



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

Date: Monday, 20 February 2017

**Committee: North Planning Committee**

**Date: Tuesday, 28 February 2017**

**Time: 2.00 pm**

**Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

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

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

**Members of the Committee**

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](mailto: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 31<sup>st</sup> January 2017, 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 5.00 p.m. on Thursday, 23<sup>rd</sup> February 2017.

## 4 Disclosable Pecuniary Interests

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

## 5 Broughall Fields Farm, Ash Road, Whitchurch, TF8 7BX (16/04784/VAR) (Pages 7 - 40)

Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site.

## 6 Proposed Development Land To The East Of Drenwydd, Park Hall, Shropshire (16/05810/FUL) (Pages 41 - 58)

Change of Use of Land for the Provision of up to 3 Gypsy Traveller Pitches OR up to 3 Travelling Showpeople Plots (to include construction of new vehicular and pedestrian access and bunding, and a maximum of 1 double amenity block with associated landscaping).

## 7 Proposed Residential Development, Opposite School, Kinnerley (16/04719/FUL) (Pages 59 - 72)

Erection of residential development of 18 no. dwellings; formation of vehicular access.

## 8 Cockshutt C Of E School, Shrewsbury Road, Cockshutt, Shrewsbury, Shropshire, (17/00142/FUL) (Pages 73 - 80)

Erection of a single storey extension to front elevation to provide new reception and circulation space.

## 9 Appeals and Appeal Decisions (Pages 81 - 102)

## 10 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, 28<sup>th</sup> March 2017 in the Shrewsbury Room, Shirehall, Shrewsbury.

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## Committee and Date

North Planning Committee

28<sup>th</sup> February 2017

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 31 January 2017**

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

**2.00 - 4.03 pm**

**Responsible Officer:** Emily Marshall

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

### **Present**

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, John Cadwallader, Gerald Dakin, Steve Davenport, Roger Hughes, Vince Hunt, David Lloyd and Peggy Mullock

### **56 Apologies for Absence**

Apologies for absence were received from Councillor Pauline Dee (substitute: Councillor Peter Cherrington).

### **57 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 29<sup>th</sup> November 2016 be approved as a correct record and signed by the Chairman.

### **58 Public Question Time**

There were no public questions, statements or petitions received.

### **59 Disclosable Pecuniary Interests**

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

With reference to planning application 16/03082/REM, Rush Lane, Market Drayton, Councillor Roger Hughes declared that he would speak as local ward Councillor and then leave the room, taking no part in the debate or voting on the item, due to perception of bias.

### **60 Land South Of Aspen Grange, Weston Rhyn, Shropshire (16/01735/OUT)**

The Principal Planning Officer introduced the outline application for residential development (All matters Reserved). Members' attention was drawn to the information contained within the Schedule of Additional letters.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Robert Macey, 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:

- Issues relating to drainage and flooding remained a concern;
- A large number of dwellings were proposed on the site, and the implications of this on the surrounding area; and
- The proposed development would lead to an increase in traffic on the surrounding highway network and within the village itself.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor David Lloyd, 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:

- He echoed the concerns raised by Councillor Macey; and
- Stressed that the flood risk was quite substantial.

In response, the Principal Planning Officer explained that the application was an outline application and so the number of dwellings proposed was indicative at this stage. The Council's Drainage Engineers were satisfied that there was a means of dealing with foul and surface water drainage on site.

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 Officer's recommendation.

#### **RESOLVED**

That planning permission be granted in accordance with the Officer's recommendation and subject to:

- The applicants entering into a S106 legal agreement to secure affordable housing; and
- The conditions set out in Appendix 1.

#### **61 Land Adjacent To Rush Lane, Market Drayton, Shropshire (16/03082/REM)**

The Principal Planning Officer introduced the application for the approval of reserved matters (layout, scale, appearance and landscaping) for residential development of 162 residential units; associated open space and landscaping; discharge of conditions 5 - 7 and 12 pursuant to APP/L3245/A/14/2227146 (allowed on appeal) by the Secretary of State.

