busy road, e.g. A41 will suffer from congestion
- The national speed limit on Warrant Road makes it inappropriate for lorries to use
- Concerns over the costs of required cleaning of roads and footpaths; road maintenance

Odour

- Smell of decomposing rubbish, farm, household and green waste
- Potential odour plume
- The odour of waste attracts vermin and flies to the neighbouring amenity
- Flies and blue bottle infestations
- Excessive odour will take a long time to resolve

Amenity

- Tree removal
- Light pollution in the evening and at night
- Destroying rural landscape, reducing the aesthetic value of the place
- Concerns over gritting in the Winter

Other

- Potential depreciation of the neighbouring land and property value
- Assessments done before the site is fully developed are meaningless since the actual impact of the proposal cannot be assessed in a hypothetical environment
- Insufficient evidence to prove the impact of noise on local residents will not be an issue for their quality of life
- Concerns over public consultation
- Concerns over the developer's intention
- Concerns over the transparency of development process (including application)
- Further revised proposal will still be unacceptable
- The facility could be located somewhere further from a residential area
- Concerns regarding the legality of the environmental permit issued

- 4.2.3 **Dutton Close Residents Association (DCRA)** Objects, on the following grounds:
- huge increase in traffic volume, far more than has ever been when other

businesses have used the site

- dirt and dust increase which in turn will lead to health issues
- excessive noise increase which will not be controlled enough by the suggested fencing intended to be used, which only covers a small part of the boundary
- increase in roadside rubbish coming off the vehicles and by those turned away who may illegally fly tip
- detrimental effect on the emotional well being of residents living close by to such noise, dirt and general pollution
- health issues linked to airborne contaminants such sites are prone to, which are increased immensely in this case due to its close proximity to a WHOLE estate of residents
- health issues linked to contaminants leaking into the water supply since there is a water table very close to the site

4.2.4 **Maurice Chandler Management Committee** Objects. Main concerns are:

- odours from the "green waste"
- flies, dust and pollution in the air
- the noise from the plant itself
- safety for our customers due to increased traffic level

4.2.5 **CPRE Shropshire**

- application has been referred to CPRE Shropshire by a resident of Stoke Heath
- whilst there are not highly contentious rural landscape issues involved it is nevertheless considered that the factors presented by those registering objections to the proposed usage are utterly compelling and reasoned
- the objections are supported
- application for a site so very close to established housing and alongside a recreational facility is entirely inappropriate and unsuitable.

5.0 **THE MAIN ISSUES**

- Environmental Impact Assessment
- Principle of development and policy context
- Siting, scale and design
- Local amenity and pollution considerations
- Drainage considerations
- Highways and access considerations
- Tree and ecological considerations

6.0 **OFFICER APPRAISAL**

6.1 **Environmental Impact Assessment**

6.1.1 The proposed development falls within a description of development included within the Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. Such applications need to be 'screened' to determine with an Environmental Impact Assessment (EIA) needs to be undertaken by the developer. The Secretary of State issued a Screening Direction on 5th May 2016 advising that the proposed development is not likely to have significant effects on the environment and that an EIA is therefore not required for the proposal.

6.2 **Principle of development and policy context**

- 6.2.1 Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations include the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste 2014 (NPPfW). The proposed development involves a change of use of the site to a waste recycling facility. One of the core planning principles of the NPPF is to support the transition to a low carbon future, encouraging the reuse of existing resources and encouraging the use of renewable resources. The NPPfW sets out the detailed policy context for waste management proposals and is referred to further below.
- 6.2.2 Relationship between planning application and Environmental Permit: An Environmental Permit for the proposed operation was issued by the Environment Agency (EA) in December 2015. The EA has confirmed that the proposed activities will be regulated as part of this Permit to ensure that pollution is avoided and environmental and human health impacts are minimised. This is explained further below. Nevertheless the NPPfW makes clear that, in determining the suitability of proposed waste management sites, planning authorities should consider factors such as: protection of water quality and resources; traffic and access; air emissions, including dust; odours; vermin; noise, light and vibration; litter; potential land use conflict.
- 6.2.3 Need for additional waste management facility: The NPPfW advises that planning authorities should only expect applicants to demonstrate the quantitative or market need for new waste management facilities where they are not consistent with an up-to-date Local Plan. It is considered that the Shropshire Development Plan is up-to-date, and that it is therefore not necessary to establish that there is a need for the facility. Nevertheless Core Strategy policy CS19 promotes sustainable waste management facilities by encouraging proposals for additional capacity in order to divert waste away from landfill in a way consistent with the waste hierarchy. Core Strategy policy CS20 encourages greater resource efficiency by supporting the development and retention of waste recycling facilities which improve the availability and quality of secondary and recycled aggregates in appropriate locations. In addition SAMDev Plan policy MD14 gives support to the development of waste transfer, recycling and recovery facilities where applicants can demonstrate that potential adverse impacts on the local community and the natural and historic environment can be satisfactorily controlled.
- 6.2.4 The proposal would provide a facility for the sorting, treatment and recycling of a range of different waste types. It would enable waste materials to be used beneficially, enabling their reuse in a sustainable manner. Green waste would be composted to the recognised quality standard, PAS 100; rubble would be crushed to provide secondary aggregate; and other wastes would be sorted to facilitate further recycling. The proposal would assist with diverting waste materials from landfill site, consistent with national waste policy. In principle the type of facility proposed is supported by the NPPF, NPPfW and Development Plan policies including Core Strategy policies CS19 and CS20, and SAMDev Plan policy MD14.
- 6.2.5 Site allocations for waste management development: The site is not allocated for a specific land use, or identified as a protected or existing employment area within the SAMDev Plan. The Development Plan does not identify specific sites for waste management use. SAMDev Plan policy MD9 states that existing employment

areas not shown on the Policies Map may be protected for Class B and sui generis uses. The existing permitted use of the site is for Class B storage and industrial type uses. The SAMDev Plan notes that the character and operation of recycling industries are generally acceptable within the scope of 'industrial' uses but such uses may not be appropriate in higher value employment areas.

6.2.6 On the basis of the above there is no policy restriction on the change of use of this site to 'sui generis' waste management use. Considerations relating to acceptability of the proposal in land-use terms are set out below.

6.3 **Siting, scale and design**

6.3.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character. The NPPfW states that waste management facilities should be well-designed, so that they contribute positively to the character and quality of the area in which they are located.

6.3.2 The application site encompasses the former Greenvale potato packing site, which occupied the site between 1986 and 2014. The proposed operation would utilise the existing buildings and infrastructure that were used as part of that business, including the offices, access, concrete roadways, parking areas, drainage system and perimeter fencing. The application states that it is not proposed to undertake any external structural operations to the buildings. The application site includes large buildings within which the processing of wastes can occur within a contained environment, and adequate manoeuvring space for vehicles. It is not anticipated that there would be a need for any significant changes to the site to accommodate the proposed operation. The main physical changes to the appearance of the site would be the erection of waste storage bays, and an acoustic fence. The proposed storage bays would be sited at the north-western corner of the site, screened from public viewpoints by existing buildings. The fencing would be approximately 3.6 metres high. Part of this fence would replace existing potato boxes stacked high at the eastern side of the site. It is not considered that the physical changes to the site would significantly affect the overall appearance of the site. Officers consider that the existing buildings and surrounding space would provide adequate facilities for the type and scale of operation proposed. As such the scale and design of the proposal is considered to be acceptable in accordance with Core Strategy policy CS6.

6.4 **Local amenity and pollution considerations**

6.4.1 Core Strategy policies CS6 and CS18 seek to safeguard residential and local amenity, avoid adverse impact upon water resources and safeguard natural resources. The proposed operations to be undertaken include the shredding and composting of green waste, and the crushing and screening of inert wastes. These operations have the potential to adversely affect residential amenity, particularly in view of the proximity of the site to residential areas. Officers fully acknowledge the concerns raised by the Parish Council and local residents.

6.4.2 The planning application is accompanied by details as to how the proposed operations would be managed to avoid adverse impacts. This includes an Environmental Management Plan which was prepared in support of the application for an Environmental Permit for the site. This details the different waste types that would be processed at the site, the treatment proposed, and the management

systems to be put in place to reduce environmental impacts.

6.4.3 Environmental Permit: A bespoke Environmental Permit was issued for the proposed operation by the Environment Agency in December 2015. The permit allows the applicant to treat and transfer up to 187,800 tonnes per annum of waste from household, commercial and industrial sources. As the operation is in proximity of properties the EA has confirmed that the applicant had to provide additional assessments to show what the risks of their operation were and how these would be controlled to prevent harm. The EA have confirmed that, in issuing the permit, they are satisfied that there would be no significant pollution of the environment or harm to human health.

6.4.4 The EA will regulate the waste management activities to ensure that pollution is avoided and environmental and human health impacts are minimised. The EA has confirmed that the permit has legally binding conditions and requirements that include:

- Limits on emissions to air, water, land and groundwater and/or conditions to protect them (Including monitoring, recording and notification of emissions or incidents)
- Total tonnages and types of waste which can be accepted
- What activities can and cannot take place e.g. 'there shall be no treatment of asbestos'
- Management requirements, staff training and operating instructions
- Site infrastructure and plant maintenance
- Site security, accident, emergency and incident planning.

6.4.5 The NPPfW states that local planning authorities should not concern themselves with the control of processes which are a matter for the pollution control authorities. It states that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. In addition to having issued an Environmental Permit for the proposed operation, it should be noted that the Environment Agency has raised no objections to the current planning application.

6.4.6 Noise emissions:

A noise report has been submitted as part of the application. This presents the findings of a noise assessment undertaken by acoustic consultants. The report was revised following comments raised by the Council's Public Protection Officer. The report sets out the background noise levels in the area, and provides a prediction of what the level of noise would be from the proposed operations including from the use of a loading shovel and mobile crushing unit.

6.4.7 Internal operations: The noise report assumes that the internal operations are the only significant contributors to the overall noise level apart from HGV movements. The report states that, in relation to noise from internal operations, no allowance has been made for additional screening effects of intervening buildings. The report advises that the sound levels resulting from the combined operation of all plant concurrently would be similar to those from the crusher alone, as the noise level from that machine is so much greater than that from all other plant. It predicts that sound levels at the nearest noise-sensitive locations would be 7dB lower than the

minimum background levels.

- 6.4.8 In terms of internal operations the Council's Public Protection Officer notes that the roller shutter door to the hangar building does not have a tight fit and therefore noise levels are likely to be higher than predicted. The Officer therefore recommends that a condition is imposed to limit internal crushing and shredding activities to between 0800 and 1900 hours. Officers consider that this is reasonable and necessary to protect local amenity. Concerns have been raised by local residents regarding the potential noise impact from operations taking place 24 hours a day. However, other than occasional on-site vehicle movements, these operations would be internal, and it is considered that noise and disturbance would be significantly reduced due to the attenuation provided by the buildings. As such it is not anticipated that adverse impacts during night-time hours would arise.
- 6.4.9 External operations: It is proposed that crushing operations would occasionally be undertaken externally. This would take place in the storage bay area at the north-western corner of the site, which is more than 300 metres from the nearest residential properties. The noise report states that the large intervening buildings would provide a minimum of 5dB of additional screening and probably considerably more. This would reduce noise from the crusher to a level comparable to the current background sound level and make it inaudible. It is proposed that an acoustic fence is erected along part of the eastern boundary of the site. In addition one would be provided along part of the southern boundary in advance of external crushing taking place. These would provide additional noise attenuation. The Council's Public Protection Officer has advised that, due to screening from buildings, acoustic fencing, and distance to residential areas, no concerns are raised regarding external screening. However a condition can be imposed to ensure that this operation is restricted to daytime hours only, as recommended by the Officer.
- 6.4.10 Traffic noise and disturbance: The planning application proposes that operations would take place at the site 24 hours per day, however traffic to and from the site would occur during daytime operational hours only. Following discussions with Officers the applicant has submitted a Traffic Management Plan (TMP) setting out further detail on how it is proposed to manage and route traffic. This is discussed further below in the Highways section. Adherence to this TMP would ensure that all HGVs approach the site from the A41 to the north, and leave the site using the same route. This would ensure that such vehicles avoid passing the main local residential areas to the east and south, and would minimise disturbance due to traffic movements.
- 6.4.11 The TMP also confirms that night-time traffic movements between the hours of 11pm and 7am would be restricted to on-site movements only, i.e. vehicle movements between buildings. In addition all such vehicles would be fitted with white noise reversing alarms. The opening hours of the site, for waste deliveries and retail sales, would be: 0700 – 1800 hours Monday to Friday, and 0700 – 1500 hours Saturdays and Bank Holidays, and these would be defined within conditions of the planning permission. A planning condition can be imposed to ensure that the retail element of the proposal remains an ancillary element of the overall use of the site, and this would limit potential disturbance from public visitors to the site. It is considered that the restrictions set out within the TMP and within planning

conditions would be sufficient to avoid adverse disturbance whilst not imposing unreasonable restrictions on the business.

6.4.12 Dust:

It is proposed that all waste loads to and from the site would be covered, and this would minimise the likelihood of dust emissions during waste transport to and from the site. A Dust and Particulates Procedure has been prepared as part of the Environment Permit. Waste treatment operations such as compost shredding and screening, and some crushing would be undertaken within buildings, and this would restrict the emission of dust from the site. Dust arising from the storage of wastes in stockpiles would be dampened down. Dust from external crushing operations would be suppressed by the spraying of mists. This external crushing would occur at the north-west corner of the site, i.e. furthest from residential properties, the sports centre and the public highway. The operation of the crusher is covered by its own Environmental Permit which would regulate emissions.

6.4.13 Odour:

The main potential impact from odour would result from the composting of green waste at the site. This would comprise garden and vegetable matter. An Odour Management Plan has been submitted with the planning application, and this sets out how the risk of adverse odour on sensitive receptors would be minimised. Procedures to be adopted would include:

- Ensuring that waste loads are covered when being transported to the site;
- Undertaking all shredding and subsequent composting within a building;
- Turning the composting waste periodically to maintain aeration and ensure effective composting.

6.4.14 The Environmental Permit for the site controls odour emissions from the proposed operation, and requires that emissions from the activities are free from odour at levels likely to cause pollution outside the site.

6.4.15 Pests:

The application states that an external accredited pest control contract would be established at the site, and that visual inspections of the site for pest infestations would be carried out once a week by the site operative. The Environmental Permit that has been issued for the proposed waste management operation requires that the activities shall not give rise to the presence of pests which are likely to cause pollution, hazard or annoyance outside the site boundary. The EA has the power to require the submission of a pests management plan if required.

6.4.16 Bioaerosols:

Bioaerosols are airborne micro-organisms generated as part of the composting process and, according to the Health and Safety Executive, are a substance hazardous to health, although they have no occupational exposure limits. All composting would take place within an enclosed building, and this would significantly reduce the release of bioaerosols into surrounding areas. The application states that bioaerosols would be managed as part of the Dust and Particulates Procedure which was submitted in support of the application for an Environmental Permit. The Permit regulates issues relating to bioaerosols. Controls include preventing composting operations until background bioaerosol monitoring has been carried out and reported on, and requiring that regular

bioaerosol monitoring is undertaken.

6.4.17 Fire prevention:

Some objectors have raised concerns over fire risks association with the proposed operation. This issue is regulated under the Environmental Permit. It requires that combustible waste is not accepted until the EA has received a satisfactory commissioning plan and a Fire Prevention Plan. The Shropshire Fire Service has advised that consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications". The Fire Prevention Plan shows the location of facilities available on site for the Fire Service, including the water supplies (fire hydrant and surface water collection tanks). It is considered that a satisfactory level of information has been provided at the planning stage to demonstrate that the proposed site can accommodate the requirements of the fire service, and address fire risk

6.4.18 Asbestos:

It is proposed that asbestos waste would be accepted at the site. However this would only be stored at the site and not treated. The Environmental Permit allows asbestos to be brought to the site, however it specifically prohibits its treatment. The application states that asbestos accepted onto the site would in most instances have been pre-determined and expected as a specific, contractually agreed load. To be accepted it would need to be double wrapped and labelled, or double bagged.

6.4.19 The concerns of local residents regarding the potential amenity and health impacts of the proposed waste management operation are fully acknowledged, particularly given the proximity of the site to residential areas. The relevant pollution control authorities, including the Environment Agency and the Public Protection team, have been consulted on the planning application, and no objections have been raised. Officers consider that satisfactory safeguards and procedures have been put forward as part of the proposals to ensure that potential environmental impacts can be minimised to acceptable levels. As such it is considered that the use of the site for waste processing and treatment operations is acceptable in land-use terms. Detailed controls over the waste activities at the site would be regulated by the Environmental Permit, and this should provide further reassurance that an acceptable level of safeguarding against adverse amenity and public health would be provided.

6.5 **Drainage considerations**

6.5.1 Core Strategy policy CS18 seeks to reduce flood risk and avoid adverse impact on water quality and quantity.

6.5.2 The proposed development would utilise the existing drainage infrastructure on the site. This includes impermeable concrete surfaces, and a storm water and a foul water drainage system. Surface water drains into underground surface water storage tanks. In the event of an emergency such as a fire, spill or flood, these would prevent contaminated surface waters leaving the site boundary. Given the existing drainage system in place it is not considered that the proposed change of use and erection of storage bays would not increase flood risk at the site. The Council's Drainage Officer has raised no objections to the proposal, and it is

considered that the proposal is acceptable in relation to Core Strategy policy CS18. Pollution prevention matters are also regulated as part of the Environmental Permit for the site.

6.6 Highways and access considerations

6.6.1 Core Strategy policy CS6 requires that development is designed to be safe, and ensures that there is capacity and availability of infrastructure to serve the development. SAMDev Plan policy MD2 (Part 6) requires that development proposals demonstrate that there is sufficient existing infrastructure capacity, in accordance with MD8. The NPPF states (para. 32) that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.6.2 The application states that the previous use of the site as a potato packing facility generated more than 142,000 vehicle movements per year, and that the current proposal would reduce those vehicle movements by approximately 62,000 to 80,772 movements per annum (approximately 50,000 HGVs and approximately 30,000 smaller vehicles associated with staff and visitor transport). The Parish Council and some objectors to the proposals have queried the applicant's estimates of traffic generated by the potato packing operation. The previous occupants Greenvale AP have provided the following information regarding their operation: the site produced 100,000 tonnes of potatoes per annum; it employed 300 staff; the majority of staff worked a day/night shift pattern; the site operated 24 hours a day, 7 days a week. Greenvale AP have advised that there were 40 lorries despatching product to supermarkets throughout the 24 hour period, and 40 lorries arriving on site with crop between 6am and 6pm.

6.6.3 Notwithstanding the queries over previous traffic associated with the site it is reasonable to consider that traffic to/from the site, including by large vehicles, was significant. The existing planning permissions for the site, for changes of use of the buildings for storage and ancillary packing, do not restrict the number or type of vehicles that can visit the site, or the routing. Traffic to/from the site is therefore unregulated at present. Should permission be refused for the proposed development, the existing planning status would continue and, given the size of the buildings and site, traffic to/from the site could be significantly greater than currently proposed.

6.6.4 The previous level of traffic associated with the site is a relevant consideration. However it is also relevant to look at whether the proposed levels of traffic can be supported. The applicant has set out the likely traffic to/from the site as part of the proposed materials recovery facility. The Highways Officer has raised no objection to the proposal on the grounds of adverse highway safety or capacity. The applicant has agreed to adhere to a Traffic Management Plan to require that heavy traffic would be routed to/from the A41 to the north. This is considered to be an acceptable route for such traffic given that Warrant Road in this direction is of a sufficient width and alignment to accommodate heavy traffic and the route avoids the main residential areas in the vicinity. The condition recommended by the Highways Officer requiring details of parking, turning, loading and unloading to be submitted for approval can be imposed on the decision notice.

6.6.5 Overall given the size and nature of the site, the existing permitted use and the

nature of the approach roads to the site it is not considered that refusal of the application on grounds of impact on highway safety could be sustained.

6.7 **Tree and ecological considerations**

6.7.1 Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity and ecological assets. SAMDev Plan policy MD12 seeks the avoidance of harm to natural assets.

6.7.2 There are numerous trees of varying ages interspersed between the buildings on the site. The proposed development would involve the removal of a number of young semi mature lime and hazel trees, and two mature horse chestnut trees from an area at the north-western part of the site. These would be removed in order to facilitate improved vehicle access to the proposed waste storage area. The Council's Tree Officer has advised that the lime and hazel are of limited significance, and the horse chestnut are extensively infected with bleeding canker which has limited their life span. All other trees would be retained and as such it is not considered that the proposed tree removal would have a significant impact upon the amenity or ecological value of the site. Given the value of the existing trees it would nevertheless be appropriate to include a condition requiring the retention of all other trees on the site.

7.0 **CONCLUSION**

7.1 The proposal would provide a facility for the sorting, treatment and recycling of a range of different waste types. It would enable waste materials to be used beneficially, enabling their reuse in a sustainable manner. As such this type of facility is supported in principle by national and Development Plan policies. The proposal would be sited on land previously used for storage and industrial use, and Officers consider that this is an appropriate type of site for waste management use in principle. The proposal would bring back into re-use land and buildings that are currently under-utilised, and would use existing infrastructure at the site, including roadways and a drainage system, which Officers consider is satisfactory for the proposed activities.

7.2 The proposed operations to be undertaken include the shredding and composting of green waste, and the crushing and screening of inert wastes. These operations have the potential to adversely affect residential amenity, particularly in view of the proximity of the site to residential areas. The concerns raised by the Parish Council and local residents are fully acknowledged. However Officers consider that satisfactory provision has been made in the design of the facility to ensure that adverse impacts on residential amenity would not arise. These measures would include: ensuring that the main treatment operations are undertaken within enclosed buildings; ensuring that the most noisy external operations are undertaken at a position furthest from residential properties; erecting an acoustic fence between the site and properties; ensuring that heavy vehicles avoid passing the main residential areas in the vicinity; restricting the timing of operations that may potentially result in adverse noise levels.