The Principal Planning Officer 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. Members' attention was drawn to the

information contained within the Schedule of Additional letters, adding that since the Schedule of Additional letters had been published additional comments from the British Horse Society had been received. The Principal Planning Officer confirmed that a formal response from the Highway Authority had not been received, however initial indications were that technical issues had mainly been addressed.

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

Mr Andrew Price, on behalf of How Planning, representing Danbank Developments spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Roy Aldcroft on behalf of Market Drayton Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with his declaration at Minute 61 and the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Roger Hughes 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:

- Concern was expressed at the Rush Lane crossing, particularly in relation to the access for emergency vehicles and in particular a large fire engine, as well as the turning space for refuse vehicles;
- The proposed dwelling at plot 45 was too close to Berwyn and should be replaced by a bungalow; and
- A management agreement for maintaining open spaces needed to be carefully considered as he was aware of two local sites where a management agreement had not worked and as a result the sites were not well maintained.

Mr Edward Landor, 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.

During the ensuing debate, Members of the Committee considered the points raised by all of the speakers, particularly in relation to the proximity of Plot 45, a proposed two story dwelling, to an existing bungalow "Berwyn" and access arrangements for emergency vehicles. In response to these concerns, the Principal Planning Officer confirmed that the Fire Authority had confirmed that their largest vehicle measured 2.5 meters wide, and the short, narrowest section of the highway measured 2.75 meters wide and would therefore be wide enough to accommodate a fire engine. The agent for the applicant was in attendance and confirmed that he was happy to re-examine plot 45, with a view to providing a bungalow, and to enter into further discussions with Planning Officers in relation to access for emergency vehicles.

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 Officer's recommendation subject to further negotiations regarding the inclusion of a bungalow at plot 45 and provision for emergency vehicles.

**RESOLVED:**

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

- No further objections from the Council Highway Officer;
- Further negotiations with the developer regarding providing a bungalow at plot 45 (due to the proximity to Berwyn) and in relation to emergency vehicle access; and
- The conditions set out in Appendix 1.

**62 Land At Former Garage Site, Manor Place, Higher Heath, Whitchurch, Shropshire (16/04846/FUL)**

The Principal Planning Officer introduced the application for the erection of five dwellings and associate access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer reported although the scheme had been redesigned a further objection had been received from Prees Parish Council. The Principal Planning Officer therefore recommended that the recommendation be amended to grant delegated powers to the Area Planning Manager to grant permission subject to the conditions set out in the report and any further conditions recommended by the Highways Authority.

Councillor Ray Hirons, on behalf of Prees 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 room, took no part in the debate and did not vote on this item. During their statement, the following points were raised:

- He agreed with the comments made by the Parish Council;
- The proposed development would result in the loss of much needed amenity space in the area; and
- He considered that five houses on a small plot was overdevelopment of the site.

*At this point Councillor Wynn left the meeting and did not return.*

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 proposals.

**RESOLVED:**



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

- The conditions set out in Appendix 1; and
- Any further conditions recommended by the Highway Authority.

### 63 **Proposed Solar Farm At Rhosygadfa, Gobowen, Shropshire (16/05607/FUL)**

The Technical Specialist Planning Officer introduced the application for the temporary siting of telecom mast to support recently approved solar farm. Members' attention was drawn to the information contained within the Schedule of Additional letters.

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

- He was pleased to see that the application had been amended and the shorter timescale was now acceptable;
- Reemphasised the need for an effective traffic management plan, given the potential for heavy construction traffic using the narrow network of lanes surrounding the site; and
- Sought reassurance that planting would be undertaken to ensure the development was screened.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Robert Macey, as local ward councillor, made a statement which included comments made by Gobowen, Selattyn and Weston Rhyn Parish Council, took no part in the debate and did not vote on this item. During their statement, the following points were raised:

- He and the Parish Council were pleased to have received assurance that the mast would be taken down in October whether connected or not.