7.3 An Environmental Permit has been issued for the proposed operation by the Environment Agency. The EA have confirmed that, in issuing the permit, they are satisfied that there would be no significant pollution of the environment or harm to

human health. The Permit includes legally binding conditions to restrict and control operations that take place on the site. The National Planning Policy for Waste is clear that planning authorities should work on the assumption that the relevant pollution control regime, i.e. that which is regulated under the Environmental Permit, will be properly applied and enforced.

- 7.4 Officers consider that satisfactory controls can be imposed on the proposed operation to ensure that the proposed waste management use of the site is compatible with surrounding land uses, and that adverse impacts would not arise. As such it is considered that the proposal is in line with Development Plan policy and national policies and guidance, and that planning permission can be granted subject to the conditions as set out in Appendix 1.

8. 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 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. Financial Implications

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

10. Background

Relevant Planning Policies

NPPF – National Planning Policy Framework
 CS6 - Sustainable Design and Development Principles
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 CS19 - Waste Management Infrastructure
 CS20 - Strategic Planning for Minerals
 MD2 - Sustainable Design
 MD8 - Infrastructure Provision
 MD14 - Waste Management Facilities

Relevant planning history:

10/00144/FUL Proposed re-cladding of existing unit GRANT 10th March 2010
 NS/09/00022/FUL Erection of Water Recycling Treatment Plant CONAPP 26th February 2009
 NS/07/00699/FUL Erection of extension to existing warehouse CONAPP 18th June 2007
 NS/06/01605/FUL Erection of warehouse extension CONAPP 29th August 2006
 NS/99/10613/FUL change of use of garage and store, to on-site shift workers residential hostel accommodation ALLOWED ON APPEAL 24/08/1999
 NS/98/00676/FUL erection of single storey extension to rear elevation of existing office accommodation PER 25th January 1999
 NS/98/00675/FUL change of use of garage and store into on site shift workers accommodation (shared facilities) REFUSE 29th July 1998
 NS/97/00644/FUL erection of an extension to provide additional office accommodation PER 18th August 1997
 NS/95/00663/FUL erection of extensions to the existing storage building and erection of replacement loading bay building PER 12th September 1995
 NS/95/00662/FUL erection of an extension to existing warehouse and erection of loading bay extension PER 13th June 1995
 NS/94/00666/FUL Erection of a canteen extension to existing premises PER 20th June 1994

NS/91/00767/FUL Erection of an extension to existing staff rest room to provide kitchen at new depot GRANT 30th September 1991

NS/90/00791/FUL Erection of steel framed building for use as loading shelter GRANT 20th August 1990

NS/79/00151/FUL Retention of building no8 for the storage of granular and liquid fungicides at site A GRANT 1st May 1979

NS/78/00523/FUL Alterations to existing buildings and installation of weighbridge, floor lighting and toilet GRANT 8th August 1978

NS/78/00156/FUL Change of use of former RAF hangers for the storage and maintenance of company vehicles ancillary to principle use of potato storage and prepacking GRANT 19th May 1978

NS/77/00907/FUL Change of use of former RAF hangers, no: 1 and 2 to potato storage warehouses with ancillary potato prepacking (in part hanger no.1) and ancillary office and welfare facilities in entrance gate building D GRANT 23rd February 1978

NS/74/00750/FUL Change of use of former RAF hangers, warehouses, stores and offices to warehousing and storage GRANT 25th February 1975

NS/74/00078/FUL Retention of use for a further limited period of EX RAF premises (hangers no 6 and 7) for storage and warehouse accommodation GRANT 27th March 1974

NS/74/00678/FUL Proposed use of hangers 1 and 2 and building 14 (Site A) for the storage of cartons, packaging, canned fruit and other dry food stuff GRANT 7th January 1975

11. Additional Information

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

The application ref. 16/01575/FUL and supporting information and consultation responses.

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Karen Calder

Appendices
APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until details for the parking, turning, loading and unloading of vehicles have been 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.

4. No waste management operations shall take place at the site until details of the floodlighting and/or external lighting for buildings and open areas, including car parking and service areas have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no additional external lights shall be erected without the prior approval of the local planning authority.

Reason: To protect local amenity from adverse impact due to lighting.

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

5. No crushing operations shall take place until an acoustic fence has been erected along the eastern boundary of the site. The fence shall accord with a specification, including height and density, which has received the prior written approval of the local planning authority. The fence shall thereafter be maintained to the approved specification for the lifetime of the development.

Reason: To protect the amenity of the area.

6. No external crushing operations shall take place until an acoustic fence has been erected along both the eastern boundary and southern boundary of the site. The fence shall accord with a specification, including height and density, which has received the prior written approval of the local planning authority. The fence shall thereafter be maintained to the approved specification for the lifetime of the development.

Reason: To protect the amenity of the area.

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

7. Waste, aggregate or other building materials shall not be stored at the site other than in the storage areas and shed nos. 1 - 4 as shown on drawing no. ARR01_PV_SP_003 (Figure 2 - Site Plan), or an updated storage location plan that has received the prior approval of the location planning authority.

Reason: To ensure a satisfactory site design and layout in the interests of protecting local amenity and maintaining site safety.

8. (a) No more than 187,800 tonnes per annum of waste or aggregate materials shall be imported to the site for processing or storage as part of the development hereby permitted.

(b) Records of the quantity and types of waste and aggregate in tonnes brought to the Site during each calendar year shall be made and supplied to the Local Planning Authority upon request.

Reason: To ensure that the capacity of the Site is not exceeded and to control the use of the Site in the interests of protecting local amenity.

9. The site shall not be used other than for waste management operations, including storage, treatment and processing of waste materials, and ancillary retail and storage of building materials.

Reason: To define the development for the avoidance of doubt and to retain control over the use of the site to protect local amenity.

10. Unless otherwise required by planning conditions of this decision notice, the development hereby permitted shall not take place other than in accordance with the submitted Supporting Statement (version 3, dated June 2016), including the location of waste management operations as set out in the table in paragraph 13 and the types of waste set out in paragraph 20.

Reason: To ensure a satisfactory development to protect local amenity.

11. The Site shall not be used as a reception point for waste delivered by householders.

Reason: To restrict uses likely to generate additional traffic and disturbance at the Site and so limit the impact on the amenities of surrounding land users.

12. Unless otherwise specified within the planning conditions of this decision notice the development hereby permitted shall not take place other than in accordance with the Traffic Management Plan, version 1 dated August 2016.

Reason: To protect the amenity of the area.

13. Internal crushing and shredding operations shall not take place other than between the following hours:
0800 - 1900 hours Monday to Friday,
0800 - 1500 hours on Saturday.

No internal crushing and shredding shall take place on Sundays or Bank Holidays. All openings into the building used for the operations noted shall be closed when operations are in progress.

Reason: To protect the amenity of the area.

14. External crushing shall not take place other than between the following hours:
0800 - 1700 hours Monday to Friday,
0800 - 1500 on Saturday.

No external crushing shall take place on Sundays or Bank Holidays.

Reason: To protect the amenity of the area.

15. The site shall not be open to the public, and waste materials shall not be accepted at the site, other than between the following hours:
0700 - 1800 hours Monday to Friday
0700 - 1500 hours Saturdays and Bank Holidays.

Reason: To protect the amenity of the area.

16. Unloading of vehicles shall not take place other than between the following hours:
0730 - 1800 hours Monday to Friday
0800 - 1500 hours Saturdays.

No unloading of hardcore material into external areas shall take place on Sundays and Bank Holidays.

Reason: To protect the amenity of the area from adverse impacts due to noise and disturbance.

17. Other than the tree removal identified on drawing number ARR01_PV_VR_003 Planning Variation, no trees shall be removed from the site unless required for safety or tree health reasons.

Reason: To retain the amenity value of the existing trees on the site.



Committee and Date
 North Planning Committee
 6th September 2016

Item
7
 Public

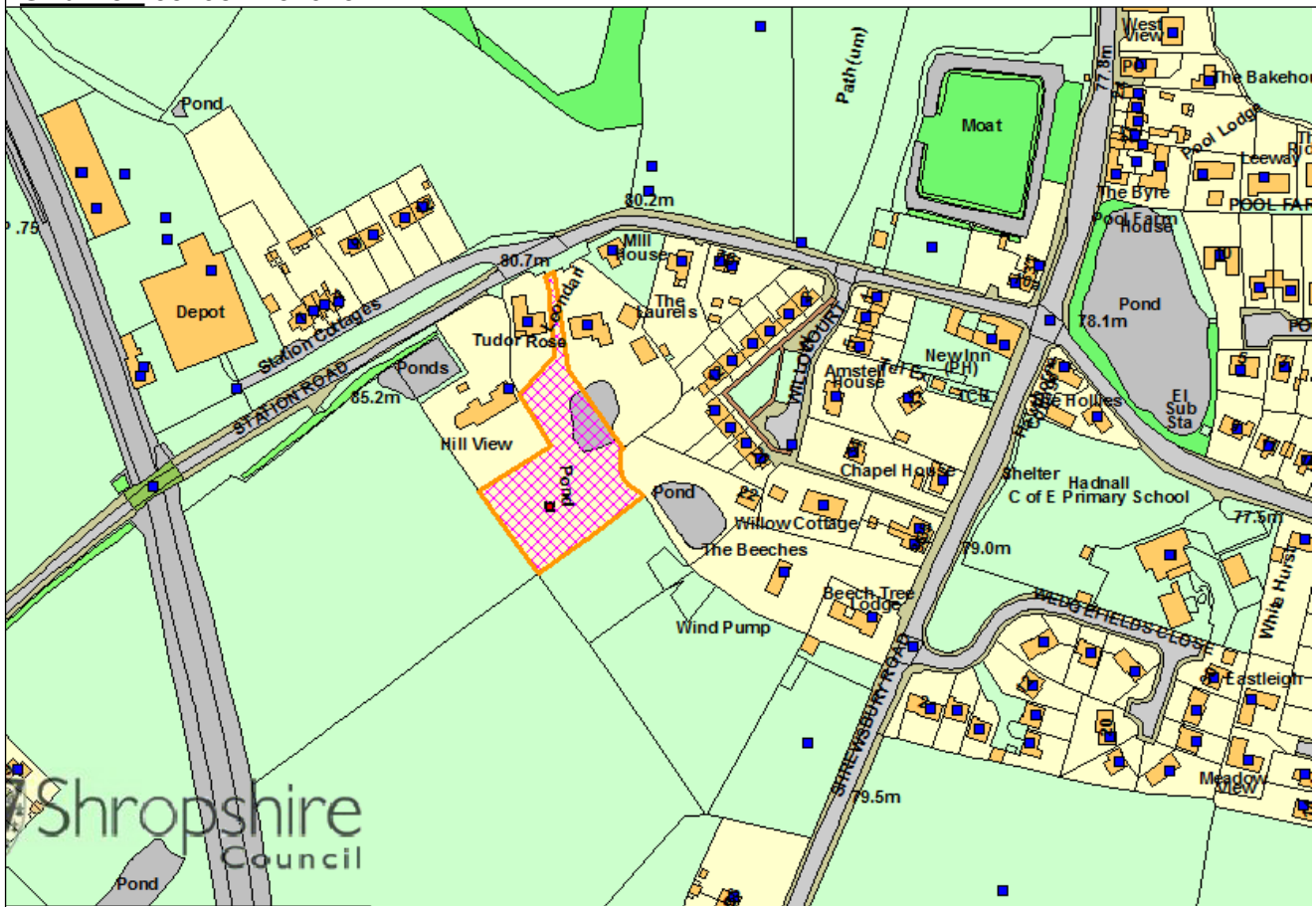
Development Management Report

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

Summary of Application

Application Number: 15/05450/REM	Parish:	Hadnall
Proposal: Application for approval of reserved matters (layout, scale, appearance and landscaping) pursuant to 14/03159/OUT for the erection of a dwelling		
Site Address: Land South West Of Leondari Manor Station Road Hadnall Shropshire		
Applicant: Mr A Maoudis		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 351984 - 319732



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

- 1.1 The current application seeks consent for approval of reserved matters for the layout, scale and appearance of the proposed dwelling and also for the landscaping of the site. The application is submitted with full plans and details required to determine whether the matters reserved at outline consent are acceptable or not.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the edge of the village of Hadnall, off Station Road. It is a large site with a number of trees, and is located to the rear of Leondari Manor, Tudor Rose and Hill View. At the time of the outline application the site was laid to lawn and maintained as part of the curtilage of Leondari Manor, since that consent the applicant has undertaken ground works within the site to level out the area proposed for the dwelling and also install services to the site. This has been raised as a complaint by a neighbouring resident, however much of the work could be done as maintenance of the garden and it would also be unreasonable for the Council to take enforcement action to revert the land to its previous condition when an application for the development is pending.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council response is contrary to the recommendation from the case officer and the local member has advised that they consider the issues raised are both material planning considerations and should be debated at committee.

In discussion with the chair and vice chair of the planning committee it was concluded that the application should be a committee determination for the reasons given above.

As such the scheme of delegation has been followed and a committee decision is required.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

- 4.1.1 **Parish Council** – Hadnall Parish Council Planning Committee met to discuss the above application. No declarations of interest were made.

Councillors object to the proposal on the grounds that the building is too high, being three storey and it is not in keeping with surrounding properties and Hadnall Village.

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

The exact contribution is dependent upon the affordable housing rate applicable at

the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

As part of the application process the applicant should be requested to complete and submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed

- 4.1.3 **Highways** – The principle of the development has been approved under the outline consent 14/03159/OUT therefore the highway comments are solely related to the details for the reserved matters from a highway perspective.
 Appearance – not a highway consideration
 Landscape – not a highway consideration in respect of the development proposed
 Layout – no objection subject to the imposition of the following condition and informatives.
 Scale – the proposed scale of the development is considered acceptable from the highway perspective.

Recommends conditions.

- 4.1.4 **Ecology** – There are no ecology comments on the details submitted with this Reserved Matters application.

Please note that condition 5 of consent 14/03159/OUT requires that all work on site must be carried out strictly in accordance with the Arbor Vitae Environment Ltd (February 2015) Method Statement To Avoid Damage To Great Crested Newts Leondari, Hadnall. This includes covering excavations and restrictions on ground works.

- 4.1.5 **Trees** – Can support the application the retained trees are protected in accordance with the submitted Tree Protection Plan and with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction".
- 4.1.6 **Drainage** – The proposed surface water drainage details, plan and calculations should be submitted for approval before the development commences as per Drainage Condition 6 on Outline Application 14/03159/OUT.

4.2 **Public Comments**

- 4.2.1 A site notice was erected and 2 neighbour notification letters were sent to individual properties to notify the public of the planning application.

Correspondence has been received from one property raising the following concerns:

- Proposed house is not smaller than existing as it was intended to be at outline
- Three storey property will overlook neighbours
- Minor amendments do not overcome the issues
- No garage/ outbuildings shown on current application and will result in future pressure for these buildings
- Outbuilding has been erected without consent
- Existing landscaping removed
- Services have been laid in a trench and hardcore applied to the site, the

applicant has commenced development without consent or regard to neighbours

5.0 THE MAIN ISSUES

- Policy & principle of development
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 The granting of the outline planning consent has accepted the principle of the development proposed. The site is located within the village of Hadnall. Since the adoption of the SAMDev in December 2015 Hadnall has been considered as countryside for planning purposes as it was not put forward as either a Community Hub or part of a Community Cluster. However, the current application is for approval of reserved matters and therefore is not considering the principle of the development. The outline consent was granted before SAMDev was afforded full weight and as such was considered against the NPPF and supported as a sustainable development.

6.1.2 The outline granted consent for the erection of 1 dwelling and approved the access details at the time of the outline. As such the current application is for approval of the layout, scale, appearance and landscaping of the proposal.

6.1.3 With regard to affordable housing, noting the comments of the Affordable Housing Officer, this is not a matter for the current application. The Outline consent was subject to a S106 agreement which requires the payment of a financial contribution which will be put with other contributions and used in the local area for the provision of affordable housing.

6.2 Layout, scale and design

6.2.1 Layout, scale and appearance are submitted as matters for consideration in this application. The layout proposed shows a new driveway between the existing two dwellings, Tudor Rose and Leondari, which uses an existing access and section of drive and extends the drive further into the site. This proposed drive leads to a turning head and parking area and the proposed dwelling. The dwelling is positioned within the existing trees and shows the closest trees with their root protection areas which were shown on the outline consent. The proposed dwelling is orientated to face towards the access driveway but as a modern design does not have a standard shape or form.

6.2.2 The proposal is for a single dwelling with living/ dining room, kitchen, utility rooms, larder, entrance and WC on the ground floor, three bedrooms (one with dressing room and ensuite) and a family bathroom on the first floor and a storage room in the roof space. The roof storage has windows in the north elevation, all other windows are at ground or first floor level. A cross section drawing has been provided which shows that the windows to this storage room in the roof space are

above head height and that the roof slopes down to a height of just over 1m above floor level. The dwellings is orientated on the site so the south elevation faces down the driveway and provides the main entrance facing the drive.

- 6.2.3 Amended plans have been received during the consideration of the application which have made slight alterations to the design but which officers consider are a significant improvement on the design. The amendments include greater overhanging roofs and changes to the shape and size of some of the windows, including the windows to the single room in the roof and changes to the materials to be used in the finishing of the property. The design is accepted as modern, however there is no policy requirement for new dwellings to match existing, officers consider that this site, behind existing dwellings provides a good opportunity for a modern designed house.
- 6.2.4 As noted in section 4 above neighbouring properties and the Parish Council have both objected to the proposal. The Parish Council objection is based purely on the height of the dwelling being three storeys. Neighbours have also commented that the proposed house is not smaller than existing as it was intended to be at outline and that the dwelling will result in overlooking. This latter matter is dealt with in the next section. It is also accepted that the amendments made to the proposal do not overcome the neighbours objections, however, this does not mean that the development is not acceptable.
- 6.2.5 In terms of scale the proposed dwelling has a ridge height of 8.94m. The dwelling will have two storeys of habitable rooms and a room in the roof. This is currently shown for storage and although it may be used as a habitable room in the future it also may not. The usable floor space in this room is limited and, as already noted, the windows are above head height. As such officers do not consider that the proposed dwelling is a three storey property but is rather two storey with a room in the roof. The applicants existing property, Leondari Manor, sits to the left of the approved access to the site and is a three storey five bed dwelling which was granted consent prior to 1997. The property to the right of the access drive, Tudor Rose, was granted consent in 2002 as a two storey, five bed dwelling. The approved plans show Tudor Rose to have a ridge height of 7.9m. As such the proposed dwelling will only be 1.04m higher than the neighbouring property and could not be considered to be significantly out of scale or proportion with the existing dwellings either side of the access drive.
- 6.2.6 The neighbour's comment that the proposed dwelling is larger than the existing dwelling and therefore not what was proposed in the outline is not strictly correct. Leondari Manor is a 5 bed dwelling, the proposed house has 3 bedrooms. The footprint and floor area of the proposed property is only a little smaller than the existing dwelling but it is smaller. Furthermore, the outline did not restrict the size of dwelling to be built on the site. The neighbour quotes from the design and access statement on the original application but this was not binding on the applicant. There were no conditions on the outline consent preventing a larger dwelling being applied for or built.
- 6.2.7 In conclusion although the modern design of the house and the height does not match the adjacent development officers consider that the design and scale is not harmful to the character of the area. Both national and local policy seeks to

ensure that development relates to the area in which it is to be built, however neither policy requires new development to match existing designs or house types. There is no policy presumption against modern designs or materials and the proposed development is considered to be modern but not intrusive or harmful. The key issue will be to ensure that the materials are of a high quality to ensure that the designs are enhanced and sell themselves. An appropriately worded condition can be used to ensure these are appropriate.

6.3 **Impact on residential amenity**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The nearest neighbouring residential properties to the north are the three detached dwellings; Hill View, Tudor Rose and Leondari (the applicants existing home). The nearest of these is Hill View which is approximately 39 metres from the proposed dwelling. This distance will ensure that there is no direct overlooking between the existing and proposed dwellings. There will be overlooking between gardens but this is generally accepted between neighbouring properties, the existing dwellings already overlook each other, the new dwelling will not significantly overlook to any greater extent. The proposed dwelling is at least 15 metres from the edge of its own curtilage which is considered to be an acceptable distance to ensure overlooking is not harmful.
- 6.3.2 The other two detached dwellings, Tudor Road and Leondari sit either side of the approved access driveway. The access was approved as part of the outline planning consent and as such the principle of serving one dwelling between the two existing dwellings has already been accepted. The level of traffic movement both during construction and post construction is not significant and would not cause unacceptable harm to the amenities of these neighbouring properties.
- 6.3.3 To the east of the proposed site there is a group of linked, semi-detached, bungalows set around a grassed courtyard. These are over 50 metres from the proposed dwelling and as such would not be affected by the proposed dwelling. Between these bungalows and the proposed dwelling is the end of a neighbours garden. To the southeast is an area of land used by touring caravans as a small caravan park. These will be the closest "properties" to the proposed dwelling but are not occupied as permanent dwellings and are likely to be sited end on to the existing hedge line. Overall it is considered that the proposed dwelling is sufficiently distant from any existing dwelling to not result in any direct overlooking and to minimise overlooking of neighbouring gardens.
- 6.3.4 The correspondence received from the neighbour also raises concerns that the services have already been installed prior to consent being granted and without consideration of the neighbours or the conditions on the outline consent. Furthermore an outbuilding has been erected. The agent has advised that all the work done to date, including the outbuilding, can be done without consent as providing services to the rear of the applicant's garden and as surfacing an area within the existing garden. The outbuilding falls within the permitted development restrictions for new buildings within the curtilage of an existing dwelling. Notwithstanding this any work is done at the applicant's risk. The principle of constructing a house on this site is approved and so is the position of the access. As such the development of the site does have consent albeit that the details are

yet to be approved. Therefore the Council would not seek to take enforcement action against the applicant to require him to remove the services installed. The work was all done within the applicants land and any impact on the neighbours ability to access their property has now passed.

6.4 **Highways, access, parking and rights of way**

6.4.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes 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 to be reduced.

6.4.2 The access to the site was submitted with the outline planning application and approved at that time, subject to conditions. There are no changes proposed to the access and the Council Highway Officer has confirmed that they have no objection to the layout of the site subject to the imposition of a condition and informatives and that the proposed scale of the development is considered acceptable from the highway perspective.

6.5 **Ecology and trees**

6.5.1 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 potential for impact on protected species was considered in detail during the determination of the outline planning application and conditions were imposed accordingly to enable improvements to ecology.

6.5.2 The Council Ecologist has confirmed that they do not wish to make ecology comments on the details submitted with this Reserved Matters application. As noted by the Ecologist, any work on site must be carried out in accordance with the GCN Method statement and the applicant has been reminded of this requirement given that they have installed the services to the site and also are constructing an outbuilding in the curtilage of the existing dwelling.

6.5.3 With regard to trees the Council Tree Officer requested a Tree Protection Plan and Arboricultural Method Statement. Both of which have been supplied by the agent and show that the proposed dwelling is not within the canopy of any of the trees to be retained and detail how the work will be carried out having regard to the trees, including the erection of protective fencing.

6.5.4 On the basis of this additional information the Council Tree Officer has advised that they can support the application on the providing that the retained trees are protected in accordance with the submitted Tree Protection Plan and with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction". It is considered that this can be controlled by condition and that the development as proposed is therefore acceptable in terms of impact on ecology and trees.

6.6 **Drainage**

6.6.1 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. Drainage of the site was considered, in principle, at the outline stage and a condition was imposed on the outline consent requiring details of the foul drainage and surface water drainage systems to be submitted for approval.

6.6.2 The condition on the outline consent remains and the details required by that condition will need to be provided as part of a separate application to discharge conditions. Drainage of the site is therefore not a matter for consideration in this reserved matters application.

7.0 CONCLUSION

7.1 It is considered that the proposed scale, appearance and landscaping of the proposed dwelling are acceptable and would not have an adverse impact on the character and appearance of the locality or the amenity of neighbouring properties. A safe means of access and adequate parking and turning space will be provided and subject to conditions the proposal would have no adverse highway, drainage or ecological implications. It is therefore considered that the proposal accords with Core Strategy Policy CS6.

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.

10. **Background**

Relevant Planning Policies

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

Relevant planning history:

14/03159/OUT Outline application for the erection of a dwelling to include means of access

GRANT 30th September 2015

11. **Additional Information**

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

Cabinet Member (Portfolio Holder) Cllr M. Price
--

Local Member Cllr Simon Jones

Appendices APPENDIX 1 - Conditions

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

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

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

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

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

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

3. The development hereby permitted shall not be brought into use until the areas shown on the approved plan 1628 D02B for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

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

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

4. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan and in accordance with BS 5837: 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 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 LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

-



Committee and Date

North Planning Committee

6th September 2016

Item

8

Public

Development Management Report

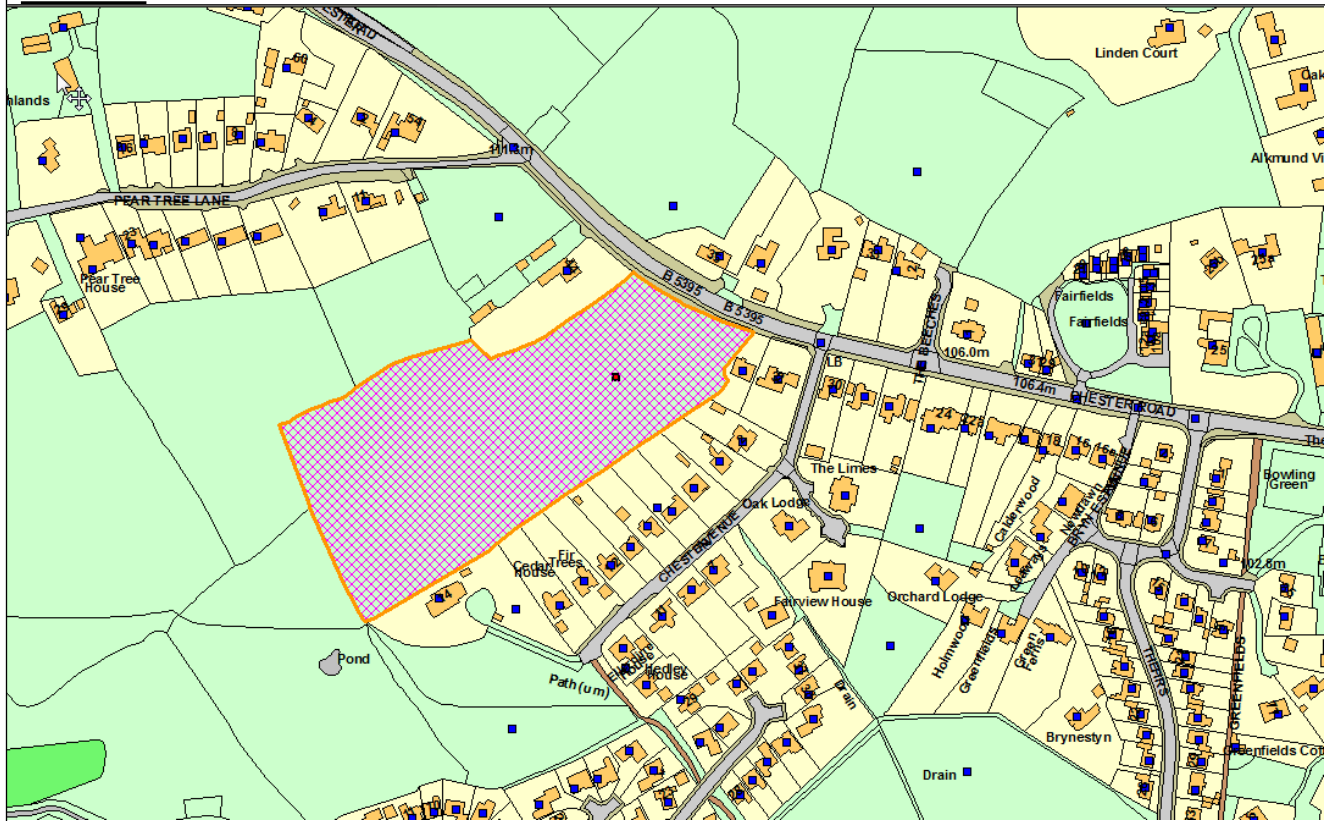
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/05047/REM	Parish: Whitchurch Urban
Proposal: Reserved matters application pursuant to 14/02222/OUT for the erection of 52 no. dwellings to include appearance, landscaping, layout and scale	
Site Address: Proposed Residential Development Land South Of Chester Road Whitchurch Shropshire	
Applicant: Hollins Homes	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 353395 - 341961



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Recommendation:- That delegated powers be given to the Area Planning Manager to grant planning permission subject to resolution of drainage matters and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The current application is for approval of reserved matters of layout, scale appearance and landscaping on the site south Chester Road, Whitchurch. Outline consent was granted in December 2015 subject to conditions and subject to a S106 legal agreement to secure affordable housing.

1.2 The application has been submitted with full plans and supporting information to seek to deal with the matters reserved on the outline consent and details a proposal for 52 detached and semi detached dwellings, mainly two storey with a small number having rooms in the roof. Access to the site was approved at the outline stage, therefore the key matters for consideration now are the layout, scale and appearance and the landscaping of the site. Condition 6 on the outline consent also required the submission of the number of units, the means of enclosure, levels, access for disabled people, finished floor levels and foul and surface water drainage proposals. All of this information was submitted with the application. Although other information has also been provided in relation to highways, ecology and trees these matters will also need to be considered under a separate application for discharge of the conditions on the outline consent.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site lies between the existing dwellings on Chester Avenue, the large detached dwelling at 44 Chester Road and the recently approved land to the south of the housing on Pear Tree Lane and the area of land identified as open space associated with that consent (13/04268/OUT). The site is approximately 2.2 hectares and is currently made up of two agricultural fields with established hedge boundaries. The design and access statement advises that the site frontage onto Chester Road is 70 metres.

2.2 The houses on Chester Avenue and Pear Tree Lane are predominately large detached houses and bungalows in large plots built of red brick and pitched tile roofs with some render introduced in the newer dwellings.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council view is contrary to the officer recommendation and raises material planning considerations which the local member, chair and vice chair

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Town Council – Object** on the grounds of: the proposed area for development is not in the SAMDev, loss of green space, over development of the site. Over capacity on sewerage infrastructure and land is situated on a flood plain with risk of water contamination.

4.1.2 **Affordable Housing** – The Design and Access statement shows 5 affordable units

on site, plots 43- 47 which are 3 bedroomed houses.

- 4.1.3 **Open Space** – 184 bedrooms would require 5520m² POS. If the application is providing 4300m² that would be 1220m² short.

The previous standard formula for financial contributions was based on S106 calculation and not the current CIL costs. Therefore suggests that the contribution be based on leisure and recreation facilities identified with in the Whitchurch place plan. For example. replacing 4 pieces of play and recreational equipment would be £20,000. Average of £5K to remove old play equipment and install new. A new BMX track would be a similar cost.

- 4.1.4 **Highways** – No Objection subject to the development being carried out in accordance with the approved details and the recommended informatives.

The proposed development is considered acceptable from a highways and transport perspective, to specifically fulfil the planning requirements.

It should be noted, that there may be some minor alterations to the access, road, footway and street lighting and landscaping necessary to fulfil any Highway Authority technical approvals and constructional requirements, should any of the proposed infrastructure be considered for future adoption, as highway maintainable at public expense.

- 4.1.5 **Waste Management** – sent standing advice note

- 4.1.6 **Ecology** – Welcomes retention of the existing hedgerows and trees as shown on the landscape proposal however SC Ecology would recommend that Native Species of local variety are used in the planting scheme as they are more likely to benefit wildlife than none native species.

- 4.1.7 **Trees** – No objection to the proposal which retains the important trees identified on the survey submitted at outline.

Following receipt of the Tree Protection Plan advised no objection subject to a condition to protect the trees.

No comments on revised landscape proposals.

- 4.1.8 **Drainage** – Surface water drainage details, plans and calculations should be submitted.

- 4.1.9 **Welsh Water** – The developer does not intend to communicate surface water run-off from the site with the public sewer, therefore would not wish to raise any technical objections to the drainage strategy.

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

- 4.2 **Public Comments**

- 4.2.1 4 letters have been received raising the following concerns:

- Over-development of the site
- Designs do not tie into local character or features
- Will overshadow neighbouring properties and gardens
- Scale of development will cause traffic problems
- Increase in existing surface water drainage problems
- Concern over maintenance of the drainage ditches

5.0 THE MAIN ISSUES

- Policy & principle of development
- Layout, scale and design
- Impact on residential amenity
- Highways, access and parking
- Impact on trees
- Ecology
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 The granting of the outline planning consent has accepted the principle of the development proposed. The site is located on the edge of Whitchurch which is identified within both the Shropshire Core Strategy and the SAMDev as a key settlement and market town. It is accepted that the site is outside the development boundary shown in the adopted SAMDev and the comments of the Town Council relating to the site not being in the SAMDev are noted, however the current application is not seeking consent for the principle of the development and this matter can not be revisited as part of this application.

6.1.2 With regard to affordable housing the current reserved matters application includes 5 affordable dwellings which the Council Affordable Housing Officer has confirmed is acceptable and meets the current requirements. Plot numbers are shown in the information submitted and the agent has confirmed that 2 of the units will be shared ownership and 3 for rent. A financial contribution will also be required to ensure that the proposed development complies with the S106 on the outline consent and this has been agreed at £20,000.

6.2 Layout, scale and design

6.2.1 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 and ensure sustainable design and construction principles are incorporated within the new development.

6.2.2 Layout, scale and appearance are submitted as matters for consideration in this application and have been amended during the consideration of the application following negotiations between officers and the applicant. As noted above the access to the site was previously approved as part of the outline consent and forms the entrance to the site. It is considered that the proposed layout submitted with this reserved matters application is a significant improvement on the indicative layout shown with the outline planning application. The indicative layout with the

outline did not take into account the context of the site or any of the constraints within or adjoining the site. The current layout submitted as part of this reserved matters application is considered to overcome these shortcomings in the outline.

- 6.2.3 The access, as previously approved, is proposed between proposed houses laid out to face over Chester Road. These road facing houses are set back from the road frontage both by the existing footpath along the roadside and also by the private driveway serving the three properties to the south of the access. As such these proposed dwellings are in line with the adjacent dwellings to the south of the site. Behind these four houses facing Chester Road the estate road runs the full length of the site with spurs and private drives leading off this road. The layout provides housing facing over the new estate road and facing over the spurs and drives. The existing boundary hedges and fences are to be retained and the houses back onto the existing boundary, except at the far end of the site in the southern corner where the proposed houses face over an area of open space.
- 6.2.4 The layout was amended during the consideration of the application which has reduced the density of the northern edge of the site, it is accepted that the density overall is higher than the immediate surrounding area. However, it does relate to the wider area and the town as a whole. Furthermore, the outline consent was considered as up to 57 dwellings and the Council 5 year housing land supply relies on this site providing around 57 dwellings. As such the current proposal for 52 houses is considered to provide a suitable layout and density without harming the land supply or the viability of the site.
- 6.2.5 This parcel of open space in the southwestern corner is the largest part which connects to open space either side of the existing hedge which dissects the site. The agent has accepted that the proposed layout is an under provision of open space when considered against adopted SAMDev policy and has agreed to pay a financial contribution to meet the requirements. The financial contribution will be paid to the Council to be used for improvement of existing open space in Whitchurch.
- 6.2.5 With regard to scale and design amended house types have been submitted which have altered some of the designs to reduce the pitch of the front projections and also reduced the overall scale of the houses facing over Chester Road. On first submission the house types with front gable projections had very steep pitches on these projections which officers considered were not appropriate and altered the appearance of the dwelling. Furthermore this is not a feature that is local to North Shropshire. The amended plans reduce the pitch of these elements to 50 degrees or less and are now more in keeping with the design of other properties in the area, both traditional and modern.
- 6.2.6 The houses facing over Chester Road were two and a half storey and as such officers advised that these were not appropriate along this road as there was no other two and a half on the road frontage. These have since been replaced with large two storey houses which officers consider better reflect local context and character.
- 6.2.7 Overall the proposed house types are brick and tile with eaves details, stone heads and cills and some with gable projections, dormer windows and porches. There are

eight different house types which are mixed across the site which officers consider therefore provides variety through the development site but with an element of character the creation of a group of houses. It is officers opinion that the designs are now appropriate and relate sufficiently to other housing in Whitchurch, that the layout takes account of the existing features and site constraints and that the scale is acceptable. As such it is officers opinion that the proposed development will comply with policy CS6 of the Shropshire Core Strategy.

6.3 **Impact on residential amenity**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The development of the site should not result in unacceptable loss of privacy or light to existing dwellings or to the future residents of the site. It is not a matter of protecting views of existing properties or protecting properties from all overlooking or the feeling of overlooking. It is a subjective matter whether an impact is unacceptable or not. However, for ease officers regularly seek to ensure that there is at least 5m undeveloped around existing windows to ensure that the impact on right to light is not unacceptable and seek to ensure that there is around 21m between direct facing windows.

6.3.2 There are existing properties to the north, east (on the opposite side of Chester Road) and to the south (Chester Avenue development). The single property to the north is 44 Chester Road and is a large detached dwelling set within a substantial curtilage, this dwelling is one of the older ones on Chester Road and has retained its large curtilage. Many of the other properties along this road have been infilled with other development and as such this dwelling is not typical of the area. The proposed development is to the south of this existing dwelling and there will be houses all along the southern boundary with 44 Chester Road. These proposed dwellings will all have gardens of around 10m deep which will reduce the potential for overlooking to what officers consider would be not unacceptable levels of overlooking. The existing residents will feel more overlooked but the existing house is over 25m from these proposed dwellings and the gardens are considered to be an appropriate depth. Furthermore there are existing trees within the garden of 44 Chester Road which will help to break up the opportunities for overlooking.

6.3.3 The houses on the opposite side of Chester Road will be over 38m from the proposed development with the road in between as such this is more than sufficient distance to ensure that these existing properties are not adversely affected. The existing properties on Chester Avenue, to the south, are more spacious in their layout than the proposed development, however Chester Avenue was built at a time when the financial climate and planning policy allowed for lower density. The current layout, as detailed above, is considered to be appropriate and officers advise that it would be unlikely to be able to defend a refusal on density based on the current proposal. The houses to the south have very long domestic gardens and as such provide adequate space between the existing and proposed dwellings.

6.3.4 The main impact, except for the effect on the garden of 44 Chester Road, is on 34 Chester Road, the dwelling immediately to the south of the site. The existing dwelling has ground floor windows facing towards the site, however these are understood to be secondary windows to habitable rooms. As such the proposed dwelling on plot 52 has been moved so that it is 5m away from these existing

windows. This will therefore ensure that these windows still benefit from some natural light, albeit likely to be reduced, there is no direct overlooking between windows and, as noted above, these windows are not the primary windows to habitable rooms. As such the impact on this property is not considered to be unacceptable.

- 6.3.5 Overall it is considered that the revisions to the layout and scale of the houses ensures that the proposed development will not have an unacceptable impact on the amenities of the existing residents around the application site and therefore complies with the relevant parts of policies CS6 and MD2.

6.4 **Highways, access, parking and rights of way**

- 6.4.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes 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.

- 6.4.2 The access to the site was submitted with the outline planning application and approved at that time, subject to conditions. A separate application will be required to discharge the conditions on the outline which will deal with the technical requirements of the access junction. The applicant will also be required to submit an application to the Highways Department to create the junction as works to a highway as advised by the Council Highway Officer in his comments.

- 6.4.3 The proposed layout shows an internal estate road with footways on both sides for the majority of the road leading to a turning head near the end of the site. Off the two sections of the turning head are two lower order roads both still of sufficient width to allow for service vehicles and both with turning heads and reduced width footways. There is also a similar lower order road within the site and four private driveways off the main estate road and the one lower order road. These roads are considered to provide a good quality development with small groups of houses served off private drives but the majority of the housing served by roads which are to an adoptable standard.

- 6.4.4 Each of the proposed dwellings is shown with sufficient space to park two vehicles, either within a garage and on a drive or just on a drive. This allows for sufficient off-road parking for the whole of the development though some on-street parking is likely it is not considered that this development will be dominated by on-street parking. Each property will have sufficient space for waste storage and the case officer has checked the distance of the private drives to ensure that the development complies with the Council standards. Two of the private drives are over 25m long (the maximum distance a resident should be required to move their bin) but with adding the 15m the waste collection staff will move the bin all of the properties should be capable of being serviced by waste collection facilities.

- 6.4.5 It is therefore considered that the layout of the development is acceptable in highway terms and although residents and the Parish Council have raised concerns about the level of traffic this was a matter which was dealt with during the

consideration of the outline planning application and it was confirmed that the development of this site would not result in severe traffic movements. This is both on its own and also taking into account the potential cumulative impact of the potential traffic from the various developments approved along Chester Road and in the wider area.

6.5 **Ecology and trees**

- 6.5.1 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 potential for impact on protected species was considered in detail during the determination of the outline planning application and conditions were imposed accordingly to enable improvements to ecology. The current application has been submitted with details of the layout and also details required by condition.
- 6.5.2 The proposed layout retains the existing landscaping both within and on the boundaries of the site and supplements this with new planting within the site both in the open space and in front gardens of the proposed dwellings. The planting within gardens will thereafter be a matter for the owners and residents of the dwellings with the open space retained and maintained either by the Town Council or by a management company set up by the developers.
- 6.5.3 The Council Ecologist has advised that they welcome the retention of the existing hedgerows and trees as shown on the landscape proposal. Amended landscaping details were submitted which provided native species in the planting scheme as requested by the Council Ecologist to benefit wildlife. Other ecology impacts were dealt with at the outline stage of the application and conditions were imposed on that consent which will still need to be discharged at the relevant time.
- 6.5.4 Following receipt of a tree protection plan the Council Tree Officer has confirmed that they have no objection to the revised layout which retains the better trees on site in the public open space. The Tree Officer has recommended a condition to ensure protection of the trees. Subject to this condition officers consider that the landscaping and tree considerations and the ecological considerations of CS17 are met.
- ## 6.6 **Drainage**
- 6.6.1 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. Drainage details are required to be submitted with the reserved matters application under condition 6 of the outline consent and as such this information was requested from the agent.
- 6.6.2 Further information has been provided during the consideration of the application, however additional information is still required by the Council Drainage Consultant to fully detail the surface water drainage scheme to ensure that the development does not result in increased flood risk either on the site or in the surrounding area.
- 6.6.3 This matter therefore remains outstanding at the time of writing this report to

committee. The recommendation therefore reflects this and requests delegated powers are given to the Area Planning Manager to approve this proposal following resolution of the drainage. A solution is likely to be achievable and there is no advice to counter this. As such the recommendation is as detailed at the start of the report.