Mr Nick Williams, 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.

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

#### **RESOLVED:**

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

### 64 **Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the Northern area as at 31<sup>st</sup> January 2017 be noted.

**65 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 28<sup>th</sup> February 2017 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....



Committee and Date  
North Planning Committee  
28<sup>th</sup> February 2017

Item  
**5**  
Public

## Development Management Report

Responsible Officer: Tim Rogers  
Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

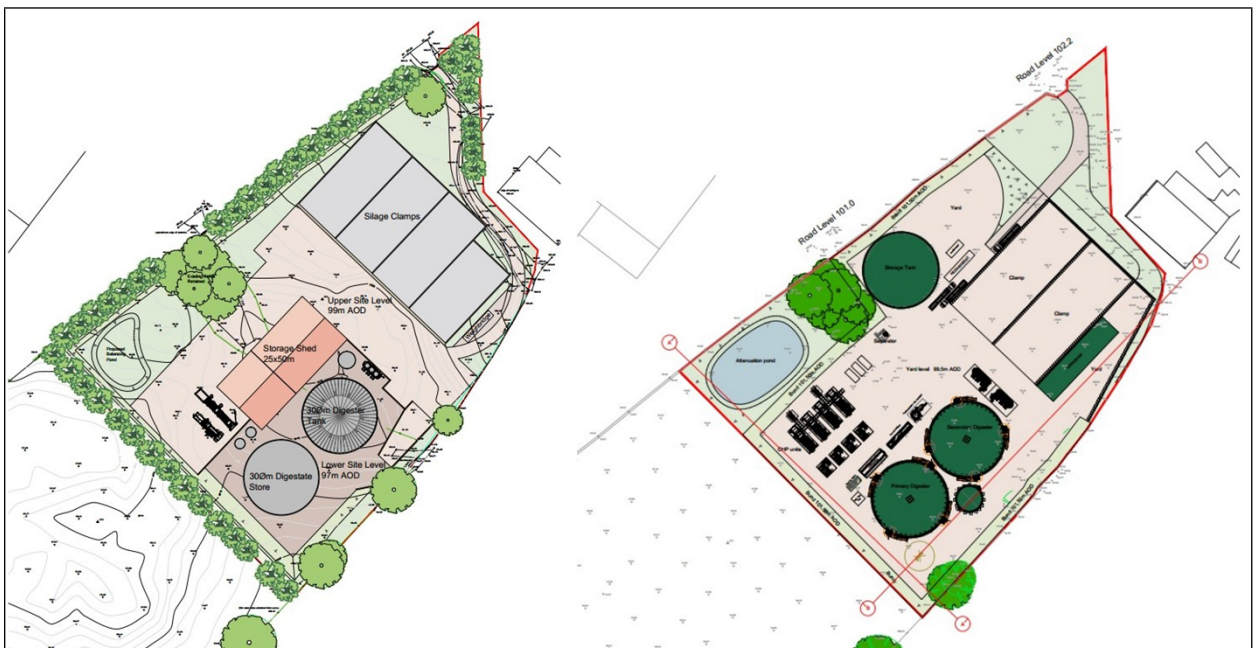
<b><u>Application Number:</u></b> 16/04784/VAR	<b><u>Parish:</u></b>	Whitchurch Urban
<b><u>Proposal:</u></b> Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site.		
<b><u>Site Address:</u></b> Broughall Fields Farm, Ash Road, Whitchurch, TF8 7BX		
<b><u>Applicant:</u></b> Grocontinental Ltd		
<b><u>Case Officer:</u></b> Graham French	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to a legal agreement delivering highway funding and off site landscaping**



## 1.0 THE PROPOSAL

- 1.1 Planning permission for construction of an AD plant at Broughall Fields Farm was granted to the applicant, Whitchurch Biogas Ltd on 19<sup>th</sup> December 2014 (14/01398/MAW) and construction works are underway. Whilst the work is broadly in line with the planning approval there are a number of material differences which the current part retrospective application seeks to regularise.
- 1.2 The existing permission limits feedstock inputs to a maximum of 26,000 tonnes per annum which equates to an anticipated peak electrical output of 1MW per hour. However, due to a change in indicative feedstock mix the applicant is now seeking approval for a 65% increase in feedstocks to 43,000 tonnes per annum. This would in turn increase the level of energy production 2.55MW (equivalent to the energy requirement of over 5000 households) whilst also more than doubling of available renewable heat. The applicant confirms that all feedstocks accepted at the plant would either remain agricultural as with the previously approved scheme, or would be derived from the dairy industry. None of the feedstocks would be classed and as such, the application is not for a waste development.
- 1.3 The nearby Grocontinental site has a peak electrical demand of 3MW per hour and the proposed variation would go much further to meeting this demand. This would in turn free up electricity supplies in the local grid, allowing existing businesses to expand and new residential and commercial developments to proceed.
- 1.4 It is proposed to use approximately half of renewable heat energy at Grocontinental and within the AD site. It is proposed to use some of the excess heat to dry logs at the AD site. Beyond this the applicant states that there is a potential opportunity for renewable heat to be used in a district heating scheme. The applicant has identified and in in initial discussion with three potential end users within 750m of the Ad site.
- 1.5 A non-material amendment to the originally approved site layout was granted in 2015 (15/02293/AMP). Fig 1 below shows the difference between the currently approved and the proposed layouts:



**Original layout as varied****Proposed layout****Fig 1 – Existing and proposed layouts**

The development would involve the following structures:

- Digester Tanks: The two digester tanks are 30 metres in diameter, with the tanks 5.5 metres above finished ground level around their perimeter and 12.5 metres to the top of the gas holder domes. The AD tanks are where the AD process and the biogas production takes place (the original scheme involved one digester tank).
- Digestate Storage Tank: The digestate storage tank is 30 metres in diameter, with the tank a maximum of 4 metres above finished ground level around the perimeter and 10 metres to the top of the gas holder dome. The tank will provide temporary storage for the digestate before it is taken off-site to be used as a fertiliser on local farmland.
- Feedstock Clamps: The proposed feedstock clamps are 3 metres in height. The clamps total approximately 60 metres in length and 50 metres in width. The clamps provide storage for the crop feedstocks (in the approved scheme these extend closer to the highway).
- Workshop Shed: A workshop shed will be located east of the clamps. The shed will measure 38 metres in length, 9 metres in width, and will reach a maximum height of 5.9 metres (the approved scheme involves a much larger shed at the centre of the site).
- Solids Feeders and Shed: Two solids feeders are to be placed in a small open fronted shed adjacent to the digester tanks. The feeders are loaded with and mix the feedstocks prior to delivery to the digester tank. The feeder shed will measure 24 metres in length, 6.6 metres in width, and will reach a maximum height of 8.25 metres.
- Combined Heat and Power Units (CHPs): The 4 CHPs are located on the south western site boundary. The CHP engines will run on the biogas produced by the process to generate heat and electricity (the approved scheme involved 2 CHP engines).
- Surplus Gas Burner: During normal operations biogas will be consumed by the CHP gas engine. In the event of surplus biogas production or if the CHP is shut down (e.g. for maintenance) the biogas will be consumed in the biogas boiler and failing this will be diverted to the surplus gas burner for burning, to prevent an overpressure situation arising in the gas holder. This surplus gas burner will ensure no unburned gas is released to the atmosphere.
- Pasteurisation Unit: This unit will treat the digestate so that it can be applied to land as PAS110 accredited organic fertiliser.
- Weighbridge: A weighbridge will be located along the one traffic movement system within the site, to the east of the clamps.
- Containment Bund: A containment bund will surround the main AD structures in line with Environment Agency guidance.
- Separator and Clamp: The separator will separate the digestate produced into solid and liquid fractions. The clamp below the separator will provide storage for the solid fraction.