7.0 CONCLUSION

7.1 It is considered that the revised layout, scale, appearance and landscaping of the site are acceptable and would not have an unacceptable adverse impact on the character and appearance of the locality or the amenity of neighbouring properties. A safe means of access and adequate parking and turning space will be provided and subject to conditions the proposal would have no adverse highway or ecological implications. It is therefore considered that the proposal accords with Core Strategy Policy CS6.

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.

10. **Background**

Relevant Planning Policies

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

Relevant planning history:

14/02222/OUT Outline application for residential development to include access GRANT 17th December 2014

11. **Additional Information**

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

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

2. The proposed surface water drainage schemes shall be installed in accordance with the approved drainage plan and details prior to the first occupation of any of the dwellings hereby approved.

Reason: To ensure that the surface water drainage systems are adequate and to minimise flood risk.

3. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. 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

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

4. The proposed site layout has taken account of the trees identified in the Arboricultural Impact Assessment prepared to support the original application. Where trees are to be retained the layout has provided sufficient space to allow for their protection in accordance with BS 5837: 2012 guidance.

No objection is raised to the scheme, however the following condition is recommended:

In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

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

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

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

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

5. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens shall be submitted to and approved by the local planning authority prior to the occupation of the first dwelling. The landscape plan shall be carried out as approved and retained thereafter.

Reason: To ensure the long term maintenance of the amenity green space.

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Committee and Date
 North Planning Committee
 6th September 2016

Item
9
 Public

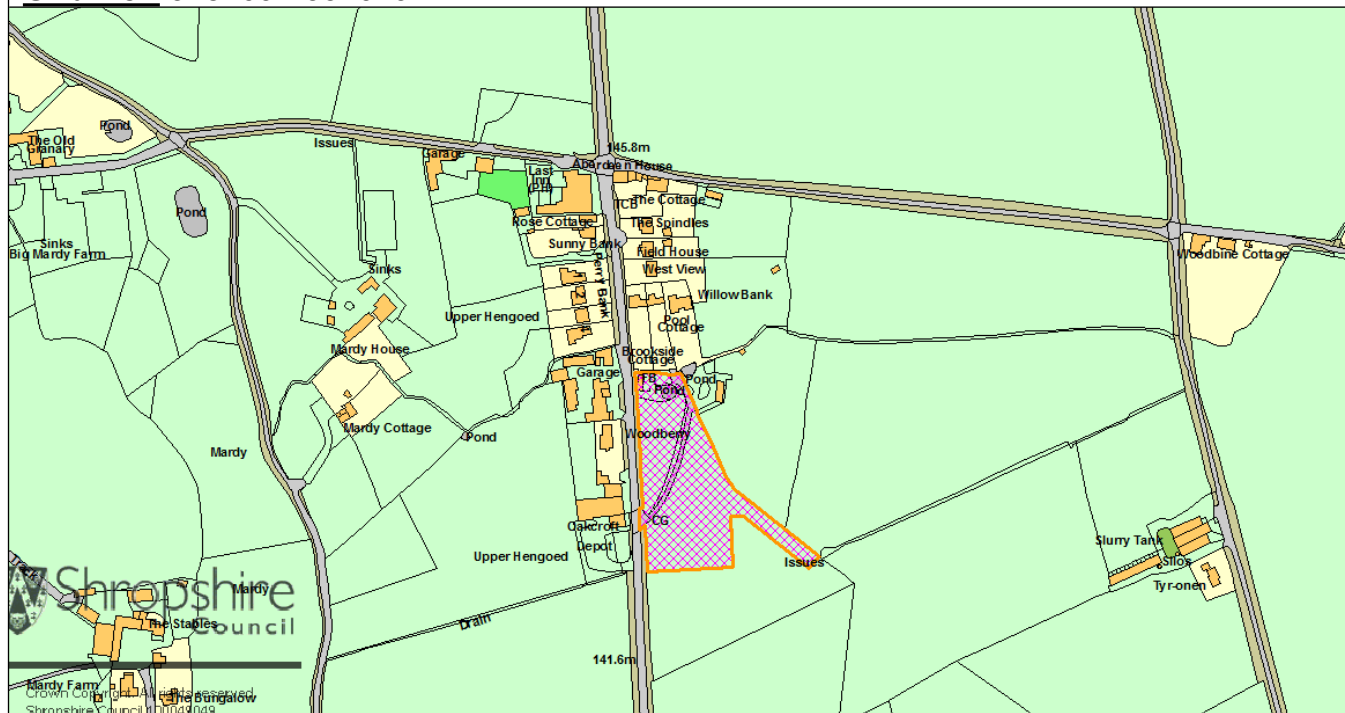
Development Management Report

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

Summary of Application

Application Number: 16/02005/VAR	Parish:	Selattyn And Gobowen
Proposal: Removal of Condition 1 (approved site/ block plans) pursuant to 15/04481/REM to allow for an amendment to affordable housing provision		
Site Address: Residential Development Land Adj Willow Bank Hengoed Shropshire		
Applicant: Mr & Mrs James & Eileen McNally		
Case Officer: Mark Perry		email: planningdmnw@shropshire.gov.uk

Grid Ref: 328469 - 334019



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Recommendation:- subject to the conditions set out in Appendix 1 and the variation to the S106 attached to 11/05648/OUT to secure the reduced affordable housing provision.

REPORT

1.0 THE PROPOSAL

- 1.1 Outline planning permission was originally granted in 2011 for the erection of 13 dwellings of which 8 were secured as affordable dwellings by a S106. The subsequent reserved matters approval was then granted on the 3rd February 2016.

This application now seeks to amend condition 1 attached to the reserved matters approval. Condition 1 reads as follows:

“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.”

- 1.2 On the approved site plan it states that plots 1 to 8 will be affordable dwellings to be provided by Wrekin Housing Trust. The applicant now wants to change this so that only plot 7 is provided as an affordable dwelling. Other than the change to the affordable housing provision the rest of the development will remain as was previously approved at the reserved matters stage.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in an area of open countryside and appears to have been used as grazing land in the past with a mature hedgerow along the roadside boundary and post and rail fencing separating it from the adjoining agricultural land. To the north of the site there are two existing dwellings, Brookside Cottage and Pool Cottage, both of these dwellings have their access through the middle of the application site. On the opposite side of the road there is a detached bungalow which is flanked by industrial units which have been used by vehicle repair businesses.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Chair/ Vice Chair consider that the application raises issues which should be considered by the Planning Committee.

4.0 Community Representations

- 4.1 - Consultee Comments

- 4.1.1 Parish Council- We object to the removal of condition 1 and we adhere to our original comments when consent was initially granted (below).

Parish Council comments to 11/05648/OUT

“Selattyn and Gobowen Parish Council support this application because it will provide affordable housing to meet local need. However the Parish Council would require a condition placed on the development that will ensure that priority for the affordable housing should be provided to local residents in the first instance.”

4.1.2 Affordable Housing-

As at 1st June 2016 and the number of people who have requested Selattyn and Gobowen Parish as their first preference is 63, 62 of these are wanting Gobowen and 1 Selattyn. 71 would look at Selattyn and Gobowen as a 2nd choice but of these 68 want Gobowen, 1 Pant Glas, 1 Selattyn and 1 Upper Hengoed. The need for Hengoed is limited at the moment. Wrekin Housing Association have confirmed that they wouldn't want any units.

4.2 - Public Comments

4 representations have been received objecting commenting on the following issues:

- There is a shortage of social housing
- If built there would be no shortage of prospective tenants.
- The housing associations were never committed to developing the site.
- The developer should be made to provide the affordable dwellings
- Great crested newt survey should be updated.
- Who will maintain the play area and treatment plant
- Existing dwellings have access over the private drive
- Highway Safety

5.0 THE MAIN ISSUES

- 5.1
- Back ground to the application
 - Principle of the development
 - Affordable housing provision.

6.0 OFFICER APPRAISAL

6.1 Background to the Application

6.1.1 Outline planning permission was granted in 2012 for the erection of 13 dwellings, eight would be provided as affordable dwellings and five as open market dwellings.

When the original outline planning application was being considered a letter of support was provided by Severnside Housing Association who confirmed that they were committed to the delivery of affordable housing and they believed that the development offered a good opportunity to provide much needed high quality sustainable affordable accommodation. At that time the Council's Affordable Housing Officer confirmed that there was requirement for additional 2 and 3 bedroom family houses in the Parish; although this does not specifically relate to Hengoed. The proposed scheme also received support from the Parish Council who recognised the benefit of providing affordable housing to meet a local housing need

6.1.2 Following permission being granted, Wrekin Housing Trust were then intending to build out the affordable part of the scheme. The Trust have since removed their commitment to providing the affordable dwellings as they have been unable to secure the necessary funding. They have not been able to get the funding because inadequate housing need has been identified in Hengoed specifically. Although the Council's Affordable Housing team have confirmed that there is a need in the wider Parish which includes Gobowen and Selattyn, however this does not assist in securing the funding.

6.1.3 To make the scheme of 13 dwellings financially viable and therefore deliverable the

applicant is now looking to reduce the affordable housing provision down to a level that is in line with current adopted planning policy (10%), this would equate to 1 affordable dwelling being provided on site plus a financial payment.

6.2 Principle of Development

6.2.1 The principle of developing the site for 13 dwellings has already been established by the original outline planning consent and the later approval of the reserved matters where the appearance, scale and landscaping of the development were considered. However, these decisions were based upon the fact that 8 of the 13 dwellings would be affordable properties. Now that the applicant is proposing to provide just a single dwelling and an affordable housing payment the balance of consideration has now shifted and also the proposal must now be considered against the most up to date planning policies.

6.2.2 Since planning permission was granted in 2012 Shropshire's SAMDev plan has been adopted and is now a material consideration that can be afforded full weight. SAMDev identifies Upper/ Middle and Lower Hengoed as part of a community cluster along with Selattyn and Pant Glas. Policy S14.2(x) of SAMDev sets out the housing growth for the cluster and reads as follows:

“The settlements of Selattyn, Upper/ Middle/ Lower Hengoed and Pant Glas are a Community Cluster which will provide additional affordable housing for young families or small live/work developments. Reflecting the level of recent commitments, including a recent consent for 13 dwellings in Upper Hengoed, the sustainability of the cluster will be further improved by about 5 further homes in Selattyn as infill development within the development boundary. Further housing development in Lower Hengoed, Middle Hengoed, Upper Hengoed, or Pant Glas will not be supported during the period to 2026. Critical infrastructure investment priorities include waste water treatment infrastructure”.

The policy specifically references the approved scheme of 13 dwellings (the application site), because of this commitment that was in place at the time SAMDev was being produced it was considered that the cluster should include a further provision of about 5 dwellings and that these should be in Selattyn. In addition, because of the existing approval for the 13 dwelling it states that, “Further housing development in Lower Hengoed, Middle Hengoed, Upper Hengoed, or Pant Glas will not be supported during the period to 2026”. Therefore, without the development of the application site happening, the cluster would then be under delivering on its overall housing target of 18 dwellings. In addition, whilst SAMDev refers to the consent for the 13 dwellings it does not specifically refer to how many of these are affordable dwellings.

6.2.3 Representations received from the Parish Council understandably show that they believed the site was to provide a substantial number of affordable dwellings and it was for this reason why the Parish Council felt that they could support the original planning application. However, with the current financial burden of 8 affordable dwellings it is unlikely that any of the 13 dwellings would be built. The scheme as proposed would provide 8 smaller 2 and 3 bedroom dwellings which because of their size are likely to be more affordable than much of the existing housing stock in Hengoed which are predominantly large detached dwellings. In the last 5 years and within 0.25 miles of the application site there have been 5 house sales and these

have ranged between £180,000 and £290,000 demonstrating a lack of dwellings in the immediate locality that are likely to be both suitable and affordable for young families. The future provision of housing for younger families within the cluster is a type of housing that is specifically referred to in S14.2(x) of SAMDev.

- 6.2.4 The change proposed by the applicant would still mean that one of the properties would be provided as an affordable dwelling at a rate in accordance with adopted policies. Without this development and based upon the housing targets set out in SAMDev no affordable housing of any kind would be provided within the community cluster unless another scheme were to come forward as an exception site. In addition, the recent changes to the threshold at which affordable housing contribution must be paid would also mean that none of the potential 5 infill developments in Selattyn would have to make any affordable housing contributions.

7.0 CONCLUSION

- 7.1 The proposed development will deliver substantially less affordable dwellings than was envisaged by the Local Planning Authority, the Parish Council and neighbours when the planning application was originally considered in 2012.
- 7.2 With the approved scheme the number of affordable dwellings makes the scheme financially unviable and confirmation has been received from Wrekin Housing Trust that they are not willing to build out the scheme as they cannot secure the necessary funding. As such it is very unlikely that any of the 13 dwellings would be provided. Whilst the scheme as now proposed would only provide a single affordable dwelling it will also continue to provide the 8 smaller properties and these are likely to appeal to younger families more than Hengoed's existing and more expensive housing stock currently does.
- 7.3 The delivery of the site for 13 dwellings does also make up a sizeable portion of the overall housing target for the settlement. Without this provision the sustainability of the cluster would be detrimentally affected.
- 7.4 It is considered by Officers, on balance, that despite the reduction in the number of affordable dwellings the scheme would continue to provide community benefits by providing extra housing in the cluster that is of an appropriate scale, it would include the provision of one affordable dwelling plus an affordable housing payment. In addition the reduction in affordable dwellings would also mean an increase in the Community Infrastructure Payments (CIL) that would be payable to the Council. Without the scheme being a financially viable proposition for a developer none of these benefits would be achieved. It is therefore the Officer's recommendation that members approve the variation of condition subject to the applicant entering into a deed of variation to the S106 so that the appropriate affordable housing payment is provided in accordance with the target rate as set out by adopted planning policy CS11.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree

with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev:

CS4- Community Hubs and Community Clusters

CS6- Sustainable Design and Development Principles

CS11- Type and Affordability of Housing

S14.2(x): Selattyn, Upper/ Middle/ Lower Hengoed and Pant Glas

Relevant planning history:

11/05648/OUT Outline planning application (access, layout) for residential development of 13 dwellings (part affordable); installation of package treatment drainage system; formation of vehicular access and estate roads GRANT 24th October 2012

14/05687/VAR Variation of Condition No 4 attached to Planning Permission 11/05648/OUT dated 15 October 2012 Outline planning application (access, layout) for residential development of 13 dwellings (part affordable); installation of package treatment drainage system; formation of vehicular access and estate roads to accommodate a right of way (to Pool Cottage) which occurs along the existing drive GRANT 13th October 2015

15/04481/REM Approval of Reserved Matters (appearance, scale and landscaping) pursuant to permission 11/05648/OUT (varied under planning reference 14/05687/VAR) for residential development of 13 no. dwellings (part affordable); installation of package treatment drainage system; formation of vehicular access and estate roads GRANT 3rd February 2016

11. Additional Information

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

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

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

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

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

2. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason: To ensure the provision and maintenance of adequate amenity land.

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

3. All hard and soft landscape works shall be carried out in accordance with the approved plan (drawing no. 04). The works shall be carried out prior to the occupation of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

-



<u>Committee and Date</u>
North Planning Committee
6 th September 2016

<u>Item</u>
10
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 6TH SEPTEMBER 2016

Appeals Lodged

LPA reference	15/05360/REM
Appeal against	Non Determination
Committee or Del. Decision	Delegated
Appellant	Bolton Builders Ltd – C/O Berrys
Proposal	Approval of Reserved Matters (appearance, scale, landscaping and layout) pursuant to 14/01563/OUT for the erection of 3 no. dwellings
Location	Land West Of Hillside Woodseaves Market Drayton
Date of appeal	04.08.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	14/05007/OUT
Appeal against	Refusal
Committee or Del. Decision	06 July 2015
Appellant	04 August 2016
Proposal	Residential development
Location	Land rear of Whixall Social and Centre and Bowling Club, Church Lane, Whixall
Date of appeal	22 February 2016
Appeal method	Written Representations
Date site visit	19 April 2016
Date of appeal decision	04 August 2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	16/00411/FUL
Appeal against	Refusal
Committee or Del. Decision	30 March 2016
Appellant	Mr I Hotchkiss
Proposal	Erection of a single storey extension, detached open fronted double garage and new pedestrian access
Location	West Lodge Park Road Wem
Date of appeal	06 June 2016
Appeal method	House Holder Appeal Service
Date site visit	05 July 2016
Date of appeal decision	08 August 2016
Costs awarded	
Appeal decision	Allowed

LPA reference	14/03483/OUT
Appeal against	Non- Determination
Committee or Del. Decision	
Appellant	Mr R Edwards & Mrs M Dutton
Proposal	Outline application for residential development (to include access)
Location	Bay Cottage, Little Ness Road, Ruyton XI Towns
Date of appeal	24/02/2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	04/08/2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/05557/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R Young
Proposal	Outline application for erection of one dwelling to include means of access
Location	Land East of Weston Lane, Oswestry
Date of appeal	22/02/2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	04/08/2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/05127/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Gwilt C/O Saxonby
Proposal	Outline application (access and scale for consideration) for an affordable residential development of up to 20 dwellings
Location	Proposed Residential Development Land North Of Stony Yard Baschurch
Date of appeal	03.05.16
Appeal method	Written Representation
Date site visit	
Date of appeal decision	10.08.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/00343/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr T Baker
Proposal	Erection of one detached property with detached double garage; alterations to existing vehicular access
Location	Land Adj. 2 Moston Pool Lee Brockhurst Shrewsbury
Date of appeal	29.04.16
Appeal method	Written Representation
Date site visit	
Date of appeal decision	11.08.16
Costs awarded	
Appeal decision	DISMISSED

LPA reference	15/01833/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Dawn Hart
Proposal	Erection of 9 dwellings
Location	Land to the south of A51 Pipe Gate Market Drayton
Date of appeal	03.05.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	12.08.2016
Costs awarded	
Appeal decision	DISMISSED

LPA reference	14/00536/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	R F Trustee Co Ltd
Proposal	Outline application for the erection of twelve dwellings (to include access)
Location	Land North of Whitridge Way, Trefonen, Oswestry, SY10 9FD
Date of appeal	01.10.2015
Appeal method	Hearing
Date site visit	
Date of appeal decision	11.08.16
Costs awarded	
Appeal decision	DISMISSED

LPA reference	15/03104FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Noden
Proposal	New dwelling and associated car port
Location	Land off Wrexham Road Whitchurch
Date of appeal	02/06/2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	15/08/2016
Costs awarded	
Appeal decision	DISMISSED

LPA reference	16/00732/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs G Price
Proposal	Two storey extension
Location	Rosewood, Wood Terrace, Myddlewood, Myddle,
Date of appeal	15/07/2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	18/08/2016
Costs awarded	
Appeal decision	Allowed

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Appeal Decision

Site visit made on 19 April 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 04 August 2016

Appeal Ref: APP/L3245/W/16/3141890

Land Rear of Whixall Social Centre and Bowling Club, Church Lane, Whixall, Whitchurch SY13 2NA.

- 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 Andrew Jones Chartland Developments LLP against the decision of Shropshire Council.
 - The application Ref 14/05007/OUT, dated 7 November 2014, was refused by notice dated 6 July 2015.
 - The development proposed is residential development including formation of new access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted in outline with all matters reserved. I have considered the appeal on this basis, with the submitted layout plan being for indicative purposes only.
3. Since the refusal of the planning application, the Council adopted the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan on 17 December 2015. The parties have dealt with this change in the development plan in their statements.
4. The appellant has submitted late evidence bringing my attention to a recent appeal decision¹ dated 16 May 2016 for residential development at Teal Drive, Ellesmere. The parties were invited to make observations on whether the matters in this decision had a bearing on the cases they had made. I have taken these observations into account in coming to my decision.
5. I have subsequently been made aware by the Council that they have lodged a statutory challenge under s288 of the Planning Act against this decision in the High Court. A High Court Order has been granted for the case to proceed to an oral hearing.
6. In addition the Council has since published a revised assessment of Full Objectively Assessment Need (FOAN) and the appellant has again been given

¹ Appeal Ref APP/L3245/W/15/3067596

the opportunity to provide comments. I have had regard to these in my decision.

Main Issues

7. The main issues are:

- whether the proposal would represent a sustainable form of development within the countryside;
- the effect of the development on protected species and habitats.