- 1.6 The proposed AD structures will be coloured green to aid integration with the existing farm structures, the surrounding landscape and the additional native species tree planting. The feedstock would be delivered to the solids feeder via a JCB loader or

similar handler. The feed unit would operate intermittently for 24 hours a day, loading the digester automatically every hour.

- 1.7 Landscaping: The proposals include provision of a planted bund adjacent to the Whitchurch By-Pass with additional panting on other site margins. Recently the applicant has also secured agreement to undertake significant additional planting in and around a field to the immediate west of the site and this is being carried out under the terms of a unilateral undertaking.
- 1.8 Hours of Operation: The AD process, once initiated, would carry on continuously for 24 hours a day. On site, the crops and manure would be moved to the stationary feeder by a mechanical loader once a day. This would be predominantly undertaken during daylight hours, in order to minimise light and noise pollution.
- 1.9 Traffic / access: The access is unchanged relative to the approved scheme. The increase in feedstock would be offset by the use of larger vehicles. The total increase in HGV's would equate to approximately 500 extra vehicles per year of which 90% would approach via the principal road network. 10% of traffic would approach from Ash Road, a minor road to the east of the site. The applicant states that similar levels of agricultural traffic already use this road in connection with local agricultural activity. Notwithstanding this, the applicant has agreed to make a financial contribution of £10,000 towards the cost of maintaining / improving the highway in this area and this would be secured by means of a legal agreement.
- 1.10 The applicant has emphasised the following points with respect to the proposals:
- An AD plant is already approved for the site. The amended layout which is the subject of this application is on exactly the same footprint as the approved site but reduces visual impact and improves operational efficiency.
  - The amended layout commits to providing a substantial landscaping scheme, a great betterment over the approved scheme.
  - The amended layout will more than double the quantity of the renewable energy produced from the site.
  - The plant will provide renewable energy for Grocontinental, securing a sustainable future for Whitchurch's largest employer.
  - A co-operative of local farmers will provide energy crop feedstocks for the plant, securing the future of these farms

## 2.0 SITE LOCATION / DESCRIPTION

- 2.1 The proposed AD site (area 2.15ha) is located on agricultural land to the east of the A525 Whitchurch By-Pass and the applicant's warehouses on the Waymills Industrial Estate. The site sits just outside of the Development Boundary of Whitchurch as defined in the Place Plan. The surrounding landscape comprises a mixture of industrial and commercial development and intensively managed agricultural land. The nearest residential property is located 130m to the north east. The site is not affected by any statutory rural or historic designations. Brown Moss, a RAMSAR site, SSSI and Local Nature Reserve, is located approximately 940 metres to the south.
- 2.2 Grocontinental is one of the largest international storage and distribution companies in the UK. The 30 acre unit at Whitchurch oversees 143,000 pallet spaces of multi-temperature storage and 5,000 daily pallet movements, controlled by systems technology.

### 3. REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposals have been referred to the Committee under the Council's scheme of delegation as they relate to major development raising complex issues and the Town Council has objected.

### 4. CONSULTEE RESPONSES

- 4.1 Whitchurch Town Council – A discussion was held at the Town Council's meeting regarding the fact that the development had gone ahead without planning permission and that substantial changes have been made that include:

- doubling of the feedstock for the digester
- more than doubling of vehicular traffic to and from the site
- construction of a workshop
- construction of a digestate storage tank
- addition of two CHP engines,
- extension of the site boundary and proposal to add a log drying facility to the site would appear, to a reasonable person, to be more than a non-material amendment to the agreed planning permission.

The Town Council resolved that it would send a representative to address the North Planning Committee concerning the proposals.

- 4.2 Whitchurch Rural Parish Council (adjoining parish): Objection on the grounds of detrimental impact to residents in terms of increased traffic nuisance throughout the Parish. The Council has queried why it is not a consultee in this application when the land area abutts its boundary.

- 4.3 Environment Agency: - No objections in principle. Pre-permit discussions with the Agency's Installations at Warrington office have been ongoing for some time. A written agreement has been issued that Whey Permeate (produced by Belton Cheese Limited) and used as an AD Feedstock at Broughall Fields AD Facility is considered a by-product. On the basis that the Agency would not regulate the site now, following the feedstock amendment, we would not look to raise any EPR related amenity/emission issues on the planning application. We would advise that these issues are considered by your Public Protection team, as we would not regulate the site.

- 4.4i. Public Protection – No objection. In relation to noise a noise impact assessment, reference DYN010814\_2A/3 dated October 2016, has been submitted in support of the application. Particular note should be given to section 3.3 which states, 'We understand that the client proposes to erect an appropriate acoustic fence/construct an earth bund along the side of the CHP generators i.e. at approximately 2m from Northern and Eastern edges of the generator location, to form a permanent barrier between the CHP generators and 'Broughall Fields Farm'. Our understanding is that a typical CHP generator is housed in a steel container, with noise generating components no more than approximately 3.0 ' 3.5m above ground level. We would recommend that any bund/barrier be at least 1.0m higher than the finalised maximum noise source height'. It goes on to state that, 'Our calculations include the implementation of the appropriate barriers/bunds and/or screening above'. The report's acoustic calculations are based on the assumption that such a barrier is in place. The report concludes that daytime and night-time noise levels should not exceed the background sound level and that noise from the proposed CHP generators should have a low adverse impact. I am in

agreement with this conclusion and would therefore recommend that a condition is placed which stipulates acoustic treatment in line with the assumed conditions as follows: that the location 2m from Northern and Eastern edges of the generators location is put in place to a height of 1m above the highest noise source height. As the noise source height is predicted to be around 3-3.5m this equates to a structure of 4-4.5m in height to the northern and eastern edges of the generator location. It is noted that a plan of the site, drawing SA22500/03, shows bunding however the applicant should provide detail of the height of any noise source relevant to the above comments and state the height of the bund to achieve 1m above the noise source. If this is not the case the predictions of the noise assessment are not robust and the assessment would be found to be unsuitable for the proposed site layout.

- ii. In relation to the odour impact assessment submitted by Isopleth Ltd reference: 01.0053.001 OIA v2 dated November 2016 concludes that that the proposed development will not lead to unacceptable odour impacts, particularly given the agricultural nature of the feedstocks which are typical of the site setting. I am in agreement and have no conditions to recommend in relation to odour other than an odour management plan being required/conditioned if the anaerobic digester is not going to be permitted by the Environment Agency. If the installation is to be permitted this type of condition will be part of the permit and should therefore not be necessary as a planning condition.
- 4.5 Highways Development Control (verbal comment): No objections. (There was no objection to the previous application subject to a condition requiring prior approval of the new access).
- 4.6. Natural Environment - Ecology: No objection. The comments dated 19th May 2014 by Alison Slade are still relevant for this proposed application. The Star Ecology January 2016 Ecological report, which has been submitted with this application, has identified one tree with bat roost potential. The site plans show this tree as being retained. Providing the conditions and informatives recommended by Alison Slade in 2014 are on the planning decision notice, and are unaffected by this Variation of condition application, SC Ecology has no additional comments to make. A habitat risk assessment linked to the original application is relevant to the current proposals.
- 4.7 Natural Environment - Arboriculture): No objection. Having read the submitted documents and amended landscape plan I agree with the following statement made in plan: "This planting proposal provides a significant betterment over the previous planning approval and the current variation of condition application. The plans demonstrate significant new native species tree and shrub planting and sections of 3m high trellis fencing with climbers along sections of the site boundary. These planting measures will screen much of the development from the passing A525 and will in particular enhance the approach from the south west." I therefore have no objection to the enhanced scheme and variation of the landscape condition.
- 4.8 Rights Of Way: – No objections. There are no recorded public rights of way affected by the proposal.
- 4.9 Historic Environment - Conservation: No objections. It is noted that amendments to the scheme have been made to take account of previous concerns over the design and visual impact of the proposals in the rural landscape setting, including that of the designated and non-designated heritage assets in the vicinity of the proposal site.