Reasons

Sustainable development

8. The appeal site forms a 0.23 hectare plot of unmanaged grassland located to the north of Whixall Social Centre and Bowling Green. Policy CS1 of the adopted Shropshire Core Strategy (CS) 2011, sets down a strategic approach, concentrating development in market towns and other key service centres. In terms of housing provision in rural areas the policy aims to provide 'rural rebalance' ensuring rural areas become more sustainable accommodating around 35% of Shropshire's residential development. Such development is to predominantly take place in community hubs and clusters to be identified in the SAMDev. Whixall is not identified as being a community hub or cluster. The appeal site is therefore located outside any settlement identified for residential development in an area defined as countryside.
9. Policy CS4 of the CS allows development outside a community hub or cluster providing that the proposal meets the requirements of CS Policy CS5. Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national policies protecting the countryside. The policy allows for exceptions where a development would improve the sustainability of rural communities by bringing local economic and community benefits. The policy lists a number of development types that would be considered acceptable. However, the appeal proposal would not relate to any of the types of development listed.
10. The appellant has argued that Policy CS5 is not a restrictive policy in that the developments listed as acceptable in the countryside do not form an exclusive list. My attention is brought to a recent appeal decision² where this interpretation was made. I consider that this policy does not exclude other development types, provided that a proposal brings local economic and community benefits and in line with CS Policies CS6 and CS17 would achieve high quality sustainable development which would not erode the character of the countryside. This is a matter which, in relation to the appeal site, I will consider in detail later in this decision.
11. The Framework in paragraph 48 recognises the importance of windfall sites in contributing to housing supply. SAMDev Policy MD3, in addition to the allocated housing sites identified in Policies S1-S18, allows for windfall sites both within settlements and in the countryside, providing that the development would be sustainable in line with the presumption in favour of sustainable

² APP/L3245/W/15/3003171

- development in the Framework. However, as referred to above Whixall is not identified as a sustainable settlement.
12. Paragraph 7 of the Framework states that there are three dimensions to sustainable development, economic, social and environmental. In terms of the economic strand, the construction of the dwellings would support jobs in the local construction industry and the need for building materials would benefit local suppliers. Future residents of the development would spend locally and make use of local services and facilities. Some could work from home. However this is a small development and I am mindful that any contributions it would make in economic terms would be modest.
 13. In terms of the social dimension to sustainability, the Framework advises that this relates to supporting communities by providing a supply of housing to meet the needs of present and future generations and by creating a high quality built environment with accessible services. The development would contribute to and boost the supply of housing in the Borough. Future residents would support local facilities such as the neighbouring social centre and bowling club, as well as shops and the local primary school.
 14. In terms of accessibility to local services, Whixall itself offers very limited facilities. I note that the Social Centre and Bowling Club next to the appeal site provide many social and community events. Whixall Primary School, which I am advised also has a nursery, is approximately 1.2 kilometres from the appeal site. I observed on my site visit that the route to the school is along narrow rural roads with no continuous footpath or lighting. Whilst it may be possible to walk or cycle to the school, I consider that parents with young children would be discouraged from doing so particularly in the winter months and would therefore be more likely to use the private car.
 15. I am informed that there is no public transport serving the site though the North Salop Wheelers Community Bus Service operates in the area. Whilst additional residents would clearly support the viability of this service, from the evidence before me, this provision appears to be very limited with a weekly bus service to each of Market Drayton, Wem and Whitchurch and a fortnightly service to Ellesmere. It would not provide a regular service giving good access to shops, health provision or employment opportunities. Future residents would therefore be largely dependent on the private car to access such services.
 16. The environmental dimension of sustainability relates amongst other things to protecting and enhancing the natural and built environment. The appeal site currently forms an area of overgrown unmanaged grassland. I acknowledge that there is a small derelict brick building and other structures on the site which would be removed should the development proceed and that much of the mature planting on the site boundaries could be retained as part of any development. Whilst the site would not be isolated from development to the south, it is largely surrounded by agricultural and open land on its remaining boundaries. The development of the site would therefore result in encroachment of built form into the countryside, particularly evident when viewed from Church Lane to the north.
 17. The Framework states in paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The appeal proposal would provide economic and social

benefits. However, having regard to the potential number of dwellings on the site, these would be fairly limited. In terms of the environmental gains, the development would result in a negative impact, with built development encroaching in to the countryside and altering the character and appearance of the site and surrounding area.

18. The Council and the appellant have drawn my attention to a number of appeal decisions for housing development outside settlements in the Borough, some of which have been dismissed, some allowed. I have also noted the most recent of these appeal decisions which have been made since the adoption of the SAMDev in December 2015. Whilst I do not have full details of these cases, I note the similarities to the appeal scheme, being located on the edge of existing settlements and I also note the differences. Where housing development has been allowed in the open countryside, the locations of these appear to me to have been considered to be sustainable for a variety of reasons, either because they were close to Key Service Centres³ or in reasonable walking distance to shops and public transport⁴. Accordingly, each development needs to be considered on its own merits and it is on this basis that I have determined this appeal.
19. The appeal site is located in the open countryside outside any settlement identified for residential development. In terms of factors weighing in favour of the development, the proposal would provide social and economic benefits and would contribute to boosting the supply of housing in the Borough. However I have found that the site would not generally be accessible to local services and facilities other than by the use of the private car and that its development would result in harmful encroachment of the countryside.
20. Overall I conclude that the proposal would not represent a sustainable form of development in the countryside and would conflict with CS Policies CS1, CS4, CS5, CS9 and SAMDev Policies MD1 and MD3 which set out the development strategy for the area strictly controlling new development in the countryside. The scheme would also conflict with CS Policies CS6 and CS17 which aim to protect, conserve and enhance the natural environment and local character.

Protected species

21. Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*, is clear that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of species being present and affected by the development. The Council considers that insufficient information was submitted with the original planning application to assess the impact of the development on statutorily protected species and habitats.
22. The appellant has provided a copy of an ecological assessment recently submitted for a replacement dwelling approximately 100 metres north of the appeal site. This assessment considers 2 ponds close to the appeal site where a small population of Great Crested Newts have been found and appropriate mitigation measures are recommended. However, no such assessment has been provided in this case. Moreover, there is insufficient information before me on whether there would be a breach of the protection afforded to European

³ APP/L3245/W/15/3006489 and APP/L3245/W/16/314946

⁴ APP/L3245/W/15/3134152

Protected Species and the 3 tests that would be considered by the licensing authority as referred to in the above circular.

23. The Council's Ecologist states that the application site meets the trigger point for requiring a bat survey since it may involve development close to, or felling or lopping of mature trees, or removal of hedgerows. I also note that the Ecology Survey submitted for the nearby site found that there were bats in the general area. Whilst no badgers were found in this survey, the Council considers that there is potential for badger setts to be present on or close to the development site.
24. Consequently on the basis of the evidence before me I consider that there is a reasonable likelihood of protected species being present and that there would be a risk that the proposed development would have an adverse impact on such species.
25. A key objective of paragraph 109 of the Framework is to secure net gains in biodiversity. I acknowledge the appellant's submission that bat boxes could be provided to enhance their habitat and that this provision could be secured by an appropriate condition.
26. Notwithstanding the above, I have found that the development would have the potential to cause harm to protected species. The development would therefore conflict with CS Policies CS6 and CS17 which aim to ensure that development does not adversely affect the ecology of the Borough's environmental assets. It would also conflict with the aims of paragraphs 17, 117 and 118 of the Framework to contribute to conserving and enhancing the natural environment.

Other Matters

27. At the commencement of the appeal, there was no dispute between the parties that the Council could demonstrate a 5 year supply of deliverable housing land. However, the appellant has brought my attention to a more recent appeal decision dated 16 May 2016 for a residential development on Teal Drive, Ellesmere. In this case, the Inspector concluded that the Shropshire Core Strategy housing requirement was out of date, that the Council did not have a Full Objectively Assessed Need (FOAN) and therefore could not demonstrate a 5 year supply of deliverable housing land.
28. The Council has subsequently published a revised FOAN. The appellant argues that as this document has not been tested; limited weight should be attached to it in line with advice in Planning Practice Guidance (PPG) paragraph 030.
29. The appellant considers that in line with paragraph 49 of the Framework the relevant policies for the supply of housing should not be considered to be up to date. Paragraph 14 of the Framework is therefore engaged which sets out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
30. The Council have referred to a further recent decision⁵ for development of land opposite the garage at Welshampton dated 24 May 2016 where the Inspector in paragraph 45 of his decision commented that there was nothing in the evidence in the case that would cause him to take a different view in relation to

⁵ Appeal Ref APP/L3245/W/15/3033490

the Council having a 5 year supply of deliverable sites for housing. He concluded that the relevant Council planning policies for the supply of housing were up to date.

31. Even if I were to conclude on the evidence in this case, that the Council could not demonstrate a 5 year supply of housing land as put forward by the appellant, and therefore that the relevant policies for the supply of housing should not be considered to be up to date, I consider that the adverse impacts I have identified would significantly and demonstrably outweigh the benefits.
32. The appellant has submitted a signed and dated Unilateral Undertaking which would make a financial contribution to the provision of affordable housing in accordance with CS Policy CS11. However, following an Order of the Court of Appeal on 13 May 2016, legal effect has been given to the policy set out in the Written Ministerial Statement of 28 November 2014 that off-site contributions should not be sought from schemes of less than 10 units. This Government advice is a material consideration which is likely to outweigh the requirements of the development plan policy but as I am dismissing the appeal on the substantive issues I have not considered the matter further.

Conclusion

33. I have found that the appeal proposal would not represent sustainable development and that there is the potential for the development to cause harm to protected species.
34. For the reasons given above and having regard to all other matters raised including those put forward by local residents, I dismiss this appeal.

Helen Hockenhull

INSPECTOR

Appeal Decision

Site visit made on 5 July 2016

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

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

Decision date: 8 August 2016

Appeal Ref: APP/L3245/D/16/3150425

West Lodge, Park Road, Wem, Shropshire SY4 5DA

- 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 I Hotchkiss against the decision of Shropshire Council.
 - The application Ref 16/00411/FUL, dated 1 February 2016, was refused by notice dated 30 March 2016.
 - The development proposed is described as 'erection of a single storey extension to the side elevation; detached open fronted double garage; new pedestrian access'.
-

Decision

1. The appeal is allowed. Planning permission is granted for the erection of a single storey extension to the side elevation, detached open fronted double garage and new pedestrian access at West Lodge, Park Road, Wem, Shropshire SY4 5DA, in accordance with the terms of the application, Ref 16/00411/FUL, dated 1 February 2016, subject to the attached schedule of conditions.

Preliminary Matter

2. The Council Officer's report states that the proposed single storey extension and new pedestrian access are acceptable. They were approved by the Council under planning permission ref: 15/0473/FUL along with a garage. This appeal results from a new application which is the same apart from the proposed position of the garage. The Council's reasons for refusal relate solely to the garage. I agree with the Council that the single storey extension and new pedestrian access are acceptable and will concentrate on the matter that is in dispute, namely the effect of the proposed position of the garage, in this decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, including the character and setting of Park House, a Grade II* listed building, and the setting of Wem Conservation Area.

Reasons

4. West Lodge is a detached bungalow built in the 1970's. It is one of a line of four single storey detached properties with pitched roofs and various designs in fairly spacious plots on the southern side of Park Road. Beyond them is Park House, a Grade II* listed building, converted into flats in the 1970's. After Park House on the corner with New Street is a garage and car wash. On the opposite side of Park Road are a number of commercial buildings, a police

- station and housing association officer followed by a two-storey residential property which is across from West Lodge itself. It is a mixed and varied street scene.
5. Looking from east to west along this section of Park Road, West Lodge is the second of the four bungalows. All are set well back from the road and mostly screened from it behind brick wall frontages about a metre or so high, mature trees and vegetation and gated entrances. Views of them from the road are predominantly obscured.
 6. The proposed open fronted garage would be constructed of an oak frame and cladding with a clay tiled roof similar to the tiles on the bungalow roof. I note from the Council Officer's reports that the Council has no concerns about the design and appearance of the garage. The point at issue is its proposed position in the garden.
 7. The garage would be in front of an approximate building line formed by the bungalows and Park House. I saw on my site visit that the existing street scene on that side of Park Road is not characterised by open frontages or any common design theme. Consequently, the eye would not be drawn to any inconsistency or for that matter a structure in advance of the building line. Furthermore, the proposed garage would in any case still be largely screened from the public highway by virtue of the walls and established planting to which I have already referred.
 8. The Council is concerned that there is no guarantee that the existing boundary treatments would remain in perpetuity. I consider that it is likely that they or similar treatments would be maintained as they provide the occupants of those properties with the benefit of screening, improved privacy and reduced noise from the road. It is, therefore, in the interests of present and future occupiers to maintain them. The appellant has also indicated that they do not wish to lose the screening in front of the property.
 9. Park House is a late 18th Century red brick, three storey, Grade II* listed building which is an attractive and prominent feature of the western end of Park Road. Its list entry notes the quality of the architectural design and detailing, its internal decoration and local historic interest as the former home of one of the town's foremost families. It also recounts that until the early 20th Century the house had extensive gardens which have now largely been built over. The bungalows along Park Road, including that within the appeal site, were built on some of that land.
 10. West Lodge is to the east and separated from Park House by some forty metres or so and two other bungalows, Park Lodge and The Heritage. There are partial public views of the upper storeys of Park House travelling west along Park Road after the corner adjacent to Wem recreation ground. There may also be limited views of it from the shared cycle track and footpath running across the recreation ground towards Park Road.
 11. As I saw on my site visit, looking towards Park House, the single storey garage itself would only be potentially visible for a short distance after the corner with possible further limited sight of it from the cycle track and footpath further east. Furthermore, due to the existing built environment, boundary walls and mature vegetation there would only be glimpsed views of it.

12. As already explained, it is likely that the present boundary treatments or similar would remain for the foreseeable future. The Council's suggested condition, included in the schedule below, requiring replacement of any trees or planting removed or damaged as a consequence of the development should also assist in maintaining screening. I have expanded that condition to provide further protection after completion of the development.
13. Within the context that has been set out, I do not consider that the character or setting of the listed building would be adversely affected by the proposal. I have also taken into account the proximity of Wem Conservation Area, the perimeter of which runs along the southern boundary of the appeal site and travels west before turning north, after 'The Heritage', to encompass Park House itself. As the proposed garage would be to the north of the existing property, outside the conservation area and well screened from the road it would not have a detrimental effect on the setting of Wem Conservation area.
14. I conclude that the proposal would not harm the character and appearance of the area, the character and setting of the listed building or the setting of the nearby conservation area. As it would cause no harm, it would preserve the character and settings of those heritage assets in accord with the requirements of sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It follows that the proposal is not contrary to the objectives of policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) or policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development Plan (Adopted Plan 17/12/2015). These are consistent with the National Planning Policy Framework, and, amongst other things, they aim to ensure that development respects local context, character, distinctiveness, responds appropriately to existing forms and layouts and conserves and enhances heritage assets.

Conditions

15. I have added conditions setting a time limit for the commencement of the development and requiring it to be carried out in accordance with the approved plans. They are not included in the Council's suggested conditions but they are necessary in the interests of proper planning and for the avoidance of doubt.
16. Of the Council's suggested conditions, which I have amended slightly, one relating to the new pedestrian access and parking and turning areas is necessary in the interests of highway safety. For the avoidance of doubt, I have referenced an additional drawing number within that condition. The condition relating to planting is required for the protection of trees and landscaping. I have expanded that condition to include further protection for trees and plants for a five year period as the boundary planting is significant in screening the proposal. I note that the appellant has already indicated in their Design and Access Statement that they are content for the planting to remain for the lifetime of the development so the expansion of the condition is consistent with their representations. It should also go some way to addressing the Council's concern about the future retention of boundary treatments.
17. I have added a condition requiring that notice of the commencement of the development and access to the site be given to the Council's Historic Environment Team for an archaeological inspection. Though this was not

amongst the Council's list of suggested conditions, a request for such a condition was contained within the Council Officer's Report in the submission from 'SC Archaeology'. A similar condition was included in the previous recent planning permission ref 15/04734/FUL.

Conclusion

18. For the reasons giving above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathan Tudor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1718D01A; 1718D10C and 1718D11A.
- 3) The new pedestrian access, amended parking and turning area shall be completed and laid out in accordance with the approved drawing nos. 1718D10C and 1718D11A prior to the extension and new garage being first brought into use. The approved parking and turning areas shall thereafter be retained at all times for that purpose.
- 4) Any trees or plants that, during construction, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally present, by the end of the first available planting season. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development approved by this permission shall commence until the applicant has given written notification to the local planning authority not less than three weeks prior to the proposed commencement of ground works. Such notification shall include a scheme to provide the local planning authority with access to the site in order to monitor the ground works and to record any archaeological evidence as appropriate and no works shall commence until the scheme has been approved in writing by the local planning authority.

Appeal Decision

Site visit made on 19 April 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 04 August 2016

Appeal Ref: APP/L3245/W/16/3142153

Bay Cottage, Little Ness Road, Ruyton XI Towns, Shrewsbury SY4 1LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Robert Edwards and Mrs M Dutton against Shropshire Council.
 - The application Ref 14/03483/OUT is dated 31 July 2014.
 - The development proposed is residential development.
-

Decision

1. The appeal is dismissed and planning permission is refused for residential development at Bay Cottage, Little Ness Road, Ruyton XI Towns, Shrewsbury SY4 1LQ.

Procedural Matters

2. The appeal was made because of the Council's failure to determine the planning application within the prescribed period. The Council has confirmed in their statement that if they had determined the application it was likely that it would have been refused on the grounds that the adverse visual and contextual impacts of the proposal outweighed the benefits of providing additional housing. It would therefore not constitute sustainable development as a whole. I have used this potential reason for refusal to frame the main issue.
3. The appeal was submitted in outline with access only to be determined at this stage. I have considered the appeal on this basis, with the submitted layout plan being for indicative purposes only, except for the access details.
4. Since the refusal of the planning application, the Council adopted the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan on 17 December 2015. The parties have dealt with this change in the development plan in their statements.
5. I have received late evidence from the appellant bringing to my attention a recent appeal decision ¹ dated 16 May 2016 for residential development at Teal Drive, Ellesmere. The parties were invited to make observations on

¹ Appeal Ref APP/L3245/W/15/3067596

whether the matters in this decision had a bearing on the cases they had made. I have taken these observations into account in my decision.

6. I have subsequently been made aware by the Council that they have lodged a statutory challenge under s288 of the Planning Act against this decision in the High Court. A High Court Order has been granted for the case to proceed to an oral hearing.
7. In addition the Council has since published a revised assessment of Full Objectively Assessment Need (FOAN) and the appellant has again been given the opportunity to provide comments. I have had regard to these in my decision.

Main Issue

8. The main issue in this case is whether the proposal would represent sustainable development with particular reference to the Council's settlement strategy, the location of the site and its effect on the character and appearance of the area.

Reasons

9. The appeal site forms a 0.47 hectare field located on the edge of Ruyton XI Towns, a settlement identified as a community hub in Policy MD1 of the SAMDev, where development is to be focused. The site lies outside the development boundary of the town in open countryside.
10. Policy CS4 of the Shropshire Core Strategy 2011(CS) allows development outside a community hub or cluster providing that the proposal meets the requirements of CS Policy CS5. Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national policies protecting the countryside. The policy allows for exceptions where a development would improve the sustainability of rural communities, bringing local economic and community benefits. The policy lists a number of development types that would be considered acceptable. The appeal proposal would not relate to any of the types of development listed.
11. The appellant has argued that Policy CS5 is a permissive policy, that the developments listed as acceptable in the countryside do not form an exclusive list. My attention is brought to an appeal in West Felton² where this interpretation was made. I consider that this policy does not exclude other development types, provided that a proposal would bring local economic and community benefits and would meet the requirements of CS Policies CS6 and CS17. These policies aim to achieve high quality sustainable development which would not erode the character of the countryside.
12. The appellant makes the case that there is a shortfall in housing delivery in North West Shropshire against the target for this Spatial Zone set down in CS Policy CS1 and that therefore there is a need to boost housing delivery in this area. The Council appears to me to have misunderstood the appellant's evidence, as it does not attempt to use the spatial zones to assess housing supply but rather housing delivery. I consider this forms an appropriate approach bearing in mind that one of the stated indicators for the delivery of

² APP/L3245/W/15/3003171

Policy CS1 is the net additional dwellings in Shrewsbury, Market Towns and the Rural Area disaggregated by Spatial Zone.

13. SAMDev Policy MD3 is a relevant consideration in relation to housing delivery. In addition to the allocated housing sites identified in Policies S1-S18, Policy MD3 allows for windfall sites both within settlements and in the countryside, providing that the development would be sustainable. This high reliance on windfall development to meet CS housing requirements is recognised in paragraph 44 of the SAMDev Inspectors Report. Furthermore Part 3 of this policy allows additional sites outside the settlement development boundaries where a settlement housing guideline appears unlikely to be met subject to other considerations in paragraph 2 of the policy. These include the assessment of the benefits and impacts of a development and the presumption in favour of sustainable development. The appellant considers that the appeal site would form a sustainable windfall site located outside the settlement boundary of Ruyton XI Towns in line with this policy.
14. The SAMDev in Policy S.14.2(iv) indicates that the housing needs of Ruyton XI Towns would be met by unimplemented planning approvals for 100 dwellings and in addition through the development of 15 dwellings by infilling, small groups of houses and conversion on suitable sites within the development boundary. There is no evidence before me that additional housing beyond the settlement limits is needed to meet the settlement housing guideline at this stage in the plan period. There is therefore no need to look to other sites outside the settlement at present.
15. Paragraph 7 of the Framework states that there are three dimensions to sustainable development, economic, social and environmental. In terms of the economic strand, the construction of the dwellings would support jobs in the local construction industry and the need for building materials would benefit local suppliers. Future residents of the development would spend locally and make use of local services and facilities. The development would also be subject to the Community Infrastructure Levy, contributing to the infrastructure needs of the area.
16. In terms of the social dimension to sustainability, the development would contribute to boosting the supply of housing in the local area. The future residents would support local facilities and services in Ruyton XI Towns, such as the primary school, post office and shops. With regard to accessibility, the site is located within walking distance to the facilities in the town and there is a bus stop approximately 150 metres from the site providing services to Shrewsbury and Oswestry.
17. The environmental dimension of sustainability relates amongst other things to protecting and enhancing the natural and built environment. The appeal site forms an area of grassland currently used for grazing by the appellant. It is in an elevated position to the rear of Bay Cottage. The large conifer trees next to the site access screen the site from Little Ness Road. These trees are to be removed in order to provide appropriate sight lines to the regraded access which would open up views of the site from the road. I accept that to some extent this impact could be mitigated by an appropriate landscaping scheme.
18. As a result of the elevated nature of the site, the mature trees that bound the site can be seen from Little Ness Road and from the village when looking east

down Church Street. I have noted the indicative levels on the submitted plans though I accept that the finished floor levels of the proposed dwellings forms a detail to be determined at reserved matters stage. Built development on this site, as a result of the sites topography and height, would be visible above the roof level of the neighbouring properties. The development would in my view, be seen as an intrusion in the skyline and would adversely affect views of the mature trees on the site boundary on the edge of the settlement. This would not reflect local distinctiveness and would result in an encroachment of built form into the countryside. Furthermore, it would be necessary that in order to develop the site, excavation works and retaining structures would be required. Whilst the full details are not available at this outline stage, I consider that it would be most likely that these measures would have a visual impact out of keeping with the local character of the area.

19. The Framework states in paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The appeal proposal would provide some economic and social benefits, though having regard to the potential number of dwellings on the site, these would be fairly limited. However in terms of the environmental gains, the development would result in a negative impact, with built development encroaching into the countryside and altering the character and appearance of the site and surrounding area.
20. The Council and the appellant have drawn my attention to a number of appeals for housing development outside settlement boundaries in the Borough, some of which have been dismissed, some allowed. I have also noted the most recent appeal decisions which have been made since the adoption of the SAMDev in December 2015. Whilst I do not have full details of these cases, I note the similarities of these cases to the appeal scheme and I also note the differences. Where housing development has been allowed in the open countryside, these developments have been considered to simultaneously meet the economic, social and environmental gains of sustainability as required by paragraph 8 of the Framework. Each development needs to be considered on its own merits and it is on this basis that I have determined this appeal.
21. In conclusion, the appeal site is located in the open countryside on the edge of Ruyton XI Towns, a settlement identified as a community hub where new development should be directed. In its favour, the development of the site would provide social and economic benefits and would contribute to boosting the supply of housing in the Borough. However I have found that the development would not reflect local distinctiveness and would result in harmful encroachment of the countryside.
22. Accordingly, the proposal would not form sustainable development and would conflict with CS Policies CS1, CS4, CS5 and CS9 and SAMDev Policies MD1 and MD3 which set out the development strategy for the area strictly controlling new development in the countryside. In addition the scheme would conflict with CS Policies CS6 and CS17 which aim to protect, conserve and enhance the natural environment and local character.

Other Matters

23. The appellant disputes that the Council can demonstrate a 5 year supply of deliverable housing land. In order to demonstrate the position, the appellant

places reliance on the outcome of a number of recent appeal decisions. I have had regard to these and other evidence before me, including the Council's five year housing land statement dated August 2015 and an update of November 2015. In the appeal at West Felton in November 2015 referred to in paragraph 10, the Inspector concluded that a housing supply of 5.26 years was demonstrated and at another appeal Longden Road, Shrewsbury³ in January 2016, the Inspector found a 5.38 year supply.

24. After the submission of appeal statements, the appellant brought my attention to a more recent appeal decision dated 16 May 2016 for a residential development on Teal Drive, Ellesmere. In this case the Inspector concluded that the Shropshire Core Strategy housing requirement was out of date, that the Council did not have a Full Objectively Assessed Need (FOAN) and therefore could not demonstrate a 5 year supply of deliverable housing land.
25. The Council has subsequently published a revised FOAN. The appellant considers that this fails to meet the requirements of the Framework and Planning Practice Guidance (PPG) and does not address the issues raised in the Teal Drive appeal. The appellant argues that the Council still does not have an acceptable FOAN and therefore cannot demonstrate a 5 year supply of housing. Accordingly the appellant considers that in line with paragraph 49 of the Framework the relevant policies for the supply of housing should not be considered to be up to date. Paragraph 14 of the Framework is therefore engaged which sets out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
26. Even if I were to conclude on the evidence before me, that the Council could not demonstrate a 5 year supply of housing land as suggested by the appellant, and that the relevant policies for the supply of housing land should not be considered to be up to date, I consider that the adverse environmental impacts of the proposal would significantly and demonstrably outweigh the benefits.
27. The appellant has submitted a signed and dated Unilateral Undertaking which would make a financial contribution to the provision of affordable housing in accordance with CS Policy CS11. However, following an Order of the Court of Appeal on 13 May 2016, legal effect has been given to the policy set out in the Written Ministerial Statement of 28 November 2014 that off-site contributions should not be sought from schemes of less than 10 units. This Government advice is a material consideration which is likely to outweigh the requirements of the development plan policy but as I am dismissing the appeal on the substantive issues I have not considered this matter further.
28. The Council has brought my attention to a previous appeal for a dwelling on land to the rear of Bay Cottage⁴ which marginally overlaps the appeal site. This appeal was considered in relation to a different policy context than exists now and I am informed by the appellant that the submission was different in terms of the proposed access and proximity to the existing Cottage. As a result of these differences, I do not consider this case to be comparable to the appeal proposal now before me.

³ APP/L3245/W/15/3011886

⁴ APP/L3245/A/09/2113390

29. The Council has made reference to the Grade II Listed White House, which adjoins Bay Cottage. No evidence is provided that the development would have an adverse impact on the setting of this Listed Building. I have no reason to disagree.

Conclusion

30. I have found that the appeal proposal would not represent sustainable development particularly with regard to the Council's settlement strategy, the location of the site on the edge of the settlement of Ruyton XI Towns and its effect on the character and appearance of the area.
31. For the reasons given above and having regard to all other matters raised including those put forward by local residents, I dismiss this appeal.

Helen Hockenhull

INSPECTOR

Appeal Decision

Site visit made on 19 April 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 04 August 2016

Appeal Ref: APP/L3245/W/15/3139968

Land East of Weston Lane, Weston, Oswestry, Shropshire SY10 9ES

- 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 Russell Young against the decision of Shropshire Council.
 - The application Ref 14/05557/OUT, dated 10 December 2014, was refused by notice dated 5 June 2015.
 - The development proposed is a single residential dwelling and formulation of new access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted in outline with access only to be determined at this stage. I have considered the appeal on this basis with the submitted layout plan being for indicative purposes only except in relation to the details of access.
3. Since the refusal of the planning application, the Council adopted the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan on 17 December 2015. The parties have dealt with this change in the development plan in their statements.
4. After the submission of his statement, the appellant brought to my attention an appeal decision¹ dated 16 May 2016 for residential development at Teal Drive, Ellesmere. The parties were invited to make observations on whether the matters in this decision had a bearing on the cases they had made. I have taken these observations into account in coming to my decision.
5. I have subsequently been made aware by the Council that they have lodged a statutory challenge under s288 of the Planning Act against this decision in the High Court. A High Court Order has been granted for the case to proceed to an oral hearing.

Main Issue

6. The main issue in this appeal is whether the proposal would represent a sustainable form of development in the countryside.

¹ Appeal Ref APP/L3245/W/15/3067596

Reasons

7. The appeal site forms part of an agricultural field lying in open countryside outside the village of Weston. Policy CS1 of the adopted Shropshire Core Strategy (CS) 2011 sets down a strategic approach, concentrating development to market towns and other key service centres. In terms of housing provision in rural areas, the policy aims to provide 'rural rebalance' ensuring rural areas become more sustainable accommodating around 35% of Shropshire's residential development predominantly in community hubs and clusters to be identified in the SAMDev. The village of Weston is not identified as hub or cluster towards which development should be directed.
8. Policy CS4 of the CS allows development outside of a community hub or cluster providing that the proposal meets the requirements of CS Policy CS5. Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national policies protecting the countryside. The policy allows for exceptions where they improve the sustainability of rural communities by bringing local economic and community benefits. The policy lists a number of development types that would be considered acceptable. Whilst the appeal proposal would not relate to any of the types of development listed, I consider that the wording of the policy does not exclude other development, provided that a proposal brings local economic and community benefits and in accordance with Policies CS6 and CS17 would be sustainable and not erode the character of the countryside.
9. Paragraph 7 of the Framework states that there are three dimensions to sustainable development, economic, social and environmental. In terms of the economic strand, the construction of the dwelling would support jobs in the local construction industry and the need for building materials would benefit local suppliers. Future residents of the development would spend locally and make use of local services and facilities and in addition the development would be liable to pay Community Infrastructure Levy. However, as this is a proposal for one dwelling any contributions would be limited.
10. In terms of the social aspect to sustainability, the proposal would add to the supply of housing in the area. As Weston has little in the way of facilities, any future residents would need to travel to Morda or Oswestry. The site is within 500 metres of Morda. The village provides a primary school, which I would estimate to be around 900 metres distance and other services including a pre school, village hall, social club and playing fields. In terms of accessibility, the route to access the services in Morda is along a narrow country road, with no footway or lighting until the edge of the village. I consider that this would discourage future residents from walking or cycling to Morda and they would be more likely to use the private car especially in the evening or winter months.
11. Whilst the development boundary of Oswestry may be approximately 850 metres from the site, it is further to the main services and facilities in the town centre. I consider that this distance would encourage future residents to rely on the private car. The appellant has made reference to the site being in walking distance to a number of bus routes including the No. 53 which connects Oswestry with Ellesmere. I have not been provided with any evidence of the location of the nearest bus stop or how frequent these services run. I therefore have no evidence before me that there is a good public transport service which would reduce the reliance on the car.

12. I also note that the site is around 160 metres from Mile Oak Industrial Estate. However I have no information regarding the employment opportunities it provides. Moreover, the estate may not provide suitable employment for the future residents of the proposed dwelling, who would then need to travel further afield, again with a likely reliance on the private car.
13. The environmental dimension of sustainability relates amongst other things to protecting and enhancing the natural and built environment. The appeal site forms part of a wider agricultural field. Whilst it is located next to a storage yard and shed to the north of the site, its corner position in the field would in my view, appear visually intrusive and result in an encroachment of built development into this area. I note the proposed new boundary hedgerow and trees on the submitted plans, which could be secured by a suitable condition. However, these would take some time to become established. It would also in my view be unlikely to effectively screen the presence of a dwelling particularly when viewed from the south.
14. The Framework states in paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The appeal proposal would provide some economic and social benefits. However, having regard to the scale of the development, these would be very limited. Furthermore I do not consider the site to have a high level of accessibility, with future residents likely to be dependent on the private car to access services and facilities. In terms of the environmental gains, I consider the development would result in a negative impact, with built development encroaching in to the countryside and altering the character and appearance of the site and surrounding area.
15. The appellant has brought my attention to recent appeal decisions where open market development in the countryside has been found to be consistent with CS Policy CS5, two of which post date the adoption of the SAMDev. Whilst I do not have full details of these cases, I note their similarities to the appeal case, being located on the edge of existing settlements, but I also note that there are differences. Where housing development has been allowed in the open countryside, the locations of these appear to me to have been considered to be sustainable for a variety of reasons, either because they were on the edge of Key Service Centres² or in reasonable walking distance to shops and public transport³. Each development needs to be considered on its own merits and it is on this basis that I have determined this appeal.
16. In conclusion, the appeal site is located in the open countryside outside any settlement identified for residential development. I have concluded that the site would not generally be accessible to local services and facilities other than by the use of the private car and that its development would result in harmful encroachment of the countryside. In terms of factors weighing in favour, the development of the site would provide social and economic benefits. The proposal would also contribute to the supply of housing in the Borough, though as the development is for one dwelling this contribution would be limited.
17. Accordingly, the proposal would not form sustainable development and would conflict with CS Policies CS1, CS4 and CS5 and SAMDev Policies MD1 and MD3 which set out the development strategy for the area strictly controlling new

² APP/L3245/W/15/3006489

³ APP/L3245/W/15/3134152

development in the countryside. The scheme would also conflict with CS Policies CS6 and CS17 which aim to protect, conserve and enhance the natural environment and local character.

Other Matters

18. There is dispute between the parties on whether the Council can demonstrate a 5 year supply of deliverable housing land. The appellant has brought my attention to a recent appeal decision for a residential development on Teal Drive, Ellesmere. In this case the Inspector concluded that the Shropshire Core Strategy housing requirement was out of date, that the Council did not have a Fully Objectively Assessed Need (FOAN) and therefore could not demonstrate a 5 year supply of deliverable housing land. The appellant argues that in line with paragraph 49 of the Framework the relevant policies for the supply of housing should not be considered to be up to date. Paragraph 14 of the Framework is therefore engaged which sets out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The Council considers that the Inspector in reaching this decision made a legal error and they are making a statutory challenge to this decision in the High Court.
19. Even if I were to conclude on the evidence in this case, that the Council could not demonstrate a 5 year supply of housing land as put forward by the appellant, and therefore that the relevant policies for the supply of housing should not be considered to be up to date, I consider that the adverse impacts I have identified would significantly and demonstrably outweigh the benefits.
20. I note that planning permission for an affordable dwelling on the site was granted under planning application ref 13/01063/FUL in August 2014. The appeal seeks a market dwelling on the same site. The appellant argues that the erection of a market dwelling would be equally sustainable and have no greater environmental impact than an affordable dwelling.
21. The development of an affordable dwelling on the appeal site would however have been considered in a different policy context to the current appeal, as it pre dated the SAMDev and would have been subject to the requirements of CS Policy CS11 which permits exception sites for local needs affordable housing. The Councils Type and Affordability of Housing SPD 2013 (SPD) sets out criteria for the location of affordable homes for local people on exception sites, in or adjoining an existing settlement. These include a demonstration of housing need, the ability to identify or afford suitable market housing in the locality and a strong connection to the area. The SPD explains that exception sites are in locations that would not normally obtain planning permission for new housing development. The appeal site would form such a site.
22. The appellant has submitted a signed and dated Unilateral Undertaking which would make a financial contribution to the provision of affordable housing in accordance with CS Policy CS11. However, following an Order of the Court of Appeal on 13 May 2016, legal effect has been given to the policy set out in the Written Ministerial Statement of 28 November 2014 that off-site contributions should not be sought from schemes of less than 10 units. This Government advice is a material consideration which is likely to outweigh the requirements of the development plan policy but as I am dismissing the appeal on the substantive issue I have not considered the matter further.

Conclusion

23. I have found that the appeal proposal would not represent a sustainable form of development in the countryside.
24. For the reasons given above and having regard to all other matters raised, I dismiss this appeal.

Helen Hockenfull

INSPECTOR

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Appeal Decision

Site visit made on 4 July 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

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

Decision date: 9 August 2016

Appeal Ref: APP/L3245/W/16/3146988

Land North of Stony Yard (Phase 1), Baschurch, Shropshire SY4 2BB

- 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 W L R Gwilt against the decision of Shropshire Council.
 - The application Ref 15/05127/OUT, dated 26 November 2015, was refused by notice dated 9 March 2016.
 - The development proposed is described as an outline application (access & scale for approval) for an affordable residential development of up to 20 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline, with some matters reserved for subsequent approval. Access and scale are indicated as matters for approval at this time; details of layout, appearance and landscaping are reserved for later consideration.
3. Although an indicative layout is presented, the appellant makes it clear that approval of layout is not being sought at this time and I have dealt with the appeal on this basis.
4. The development proposal in part is described as affordable residential development. However, there is no legal agreement in place between the parties that would secure the provision of affordable housing. I deal with this matter later in the decision.

Main Issues

5. The main issues of the appeal are the acceptability of the proposal in principle, having regard to the current development plan context and the presumption in the National Planning Policy Framework concerning sustainable development, and; the adequacy of living conditions for future occupiers in respect of the provision of open space.

Reasons

Development plan and sustainability

6. The proposal to erect up to 20 dwellings relates to an area of some 0.63ha on the northern edge of the settlement of Baschurch, which has a population of

around 2,500. The land comprises part of an existing large agricultural field that has recently been used as a builder's compound associated with a new housing development that has recently been completed for a local housing association close to the junction of the B4397 and B5067. This development retained an access spur into the appeal site and from where access is now proposed.

7. I am required to have regard to the development plan in considering this appeal and to make my determination in accordance therewith unless material planning considerations indicate otherwise. In this regard my attention is drawn to policies of the Shropshire Core Strategy and the recently adopted Site Allocations and Management of Development Plan (SAMDev).
8. Core Strategy policies, including Policy CS4 seek to locate new housing development within and adjoining market towns, key centres and certain other settlements as identified in the SAMDev. Baschurch is identified as a Community Hub in the SAMDev with Policy S16.2(i) stating that new housing will be delivered through the development of allocated housing sites identified on the Proposals Map together with infilling of groups of houses and conversions which may be acceptable on suitable sites within the development boundary. The Core Strategy, through Policy CS5, strictly controls new development in the countryside. The appeal site adjoins the recently completed Stony Yard development, which itself was situated adjacent to the development boundary for Baschurch. The appeal site does not adjoin the settlement boundary and it is to be treated as falling within the open countryside.
9. SAMDev Policy S16.2(i) identifies a housing guideline of approximately 150-200 additional dwellings for Baschurch. The Council acknowledges that this is a guide figure and should not be treated as an upper limit; however, it also points out that the currently identified housing guideline for Baschurch is well on the way to being met by recent developments and with permissions amounting to over 200 houses.
10. Relevant policies for the supply of housing according to paragraph 49 of the National Planning Policy Framework (the Framework) should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Council argues that it can demonstrate a 5.53 years' supply that includes a 20% buffer and thus relevant policies for the supply of housing in its Core Strategy can be given significant weight in terms of paragraph 49 of the Framework. However, the appellant believes that the 5.53 years' supply is "marginal" and points to recent appeal cases¹ where Inspectors have concluded that the margin over the stated five year land supply position is both "small and debatable". Despite the appellant's concerns in relation to marginality, no evidence is submitted that disputes the Council's figures. Consequently, there is no evidence before me that would undermine the veracity of SAMDev Policy S16.2(i) in terms of paragraph 49 of the Framework.
11. That said, the Framework at paragraph 47 places an obligation on local planning authorities to significantly boost the supply of houses in their area and so there remains the need to boost housing provision in Shropshire.

¹ APP/L3245/W/15/3001117; APP/L3245/W/15/3006489; APP/L3245/W/15/3134152 and APP/L3245/W/15/3003171

- Furthermore, paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development.
12. The policies of the Framework taken as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social; according to the Framework, the proposal must jointly and simultaneously achieve the three strands. Paragraph 55 of the Framework provides specific guidance in relation to the sustainable development of new housing in rural areas. It advises that new housing in such areas should be located where it can maintain or enhance the vitality of rural communities.
 13. It is acknowledged that up to 20 new homes in this location would result in moderate economic benefit through the economic activity associated with the development's construction and subsequent occupation. Occupiers of the new houses would be likely to support local businesses and services of neighbouring towns and villages. I attach considerable weight to this aspect of the appeal scheme.
 14. The social role of sustainability includes supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, with accessible local services. A notable element of the appeal scheme is the stated intention that all twenty homes be affordable in line with the advice and recommendations of the Council's affordable housing officer. There is a demonstrable need for affordable housing in the village and in the unitary authority area as a whole. However the site does not meet the locational requirement for rural exception schemes embodied in Core Strategy CS11 and SAMDev Policy MD7a that would only permit affordable housing as exception sites at suitable locations adjoining the existing settlement limits.
 15. Moreover, there is no section 106 Obligation or Unilateral Undertaking in place that would secure the site as an affordable housing development. The Council adopted its Type and Affordability of Housing Supplementary Planning Document (DPD) in September 2012 as part of the Local Development Framework. It makes it clear that a section 106 legal agreement will be required and provides model agreements in connection with this.
 16. For the commitment providing 100% affordable housing to have proper effect, a section 106 Obligation must be in place before the grant of planning permission. To that end I find that the lack of a properly signed legal Obligation or Undertaking coupled with the development plan requirement that suitable affordable housing sites be located adjoining settlements represent fundamental obstacles to the grant of planning permission.
 17. In terms of the environmental role, as the site falls outside the settlement boundary shown on the Proposals Map, Core Strategy Policy CS5 is relevant. The proposal would extend development beyond the established hedgerow along the northern edge of the village into what is part of a large open arable field and Grade 2 agricultural land. The development would be highly visible on the approaches to the village from the north and the west and would substantially interrupt the prevailing open pastoral landscape character and run counter to the linear pattern of development that is characteristic of this part of the village. I have noted that the site has recently been used as a temporary

builder's yard and that an area of allotments is situated directly opposite. However, the essential character of this area of open countryside remains unchanged and neither element can act as any precedent for housing development.

18. The development in combination with the adjoining Stony Yard housing scheme would introduce a nucleated form of development which would be out of kilter with the existing arrangement and be significantly harmful to the character and appearance of the area contrary to SAMDev Policy MD2, which requires new developments to respond appropriately to the form and layout of existing development and layout.
19. These matters weigh heavily against the proposal and are not balanced by the close proximity of the appeal site to local shops and some services. In the light of the above, I therefore conclude that notwithstanding the flexibility embodied within the development plan that allows sustainable development to come forward, the location of the appeal proposal would not provide a suitable location for housing having regard to the principles of sustainable development embodied within the Framework. In addition, it would also fail to comply with Core Strategy Policies CS4 and CS5 and SAMDev Policies MD2 and MD7a.

Open space provision

20. The appellant points out that the layout plan is for illustrative purposes only and that open space provision can be incorporated into the scheme when Reserved Matters are presented for approval later. SAMDev Policy MD2 would require the development to make provision for open space of at least 30sqm per person comprising an area of functional recreational space for play, recreation, formal or informal uses, including semi-natural open space whilst ensuring long term management arrangements are in place.
21. There remains significant doubt to my mind, given the number of dwellings proposed for this site, that sufficient space can be provided to meet the terms of this Policy. Whilst the appellant suggests that a registered social housing provider would be likely to be the end user and would retain ownership of any open space at the site, this is not set in stone and no satisfactory arrangements appear in place for its long term maintenance. I therefore conclude that the proposal would be contrary to SAMDev Policy MD2.