While these measures - screening through additional landscaping, finishes to the buildings and a re-design of the roof on the structure immediately adjacent to the road - are largely considered appropriate to mitigate these adverse effects, the heights of the bunds to the rear (S to W) of the digestate tanks and the workshop building appear insubstantial on revised cross sections, when compared to the height of the structures. It is recommended that these are planted appropriately and bund heights are increased where necessary to further mitigate the potential for visual impacts, especially when viewed from the western approach. As discussed with the case officer, a condition may also be appropriate to determine and control the style, lumen level and position of lighting within the site to mitigate any potential adverse effects at night.

- 4.10 Historic Environment - Archaeology: No objections.
- 4.11. Flood & Water Management - No objection. We have no further drainage comment to make as the drainage is covered under Condition 23a.
- 4.13 Councillor Mr Gerald Dakin (Whitchurch South) – has been informed of the proposals.

#### PUBLIC REPRESENTATIONS

- 4.14 The application has been advertised in the press and by site notice and the nearest properties have been individually notified. Objections have been received from 19 individuals including some multiple representations. Three letters of support have been received, including from the farming collective involved with the AD proposals and the joint applicants - Iona Capital and Grocontinental. The grounds of objection are summarised below:

i. Traffic

- The development will increase traffic due to the increase in feedstock which would lead to more air pollution from diesel particulates and more risk to pedestrians. The Ash Road is substandard and the A525 is one of the most dangerous roads in the country and traffic would not be able to turn right into the site when heading from Wem (currently all site traffic has to make a U turn at the roundabout). Any benefits are outweighed by disadvantages.
- The highway proposal suggests that the existing two way two lane road can operate safely marked out as three lanes. It would seem to require that stretch of road to be widened to have adequate space.
- To utilise the process and heat generated by the plant it is intended to dry logs. Timber will be brought to site in HGV's with 4 loads per week or 208 loads per year. Traffic is increasing once again, more HGV movements entering and leaving the site, making the A525 even more dangerous.
- The minor roads from the A525 leading to Ash Magna and Ash Parva, Edgeley Bank to Brown Moss are being used as a main route for hauling maize. The danger to pedestrians, horses, cyclist and cars has escalated. Large transporters and maize trailers have been seen entering and leaving the AD site by crossing the centre line of the highway in direct contravention of the initial planning conditions.
- It is outdated technology as it will divert agricultural land from food production to energy production which is now considered not to be in the interests of the environment, also more energy may be put in than is taken out.
- I am a keen cyclist and it is almost impossible to ride along this stretch of road already from the railway flyover to the Ash roundabout, the road surface, particularly in the cycle lane, is so rutted that you are forced to ride in the main

carriageway. With an already evident constant trail of Grocott HGVs and now super sized farm tractor/trailers carrying maize, it makes it exceedingly dangerous to transit this road unless you are in a motorised vehicle.