Other matters

22. I have considered all other matters raised, including representations by local residents and the views of the Parish Council. I consider that despite the site having moderate-high archaeological interest, a programme of archaeological investigation and recording could be appropriately conditioned in the event of this appeal being allowed, which is broadly in line with the advice of the Council's Archaeologist and which would be consistent with paragraph 14 of the Framework.
23. I have considered the matters raised by the highway authority and am satisfied that the present Stony Yard access extended into the appeal site would provide a suitable access and that no harm to highway safety would result. Given the location of the site in relation to existing shops and services, substantial pedestrian traffic would be generated across the B4397 close to the junction with the B5087. The appellant has responded to this eventuality by including

provision of a pedestrian crossing on the submitted drawings. The highway authority recommends a condition but also points out that such provision would normally require a prior section 106 Obligation or an appropriate agreement under the Highways Act. Given the agreement between the parties I am satisfied that, were I in a position to support the appeal, the matter could be dealt with by an appropriately worded planning condition.

24. Consequently, none of these other matters in my opinion comprise good reasons for refusing permission. However, this does not alter my conclusion that the development does not represent sustainable development for the reasons set above and that the proposal would be unlikely to meet the prevailing requirements relating to the provision of open space.
25. Accordingly, and for the reasons given together with all other matters raised, the appeal fails and planning permission is refused.

Gareth W Thomas

INSPECTOR

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Appeal Decision

Site visit made on 20 June 2016

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

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

Decision date: 11 Aug 2016

Appeal Ref: APP/L3245/W/16/3148227

Land adjacent to No 2 Moston Pool, Lee Brockhurst, Shrewsbury SY4 5QH

- 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 Tim Baker against the decision of Shropshire Council.
 - The application Ref 15/00343/FUL, dated 25 November 2014, was refused by notice dated 12 October 2015
 - The development proposed is erection of single detached family dwelling.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework (the Framework) and the development plan.

Reasons

3. The appeal site is situated off an unclassified road known locally as 'Sandy Lane' which is just off the A49 between Whitchurch and Shrewsbury. Moston Pool is a sporadic group of dispersed remote properties which follow the line of the unclassified road. It is situated within attractive countryside overlooking open fields with woodland to the rear.
4. The site is currently part of the extended garden area of No 2 Moston Pool, a detached two storey cottage. It contains a range of domestic paraphernalia, including chicken enclosure, green houses and a trampoline. It is separated from the attractive, well-manicured garden of No 2 by conifer trees and other landscaping. The site is in an elevated position in relation to the lane to the front, the boundary of which is formed by a mature hedge.
5. The site is located within open countryside where Policy CS5 of the Shropshire Development Framework: Adopted Core Strategy March 2011 (CS) seeks to strictly control new development. However, development plan policy does provide scope for allowing development in such locations that is considered to be beneficial in terms of the economic and community benefits that may arise.
6. Paragraph 14 of the Framework provides a presumption in favour of sustainable development, which has three clear dimensions – economic, social

and environmental. In order to achieve sustainable development the Framework states that each of these should be sought jointly and simultaneously through the planning system. Good design is a key aspect of sustainable development.

7. The appellant has provided some evidence that the development would derive benefits to the local area, including providing some support for local facilities and services and generating employment from construction. The appellant also works locally and considers that the development would provide a home for a rural worker in accordance with paragraph 55 of the Framework. Additionally, it is clear that the appellant wishes the development to meet his personal circumstances in terms of caring for his parents and supporting the needs of his family.
8. Although there is undoubtedly a local connection and there may be some personal circumstances that provide justification for wishing to live in the local area, insufficient evidence has been submitted to demonstrate that options other than building a new house of this size on this site have been fully examined. No clear evidence is presented to demonstrate why the appellant needs to be located closer to his place of work in order for his vehicle repair business to function properly. Furthermore, no robust evidence is provided that the appellant needs to live immediately adjacent to his parents or, indeed, the circumstances that would arise if he did not do so.
9. Due to the isolated location of the site with no services and facilities nearby, there would be a heavy reliance on a private vehicle for all journeys, irrespective of distance. The nearby settlement of Lee Brockhurst has very limited services and therefore longer trips to Wem would be necessary on a regular basis.
10. Although the intrinsic design of the proposal itself may be satisfactory, as an isolated residential development the development fails to complement its rural surroundings and is inappropriate to its setting. It would be at odds with the dispersed nature of development in Moston Pool, result in linear development along the lane and detract from the attractive character and appearance of the area.
11. Given the limited social and economic benefits that would arise from the development and the harmful effect on the countryside, I find that it would be incompatible with the Council's objectives with regard to sustainable design and development.
12. I therefore conclude that, as an isolated new dwelling in the open countryside, the development is inconsistent with the principles of sustainable development having regard to the Framework and the development plan. As such, it conflicts with the Policies CS5 and CS6 of the CS, Policies MD2, MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 17 December 2015 and the Framework. These policies seek to create sustainable places, encourage sustainable design and strictly control and manage development in the countryside.

Other matters

13. I understand from the appellant that the site once contained two residential units. This may well have been the case, but it only contains one residential

unit now. It is the current situation that needs to be addressed in dealing with the current appeal.

14. I am also aware that planning permission has been granted in the past for a residential development at No 4 Moston Pool. However, I do not have the full details of the Council's decision, but in any case it will have been dealt with under a different planning policy regime. In dealing with the current appeal I am required to assess what is before me on the basis of the current regime.

Conclusion

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

Alastair Phillips

INSPECTOR

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Appeal Decision

Site visit made on 5 July 2016

by G Fort BA PGDip LLM MCD MRTPI

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

Decision date: 12 August 2016

Appeal Ref: APP/L3245/W/16/3147504

Hill Farm, Access Road Beside A51, Pipe Gate, Market Drayton TF9 4HA

- 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 Mrs Dawn Hart against the decision of Shropshire Council.
 - The application Ref 15/01833/OUT, dated 27 April 2015, was refused by notice dated 19 January 2016.
 - The development proposed is erection of 9no dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application that led to the appeal was in outline with all matters reserved apart from the access arrangements.
3. For the sake of clarity, in the banner heading above, I have omitted the phrase "to include means of access only" from the description of development.

Main Issues

4. I consider the main issues in this appeal to be firstly, whether the location of the development would accord with the objectives of the development plan and national policy; and secondly, the highway safety effects of the scheme.

Reasons

Principle of development

5. The appeal site is an open field of an agricultural character bounded by mature hedgerows and fences to the road. To the side and rear of the site the boundary is predominantly marked by mature trees and hedgerows. The site is undulating, as is the wider countryside and affords open views to the rear with further open fields punctuated by mature trees. Across the road from the site is a further expanse of open fields. Sporadic and dispersed dwellings and other buildings are in the wider environs of the site.
6. An illustrative layout for the site, and the Design and Access Statement suggest that the proposal would provide a mix of 4 and 5 bedroom homes and would be staggered across the site in a two tier arrangement around two

- private drives running roughly perpendicular to the access road, and roughly parallel to each other.
7. Pipe Gate is designated as a Community Hub for the purposes of the *Shropshire Council: Site Allocations and Management of Development Plan* (adopted December 2015) ("the SAMDev"). The Policy supports sustainable development within Community Hubs subject to Policy CS4 of the *Shropshire Core Strategy* (adopted March 2011) ("the Core Strategy"). CS4 suggests that development will be allowed that helps to rebalance rural communities by, amongst other matters, providing housing for local needs of a scale appropriate to the settlement, and that all development is of a scale and design that is sympathetic to the character of the settlement and its environs. This policy approach is consistent with the objectives of the National Planning Policy Framework ("the Framework") particularly that planning should "take account of the different roles and character of different areas" (paragraph 17, bullet 5).
 8. At my site visit I saw to the east of Bearstone Road, around the appeal site, that the development pattern is dispersed and sporadic, in marked contrast to the more consolidated roadside ribbon development further to its west. This more dense development is only marginally visible from the appeal site. Due to its deeply rural nature and its wide separation from the more intense development to the west of Bearstone Lane, the appeal site does not have the character of a site within a settlement. Moreover, given the widely dispersed development in the environs of the appeal site, combined with the depth of the proposal, I do not consider that it would constitute infill, and thus would not have any positive effects on maintaining the existing development separation in line with the Parish Council's objectives.
 9. The appeal site is thus outside of a discernible settlement, with only the Chetwode Arms public house in the immediate vicinity that would offer any type of service. Whilst I note that schools and other services are available in Ireland's Cross and Woore, these are located at a significant distance from the appeal site, particularly the school, along a road, a substantial stretch of which is lacking in street lighting.
 10. The appeal site is outside the main settlement of Pipe Gate and its use for residential development would therefore conflict with the objectives of Policy CS4 of the Core Strategy; Policies MD1 and S11.1 of the SAMDev; and the Framework. Taken together, and amongst other matters, these policies seek to ensure that proposals take account of the different roles and character of different areas.

Highway Safety

11. The site has an existing access that benefits from extant planning permission. The appeal scheme includes proposals to trim back the existing hedgerow to improve the visibility splay for vehicles emerging from the site. The speed limit through Pipe Gate is 40 miles per hour. The appeal site is immediately next to the start of this speed limit, and beyond that, looking right from the proposed access the A51 is a national speed limit road.
12. At my site visit, I noticed numerous cars approaching Pipe Gate from the right, none appeared to be moving at excessive speeds within the proposed visibility splay within the appeal proposal. I saw that there was a dip in the road in this direction and a slight bend, however, I consider that the proposals to trim back

intervening vegetation would improve emerging visibility in that direction. Taken together, the speed of the traffic I observed combined with the width of the visibility splay that could be achieved lead me to the view that the proposal would not have any undue or cumulatively harmful impacts on highway safety. I note concerns about accidents along this stretch of the A51, however, in the absence of substantive evidence about these I can only attach limited weight to these matters in my assessment of the scheme.

13. I saw onsite the footpath that linked the site to the Chetwode Arms is narrow and constructed from degraded tarmac. A lack of streetlights along this stretch further limits its accessibility. However, given the width of the grass verge next to the path and the height of the kerb, I do not consider that pedestrians using it would be adversely affected in terms of highway safety. Moreover, I am mindful of the unilateral undertaking submitted by the appellant, which includes a commitment to upgrade this footpath. I consider that this would overcome concerns with regard to the access of the site to its immediate environs, particularly the Chetwode Arms.
14. The proposal would thus be able to provide a safe and suitable site access and would have no cumulatively harmful effects on highway safety. Consequently, I detect no conflicts with the objectives of Policy CS 6 of the Core Strategy, or the National Planning Policy Framework ("the Framework") in these respects.

Other Matters

15. I am aware of the appellant's concerns with the housing supply situation in the County, and have been referred to a recent appeal decision¹ that considers this matter; however, I am mindful that a High Court challenge is progressing in relation to that decision. Moreover, the Council submitted its 5 Year Supply Statement which demonstrates 5.75 years supply of deliverable housing land. As I have not been provided with any substantive evidence that would refute the findings of the 5 Year Supply Statement I have no reason to doubt its veracity.
16. However, my attention has been drawn to a recent High Court judgement², the effect of which is to emphasise that the presumption in favour of sustainable development within the Framework, and its objective to boost significantly the supply of housing are material considerations in planning decisions regardless of the housing supply situation.
17. Paragraph 7 of the Framework makes it clear that sustainable development has three dimensions; the environmental; the economic; and the social. In terms of the environmental aspect, taken together the proposal's severance from services that would meet the day-to-day needs of its residents and the nature of the road adjacent to the appeal site would mean that for practical purposes the bulk of trips would likely be undertaken by car. Whilst I am aware of the appellant's suggestion regarding public transport links in the area I have been supplied with no timetables to support this assertion. Furthermore, I am also mindful of the Parish Council's comments regarding the cessation of a bus route through the area. Consequently, I am not able to attach a great deal of

¹ APP/L3245/W/15/3067596

² *Wycharon District Council v Secretary of State for Communities and Local Government and Crown House Developments* [2016] EWHC 592 Admin

- weight to the availability of other means of transport to access goods and services.
18. I have considered whether internet order and supermarket deliveries would reduce the need for the residents of the appeal site to travel. This may be the case, however, there would be an environmental effect of transporting groceries to the door, so at best this alternative method of provision would only have a neutral effect if any on the overall environmental sustainability of the proposal. I had regard to the appeal decisions³ referred to me by the appellant, which suggest that making the majority of trips in a private car is not an unusual situation in rural areas, however, whilst this may be the case, the situation does little to enhance a proposal's environmental sustainability.
 19. I note that the proposal would have no harmful effects on heritage assets, or land with an environmental designation. However, these issues are evidence merely of a lack of harm in these respects and do not weigh heavily in favour of the scheme. Landscaping proposals could soften the appeal scheme's effects on the rural character of the site. However, as this proposal is in outline, with no details of landscaping, I am unable to attach substantial weight to this matter.
 20. The proposal would have economic benefits, emanating from construction activity, both through direct employment and the supply of materials and related services. However, this could be said of any housing development, and would not in itself serve to justify development in this particular location. Furthermore, the harmful effects to the area's character would subsist long after the benefits of employment associated with construction had faded away. In the longer term, additional spending in local services arising from 9 new households would be beneficial, but again due to the limited scale of the proposal would be of a something of a modest benefit.
 21. I have considered the proposal's contribution to the social aspect of sustainable development. I have been supplied with a unilateral undertaking, which is a legally effective mechanism to secure affordable housing from the scheme. Although the proposal would provide fewer than ten houses, I am mindful of the advice in the Government's Planning Practice Guidance (PPG)⁴, which states that in rural areas described under section 157(1) of the Housing Act 1985, of which the parish of Woore is one, that local planning authorities can apply a lower threshold than the national standard for securing affordable housing contributions. I am thus able to take this contribution into account, and it would provide a demonstrable benefit, albeit of a limited scale, to which I attach only moderate weight in my determination of the appeal.
 22. The appeal scheme would help to meet housing needs more generally, although to a limited degree. Consequently, the proposal would only make a modest contribution to the Framework's objective to boost significantly the supply of housing, and thus would only attract limited weight in the overall planning balance.
 23. However, taken together, the benefits of the delivery of new housing would be tempered to a considerable degree by the comparative remoteness of services which would meet the day to-day needs of the occupants of the scheme and

³ APP/L3245/A/13/2210381 and APP/L3245/A/14/2225192

⁴ Paragraph:031 Reference ID: 23b-031-20160519

their resultant reliance on the private car, which would limit the proposal's social accessibility in the wider sense

24. The unilateral undertaking also makes provision for upgrading the footpath between the appeal site and the Chetwode Arms. However, as the principal beneficiaries of the footpath would be the occupants of the appeal proposal it would constitute something of a limited social benefit.

Conclusion

25. Although the proposal would have economic and social benefits, its lack of environmental sustainability would weigh heavily against the scheme in the overall planning balance. Moreover, the appeal scheme would be outside of a definable settlement and would thus conflict with the policies of the development plan that have been brought to my attention, a matter to which I attach very considerable weight. Whilst the proposal would cause no significant harm to highway safety, and consequently accord with the development plan in these regards, this consideration would not outweigh the proposal's conflict with the other policies.
26. Thus for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR

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Appeal Decision

Hearing held on 25 November 2015

Site visit made on 25 November 2015

by Beverley Doward BSc BTP MRTPI

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

Decision date: 15 August 2016

Appeal Ref: APP/L3245/W/15/3039545

Land off Whitridge Way, Trefonen, Oswestry, Shropshire, SY10 9FD

- 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 R F Trustee Company Ltd against the decision of Shropshire Council.
 - The application Ref 14/00536/OUT, dated 4 February 2014, was refused by notice dated 28 November 2014.
 - The development proposed is the development of 12 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters other than access reserved. I have dealt with the appeal on this basis. A layout plan illustrating a scheme for 12 dwellings was submitted with the planning application. However, other than in respect of the access I have taken this as being for indicative purposes only.
3. At the Hearing it was identified that the application site did not include a small section of land required to enable access to the site and that the required notices had not been served on the relevant land owners. Following a discussion between all the parties it was agreed that the Hearing into the appeal would continue but that the appellant would submit a revised red line plan including the appropriate area of land to the Council and serve the requisite notice on the owners of the land in question. It was also agreed that the Council would undertake the necessary consultation on the revised plan with all those previously consulted on the planning application. The further consultation period ran from 10 - 31 December 2015 and I have had regard to the comments received in my consideration of the appeal. Accordingly, I am satisfied that no party has been prejudiced by my consideration of the appeal on the basis of the revised red line plan.
4. The Council's reason for refusal refers to policies of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (Core Strategy), the saved policies of the Oswestry Local Plan (Local Plan) and the emerging policies of the Shropshire Site Allocations and Management of Development (SAMDev) Plan. The Inspector's Report on the examination into the SAMDev Plan was published on 30 October 2015 and the implications for the appeal of

the Inspector's Report on the examination into the SAMDev Plan and the main modifications were explored at the Hearing. The SAMDev Plan was adopted on 17 December 2015 and superseded the saved policies of the Local Plan. The Core Strategy and the SAMDev Plan now form the statutory development plan for the area. Accordingly, I have considered the appeal on this basis.

5. After the Hearing session but during my consideration of this appeal I was made aware by the appellant of an appeal decision elsewhere in Shropshire in which the Inspector considered that the Council could not demonstrate a five year supply of housing land because it did not have a robust housing requirement based on an up-to-date Full Objectively Assessed Need for housing (FOAHN). The appeal decision dated 16 May 2016 relates to a site at Teal Drive, Ellesmere¹. In the interests of fairness and natural justice I considered it appropriate to seek the comments of the parties including those interested parties that spoke at the Hearing as to whether the appeal decision had any bearing on this appeal. I have had regard to the responses received and return to this matter below.
6. A signed and dated Unilateral Undertaking (UU) relating to the provision of affordable housing was submitted with the appeal documentation.

Main Issues

7. In the light of the discussion at the Hearing and having regard to the evidence submitted since the Hearing I consider that the main issues in this case are:
 - whether the proposal for housing in this location accords with the development strategy for the area;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the setting of the designated heritage asset of Offa's Dyke and non-designated heritage assets of archaeological interest;
 - whether the proposal is justified by housing land supply considerations; and
 - whether the proposal comprises sustainable development.

Reasons

Development Strategy

8. Policy CS1 of the Core Strategy sets out the strategic approach to development in Shropshire. It seeks to focus development towards Shrewsbury and the Market Towns and other Key Centres to maintain and enhance their role in providing services and employment and accommodating residential development over the plan period 2006-2026. It also indicates that elsewhere the rural areas will become more sustainable through a 'rural rebalance' approach. In achieving this 'rural rebalance' the policy indicates that development and investment will be located predominantly in Community Hubs and Community Clusters and that outside these settlements development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.

¹ APP/L3245/W/15/3067596

9. Policy CS4 of the Core Strategy indicates that in the rural area, communities will become more sustainable by, amongst other things, focusing investment into Community Hubs and Community Clusters and not allowing development outside these settlements unless it meets policy CS5 of the Core Strategy. It also indicates that Community Hubs and Community Clusters are identified in the SAMDev Plan.
10. Policy CS5 of the Core Strategy indicates that new development in the countryside will be strictly controlled in accordance with national planning policies protecting the countryside. It indicates that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic benefits, particularly where they relate to certain identified types of development including rural workers dwellings, affordable housing to meet a local need and the conversion of rural buildings. Although the list is not exhaustive, market housing, other than conversions of rural buildings is not identified as being permitted in the countryside.
11. Policy MD1 of the SAMDev Plan relates to the scale and distribution of development. It indicates that further to the policies of the Core Strategy, sufficient land will be made available to meet the Core Strategy housing requirements; sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres and the identified Community Hubs and Community Cluster settlements, having regard respectively to policies CS2, CS3 and CS4 of the Core Strategy and to the principles and development guidelines in settlement policies S1-S18 and policies MD3 and MD4 of the SAMDev Plan and that additional Community Hubs and Community Cluster settlements will be formally considered for designation as part of a Local Plan review.
12. Policy MD7a of the SAMDev Plan indicates, amongst other things, that further to Core Strategy policy CS5, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns and Community Hubs and Clusters. Suitably designed and located exception site dwellings and residential conversions will be considered where they meet evidenced local housing needs and other policy requirements.
13. The policies referred to above are broadly consistent with the Framework, specifically the advice contained at paragraph 55 that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities and that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. Policy CS5 of the Core Strategy is also broadly consistent with the core planning principle of the Framework that planning should recognise the intrinsic character and beauty of the countryside.
14. Trefonen is not identified as a Community Hub or Community Cluster within the SAMDev Plan. I note the appellant's concerns about the manner in which the Community Hubs and Community Clusters in the SAMDev Plan were identified. However, I am mindful that the Inspector examining the plan found that, subject to the modifications set out in her report, it was legally compliant and sound. Therefore, I give the appellant's views in the above respect little weight.
15. The appeal site lies within the countryside for planning policy purposes. Therefore, the proposed development being essentially for new market

housing, albeit that it would provide for some affordable housing through the provisions of the UU, would not satisfy policies CS4 and CS5 of the Core Strategy or policy MD7a of the SAMDev Plan. In so far as the proposal would not satisfy these policies it would not be an appropriate windfall development as provided for by policy MD3 of the SAMDev Plan. Accordingly, drawing together all of the above, the proposal for housing in this location would be contrary to the overall development strategy for the area.

Character and appearance

16. The appeal site comprises part of a field on the northern edge of Trefonen at the rear of the existing housing on Carneddau Close and Chapel Lane. To the west is a track which is part of the Offa's Dyke National Trail (ODNT). I deal with the effect of the proposed development on the setting of the designated heritage asset of Offa's Dyke as well as non-designated heritage assets as a separate issue below.
17. The appeal site rises in height away from Chapel Lane towards the track that forms part of the ODNT. It is clearly visible from the track. The appeal site is, in the main, restricted from view from Chapel Lane by the dwellings which front on to it and the roadside hedgerow. However, due to the topography some views of it are evident from the section of Chapel Lane at the north western corner of the field where it joins the ODNT. There are also longer distance views of the site on the approach to Trefonen from the north along Oswestry Road. From these various locations the appeal site is seen in the context of the larger field, of which it is a part, and the wider surrounding countryside.
18. Notwithstanding that the appeal proposal is in outline form with all matters other than access reserved, the proposed development would extend the built form of the settlement into the open countryside. In closer distance views the development would have the backdrop of the existing development on Carneddau Close and Whitridge Way. However, it seems to me that in longer distance views on the approach to the village from the north it would, because of the topography, appear prominent and visually intrusive sitting above the existing dwellings on Chapel Lane.
19. Notwithstanding that the development would cover only a proportion of the larger field it would fundamentally and detrimentally change the character and appearance of both the rural setting of the northern edge of the village and the wider surrounding countryside. I am not persuaded that this harm would be materially reduced by boundary treatments or landscaping either in the short or longer term. Accordingly, the proposed development would conflict with Core Strategy policies CS5 and CS6 which together seek to maintain and enhance the character of the countryside and to protect, conserve and enhance the natural environment. Policy CS6 of the Core Strategy, as well as policy CS5, is consistent with the core planning principle of the Framework that planning should take account of the character of different areas and recognise the intrinsic character and beauty of the countryside.

Setting of the designated heritage asset of Offa's Dyke and non-designated heritage assets of archaeological interest

20. Offa's Dyke is a scheduled ancient monument which is to the north of the appeal site and runs adjacent to Chapel Lane. The scheduled section of the monument extends to within 15 metres of the appeal site. The glossary to the

Framework defines a scheduled ancient monument as a designated heritage asset. The Framework indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

21. The Dyke has both an immediate and wider landscape setting. In the vicinity of the appeal site its immediate setting is visually affected by residential development both on the Dyke itself and around its boundaries. Its wider setting includes the land to the east on the eastern side of Chapel Lane and the land to the west which includes the remainder of the field which the appeal site forms a part of; this land rises westwards and overlooks the Dyke.
22. The proposed development would obscure the existing views of the Dyke across the appeal site from the west along the ODNT. The extent of the appeal site and the scale of the proposed development mean that views of the Dyke would be obscured only for a short distance after which the view would open up and the Dyke would be visible again. Nevertheless, the proposed development would result in a change to the angle of view and interrupt the continuity of the view. Furthermore, the proposed development would also be visible to those visiting the stretch of Offa's Dyke within the vicinity of the appeal site. Having regard to all of the above therefore, I consider that the proposed development would cause some harm to the setting of the designated heritage asset of Offa's Dyke. The Statement of Common Ground between the main parties indicates that the degree of harm caused to the significance of Offa's Dyke as a Scheduled Monument as a consequence of the development within its setting amounts to less than substantial harm. I agree with this.
23. Interested parties contend that there is the possibility of the subsurface remains of a linear ditch that belongs to the Dyke complex along the eastern boundary of the site and that this would be directly impacted upon by the proposed development. However, there are no objections from the Council's Archaeologist or Historic England in this respect. Furthermore, there is no definitive evidence to confirm the existence of undesignated archaeological remains of Offa's Dyke within the application site. It is also contended that further direct impacts would occur to various surface and sub-surface features that extend across the site including spur sections of the 'Gutter', an 18th/19th century artificial stone and clay lined water course which extends to the west and south of the site. However, there are no objections from the Council's Archaeologist or Historic England in this respect. There is also no definitive evidence that the proposed development would have a direct impact on other non designated heritage assets including the 'Gutter'.
24. To conclude therefore, whilst I am satisfied that there would be no harm to any non-designated heritage assets there would be some harm to the setting of the designated heritage asset of Offa's Dyke. This harm would be less than substantial. Accordingly in accordance with the advice at paragraph 134 of the Framework the harm should be weighed against the public benefits of the proposal.
25. At the Hearing the appellant indicated that the public benefits of the proposal include the provision of affordable housing, the creation of a softer edge to the village through the design and layout of the scheme and the provision of a

Community Infrastructure Levy (CIL) payment towards the improvement of facilities and services locally. The requirement to provide affordable housing and a CIL payment are policy requirements therefore these benefits would be achieved by any new housing development in any location. In any event the proposal would only provide for 1.2 affordable dwellings and the layout of the development is reserved for consideration at a later date. Accordingly, I am not satisfied that the public benefits of the proposal would outweigh the harm that would be caused by the proposal to the setting of the designated heritage asset of Offa's Dyke.

26. The proposal would therefore conflict with policy CS17 of the Core Strategy in so far as it seeks to ensure that all development protects and enhances Shropshire's historic environment and does not adversely affect the heritage functions of these assets or their immediate surroundings. It would also be contrary to the principle of the Framework of conserving and enhancing the historic environment.

Housing land supply considerations

27. At the time of submitting the appeal the appellant contended that, notwithstanding the Council's Five Year Housing Land Supply Statement (5YHLSS) published on 12 August 2014, the Council's ability to demonstrate a five year supply of deliverable housing land was, as borne out by various appeal decisions, somewhat fluid and precarious.
28. Following receipt of the Inspector's report on the examination into the SAMDev Plan the Council produced an update of its 5YHLSS. The update uses the methodology utilised in the Inspector's report on the examination of the SAMDev Plan and indicates that Shropshire has a 5.53 year supply of deliverable housing land. At the Hearing the appellant accepted that the Council could demonstrate a five year supply of deliverable housing land but contended that there still remained a need to boost the supply of housing given the level of the supply which was only marginally in excess of five years.
29. As indicated above, since the Hearing session the Inspector in the case of Teal Drive, Ellesmere considered that the Council could not demonstrate a five year supply of housing land because it did not have a robust housing requirement based on an up-to-date FOAHN. I note that the Council is in the process of challenging that decision. However, for the reasons outlined below, neither the appeal decision nor the outcome of the legal challenge would make any difference to my decision in this case. Similarly, the FOAHN report dated 4 July 2016 which the Council has submitted in support of its contention that it is correct and justified in continuing to use the Core Strategy housing requirement figure as the basis for calculating its housing land supply also makes no difference to my decision. Accordingly, I have not considered it necessary to seek the appellant's comments on this report.
30. Even if the Council was unable to demonstrate a five year supply of housing land and I was to conclude that the relevant policies for the supply of housing should not be considered up-to-date given my findings in relation to the effect of the proposed development on the designated heritage asset of Offa's Dyke the presumption in favour would not apply. This is because the second limb of paragraph 14 of the Framework indicates that the presumption in favour would not apply where, as is the case here, specific policies in the Framework indicate that development should be restricted, for example those policies relating to,

amongst other things, designated heritage assets (footnote 9). In any event, even if this was not to be the case, for the presumption in favour to apply the proposal would need to comprise sustainable development and as I find below the appeal proposal would not.

Sustainable development

31. The Framework makes it clear that the policies that it sets out, taken as a whole, constitute what sustainable development means in practice for the planning system.
32. Paragraph 7 of the Framework sets out three dimensions of sustainable development, namely the economic, social and environmental roles. These dimensions are mutually dependent and should be jointly sought. The appeal proposal would contribute to the social and economic dimension through the provision of housing. However, it would cause harm to the character and appearance of the wider surrounding countryside and the rural setting of the northern edge of Trefonen contrary to the core planning principle of the Framework that planning should take account of the character of different areas and recognise the intrinsic character and beauty of the countryside. It would also cause harm to the setting of the designated heritage asset of Offa's Dyke contrary to the principle of the Framework to conserve and enhance the historic environment. These adverse impacts would in my judgement significantly and demonstrably outweigh the benefits of the proposed development when assessed against the Framework as a whole. Accordingly, the appeal proposal would not comprise sustainable development.

Other matters

33. The appeal site is within an area of grade 3 agricultural land. I do not have a definitive breakdown of the split between grades 3A and 3B agricultural land. Therefore, I cannot be certain that the site comprises any best and most valuable agricultural land. In any event the decision does not rest on the weight to be attached to agricultural land quality.
34. From the evidence before me I am satisfied that there would be no adverse impact on protected species or wildlife habitats. Furthermore, there is no substantive technical evidence to indicate that the proposal would cause harm to highway safety. However, the absence of harm in these respects are neutral factors and do not serve to weigh in favour of the proposal.
35. The submitted UU relating to the provision for affordable housing is supported by policy CS11 of the Core Strategy. However, given my conclusions on the appeal, there is no need for me to consider this matter further.
36. Both parties have referred to other appeal decisions in support of their case. The decisions indicate the finely balanced nature of the cases and it is clear that each case needs to be judged on its own merits, on the basis of the evidence before the Inspector, and it is on this basis that I have determined this appeal.

Conclusion

37. The appeal proposal would be contrary to policies CS4 and CS5 of the Core Strategy and Policies MD1, MD3 and MD7a of the SAMDev Plan. Therefore, it would be contrary to the overall development strategy for the area as set out in

the development plan. It would cause harm to the character and appearance of the area contrary to policies CS5 and CS6 of the Core Strategy and harm the setting of the designated heritage asset of Offa's Dyke in conflict with policy CS17 of the Core Strategy. Accordingly, the appeal proposal would be contrary to the development plan as a whole and would not comprise sustainable development.

38. I have found no material considerations which would warrant making a decision other than in accordance with the development plan. Therefore, for the reasons set out above and having regard to all other matters raised, the appeal should be dismissed.

Beverley Doward

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Parker
Paul Dalton FRICS
Richard Mc Evilly

David Parker Planning Associates
Senior Consultant, Roger Parry and Partners
Roger Parry and Partners

FOR THE LOCAL PLANNING AUTHORITY:

Philip Mullineux
Mark Perry
Daniel Corden MRTPI
Cllr Joyce Barrow

Principal Planner, Shropshire Council
Planning Officer, Shropshire Council
Principal Policy Officer, Shropshire Council
Councillor, Shropshire Council

INTERESTED PERSONS:

Andrew Heaton
Malcolm Andrew
Julian Francis CMLI
Tony Cheetham
Helen Hunter-Hayes

Representing Trefonen Rural Protection Group
Representing Trefonen Rural Protection Group
Chair, Trefonen Rural Protection Group
Councillor, Oswestry Rural Parish Council
Local resident

DOCUMENTS SUBMITTED AT HEARING

1. Copy of Ecology consultation response on planning application.
2. Copy of letter dated 14 October 2013 from Howard Martin to appellant's agent regarding land ownership.

DOCUMENTS SUBMITTED AFTER HEARING

1. Revised site location plan and amended Certificate B.
2. Notification letters sent to owners of strip of land at Whitridge Way dated 3 December 2015.
3. Notification letter sent to agricultural tenant dated 3 February 2014
4. Appeal decision APP/L3245/W/15/3003171.
5. Shropshire Council Consultation letter dated 10 December 2015 regarding revised site location plan and amended Certificate B and list of consultees.
6. Consultation response from Rescue (The British Archaeological Trust) dated 31 December 2015.
7. Consultation response from Phil Hayes and Helen Hunter-Hayes dated 21 December 2015.
8. Consultation response from Mike Foster dated 10 December 2015.
9. Letter from Shropshire Council dated 22 December 2015 confirming adoption of the SAMDev Plan on 17 December 2015.
10. Appeal decision APP/L3245/W/15/3011886.
11. Correspondence from appellant dated 26 May 2016 enclosing supplementary statement referring to appeal decision APP/L3245/W/15/3067596.
12. Correspondence from Shropshire Council dated 17 June 2016 in response to appellant's supplementary statement and confirming that the Council has

- lodged a s288 statutory challenge against the decision and enclosing copies of the claim form, statement of facts and grounds and a letter from the Court.
13. Correspondence from Julian Francis on behalf of Trefonen Rural Protection Group dated 30 June 2016 providing comments on implications of appeal decision APP/L3245/W/15/3067596.
 14. Correspondence from Helen Hunter-Hayes dated 30 June 2016 providing comments on implications of appeal decision APP/L3245/W/15/3067596.
 15. Correspondence from Shropshire Council dated 7 July 2016 enclosing Shropshire Full Objectively Assessed Housing Need report dated 4 July 2016 and an accompanying note outlining its key findings.
 16. Correspondence from Shropshire Council dated 19 July 2016 enclosing further comments on implications of appeal decision APP/L3245/W/15/3067596.

Appeal Decision

Site visit made on 19 July 2016

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

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

Decision date: 15 August 2016

Appeal Ref: APP/L3245/W/16/3149970

Land off Wrexham Road, Whitchurch, Shropshire SY13 1HS

- 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 Keith Noden against the decision of Shropshire Council.
 - The application Ref 15/03104/FUL, dated 19 July 2015, was refused by notice dated 17 November 2015.
 - The development proposed is construction of a new dwelling and associated car port.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - i. whether the proposal would be consistent with housing policy in the development plan and the principles of sustainable development; and
 - ii. the effect of the development on the character and appearance of the area.

Reasons

Sustainable development

3. The appeal site comprises part of a field located to the rear of residential properties on Wrexham Road in Whitchurch. The land is currently used by the appellants as a small hobby farm with sheep, poultry and waterfowl. There is also a small orchard and a polytunnel on part of the site land which appears to have previously been used for growing vegetables. There are a number of temporary buildings in and adjacent to the appeal site associated with the animals and agricultural activity.
4. The site is located outside the defined development boundary for Whitchurch and is defined under Policy S18 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan as countryside. Within the open countryside Policy CS5 of the Shropshire Development Framework: Adopted Core Strategy March 2011 (CS) seeks to strictly control new development.
5. I note that the appellant does not look to question Shropshire Council's overall housing land supply. However, the appellant does bring into question the

housing figures for Whitchurch, specifically. On the evidence before me there is no substantial evidence that the Council cannot demonstrate a five year housing land supply. Therefore, I am satisfied that the Council's housing policies are up to date and as such I give limited weight to the argument that the grant of planning permission for the development could be justified as a means of boosting housing supply numbers.

6. Although the development is for an open market house, the appellants have a local connection, having lived and worked in the area for many years. In addition, the development would be intended to meet the personal circumstances of the appellants, one of whom suffers from arthritis. No evidence has been submitted to demonstrate that options other than building a new house of this size on this site have been fully examined. Furthermore, there is no evidence demonstrating why the appellants' current property is unsuitable for their future needs, how the development would meet specific future needs or, indeed, the circumstances that would arise if the new development did not take place.
7. The appellants have provided some evidence of limited local benefits from the development, including economic, environmental and social gains. However, although there is some scope for allowing residential development under CS5, I do not consider that any have been satisfactorily demonstrated to be applicable to this particular case. As such, I do not consider that there are sufficient benefits to outweigh my concerns under CS5.
8. On this issue I therefore conclude that, as a new dwelling in the countryside, the development is inconsistent with housing policy and the principles of sustainable development having regard to the Framework and the development plan. As such, it conflicts with the Policies CS3, CS5 and CS6 and CS17 of the CS, Policies S18, MD2, MD7a of the SAMDev Adopted Plan 17 December 2015 and the Framework.

Character and appearance

9. The site is close to residential development of different ages, styles and designs. This includes dense detached, semi-detached and terraced two storey properties set within relatively long and narrow plots along Wrexham Road and a number of modern developments such as two storey semi-detached properties Cambridge Road and the modern 'Greenfields' nursing home adjacent to the appeal site. Most residential development in the area is on the road frontages. However, there are some small pockets of houses to the rear of properties on Wrexham Road.
10. The proposed dwelling would be situated at the end of a relatively long driveway and would sit on its own in this backland area. The plot is significantly larger than others in the vicinity and the footprint of the house would be significantly larger than others in the area. The house would have two storeys of accommodation, two ensuite bedrooms with storage space being located in the roof space. The design includes some unusual elements such as a particularly large roof light, curved corner to the kitchen and a mix of roof features, including hipped and gable roofs and dormer windows. A detached pitched roof timber car port with roof mounted PV panels would be adjacent to the house.

11. As well as having a rather awkward random relationship with surrounding residential development the property in terms of its scale and the size of the plot would be at odds with nearby residential development. Furthermore, its design is somewhat confused and presents little evidence of how it responds to its surroundings. I have seen the sites identified in the appellants' character photos and I acknowledge that there is a wide range of residential properties in the locality. Nonetheless, the development would fail to complement the form of residential development in the locality and be harmful to the character and appearance of the area.
12. On this issue I find that the development would be contrary to the design requirements of Policies CS3, CS5, CS6 and CS17 of the CS, Policies S18, MD2 and MD7a of SAMDev and the Framework, requiring good design.

Other matters

13. My attention has been drawn to other appeal decisions in Shropshire, one of which is post-adoption of SAMDev. However, the circumstances of each site and development are different. In relation to the current appeal I do not consider there to be any requirement to boost housing supply numbers. Furthermore due to the inconsistency of the current proposal with sustainable development principles it is not suitable as a windfall site. These decisions are of limited relevance to the current appeal and in any case I do not consider my findings on the main issues to be inconsistent with the identified appeals.
14. Other appeals outside Shropshire have also been identified. In response to the matters raised by these decisions I reiterate that the site can be described as being countryside as it is outside the defined development limits of Whitchurch and that in this case there are matters of harm that conflict with the development plan. These outweigh the limited benefits that would result from the implementation of the development.
15. The level of local support for the proposal is noted. However, there are no issues raised that lead me to conclude that the development would be acceptable.

Conclusion

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

Alastair Phillips

INSPECTOR

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Appeal Decision

Site visit made on 9 August 2016

by Jonathan Bore MRTPI

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

Decision date: 18 August 2016

Appeal Ref: APP/L3245/D/16/3152774

Rosewood, Wood Terrace, Myddlewood, Myddle, Shrewsbury SY4 3RZ

- 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 G Price against the decision of Shropshire Council.
 - The application Ref 16/00732/FUL, dated 16 February 2016, was refused by notice dated 5 April 2016.
 - The development proposed is the erection of a two storey extension to provide a garden room at ground floor and an additional bedroom and accommodation above.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey extension to provide a garden room at ground floor and an additional bedroom and accommodation above at Rosewood, Wood Terrace, Myddlewood, Myddle, Shrewsbury SY4 3RZ in accordance with the terms of the application, Ref 16/00732/FUL, dated 16 February 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue in this appeal is the effect of the proposed extension on the stock of affordable dwellings.

Reasons

3. Rosewood was granted permission in 2010 as an affordable dwelling on a 'rural exception site' on which market housing would not normally have been permitted. Condition 7 of the permission restricts the dwelling, including future extensions, to no more than 100 square metres gross internal floor area. An accompanying planning obligation under s106 requires adherence to the planning conditions. It also contains various mechanisms to ensure that, were the house to be sold, its price would be maintained at an affordable level below market rates.

4. Shropshire Core Strategy Policy CS11: Type and Affordability of Housing seeks to meet the diverse housing needs of Shropshire residents and indicates that an integrated and balanced approach will be taken with regard to existing and new housing, including type, size, tenure and affordability. Among many other things, it allows for exception schemes for local needs affordable housing on suitable sites in and adjoining appropriate settlements, subject to scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan 2015 indicates that to protect the affordability of single plot exception dwellings, they will be subject to size restrictions and other legal restrictions.
5. The Council's supplementary planning document (SPD) "Shropshire Type and Affordability of Housing" (2012) states that the size of a rural exception dwelling will not normally be permitted to exceed 100 square metres gross internal floorspace. This limitation has been applied strictly by the Council to this and other applications and is referred to repeatedly by the Council as a policy, but being in a SPD it does not have the same status or weight as a development plan policy. Moreover, the SPD accepts that the limit may be varied; paragraph 5.63 recognises the difficulties faced by growing households already occupying affordable housing and states that it may be acceptable to enlarge an existing affordable house in order to accommodate the needs of the existing household.
6. The applicant has a growing family and needs further accommodation. Whilst the existing house is not overcrowded in statutory terms, space standards for the household size are relatively poor, falling short of the national space standards for a family of six. The extension would create a property with two double and two single rooms, which would be more appropriate in terms of size and layout for this size of family. The resultant house would still not be especially large and, with a restriction of 60% of the open market value in place as required by the planning obligation, it would remain affordable in perpetuity.
7. The Council do not argue that the appellant is no longer in need of affordable housing; the appellants' need for affordable housing would have to be met elsewhere if they had to vacate the property in search of more suitably sized accommodation. With the extension, the house would remain as a unit of affordable accommodation for the family to enjoy. So, in terms of the availability of affordable housing, nothing would be gained by resisting the extension. The need for affordable housing is not confined to small dwellings and Policy CS11 recognises that housing needs are diverse in terms of size.
8. The proposal would not cause the loss of an affordable dwelling, would enable the household needs of a family in affordable housing need to be met and would accord with Core Strategy Policy CS11 which seeks to meet the diverse housing needs of Shropshire. The extension would therefore not have a harmful effect on the stock of affordable dwellings. The design of the scheme would be acceptable and would not harm the countryside; there would therefore be no conflict with Core Strategy Policy CS5. For all these reasons the appeal is allowed.

Undertaking

9. A new unilateral obligation is offered to ensure the continued availability of the dwelling as a unit of affordable housing, by setting a formula price at 60% of the open market value of the completed development including the dwelling and the extension. The planning obligation meets the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. It is reasonable and is directly related to the development.

Conditions

10. A condition is requiring matching materials is necessary in order to protect the character of the area.
11. It is unnecessary and inappropriate to restrict the ground floor of the extension to a 'garden room' since that would artificially limit the ability of the family to make use of the accommodation in its own house. Whether the occupiers would prefer to provide the space with a full range of services and use it as part of their living room is up to them, because the internal arrangements of a dwelling are a matter for the occupiers.

Jonathan Bore

INSPECTOR

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