ii. Amenity

- It is bad enough with the noise of the fans in the warehouses, now this ...extra traffic running day and night ,not to mention the smell. The digester will be sited to the south east of the town with many houses less than 1 km away and most of the town within a 2km radius, and the wind is in that quarter several days each month. The council is likely to receive very many and frequent complaints about bad odours, and it will have a detrimental effect on the quality of life in Whitchurch.
- I see little in the way of environmental enhancement on the Grocott site - there is no screening by trees of the huge pale-coloured sheds, and although I live 1 km away some evening I hear a low and intrusive 'hum' from the site. Many people in the town do not want to see this site expanded.
- There is also an issue with inappropriate siting and glare of the flood lighting used to illuminate the site at night which affects road users passing the site. I also have concerns at the noise etc if the site is in continual use throughout the night.
- Due to the health risks from air pollution, it is too close to established work places (including schools and nurseries) and homes.
- The new site taking shape certainly complements the existing Grocott storage units making both sides of the A525 an eyesore.
- It will emit Bioaerosols - these are microscopic airborne particles including bacteria, fungal spores, protozoa and organic constituents of microbial and fungal origins. They can penetrate into the lungs causing respiratory inflammation, coughs, respiratory diseases and have been known to cause intestinal illness and eye irritation.
- This Industrial AD is close to our children at nursery, at schools, playing at the nearby Rugby Club, people at work at Waymills just over the road and nearby houses. It will have effects on any future expansion of Whitchurch on that side of the town.
- the original application should never have been granted as it is within 200 meters of residential and/or commercial property, including a children's nursery. AD's are at risk of explosion and there are many cases to corroborate and this alone should be enough for the project to be scrapped due to the proximity of properties.

v. Damage to the Environment

- There will also be an added risk of pollution to the environment /water table in the event of leakage/accident.

vi. Principle of the proposals:

- The change in feedstock means that the AD facility will not run on waste. This now means that if permission is given the facility will run totally counter to the Governments stated policy that waste should be used in Anaerobic Digesters and that they should not use only specifically grown feedstocks as this takes land out of food production.
- My main objection is that the feedstock is to be maize. The growing of maize for digesters has caused environmental problems in parts of Germany where large areas are devoted to this crop. I strongly object to any development that encourages yet more maize production
- The feed crops proposed are not those required by government policy - they are

food crops with other better uses. This site cannot use feeds that would comply due to the nature and location of the site.

- The previous decision was for an on farm digester this is industrial.
- Is this a back door for further industrialisation of the south side of the bypass?
- This development is riding roughshod over planning and safety rules in an attempt to meet deadlines for feed in tariffs.
- there were about 100 objections for the previous application, and this one is much larger and will have a greater impact.
- The building of it, south of the Whitchurch by pass, is NOT part of the overall development plan for Whitchurch. A bio digester so close to an established business park and homes makes this an unsuitable site. It will endanger people's health through air pollution and is a potential environmental hazard.

vii. Process of Application

- I object to retrospective planning permission being applied for to normalise proceedings which have already begun. It amounts to a fait accompli and in my experience elsewhere is not usually tolerated by planners. S.C must have monitored the building of this site, it must therefore have been aware of the changes to the original plans a long time ago.

4.15 Iona Capital support letter: Iona Capital advise that they are an investment company who supports the renewable energy sector and contributes positively to the need to address climate change. To date the company has made over £180m of investments in the UK renewable energy sector including 18 AD plants providing multiple benefits to local stakeholders. Farm derived feedstocks will be supplied by a local farming co-operative within 3.5 miles of the site which has become established following the decline of the local dairy industry. The cooperative will also take back organic fertiliser. It is stated that the AD site is a sustainable location which has good transport and electrical infrastructure connections and is centrally located in relation to its feedstock and digestate management activities. The proposals will also use green energy to help reduce the carbon footprint of the Grocontinental business.

4.16 Farming cooperative support letter: A letter of support has been received which is signed by 10 local farms who will supply feedstocks and receive digestate from the AD site. Similar points are made to those made by Iona Capital.

4.17 Grocontinental support letter: Grocontinental advise that the AD plant will be a major factor in securing a sustainable future for the Whitchurch business. As the town's largest employer Grocontinental wants to be able to protect the jobs of its 360 local employees. The business plays a vital part in Shropshire's food manufacturing industry, providing temperature controlled storage and distribution to the county's major food suppliers, all of whom are under increasing pressure to demonstrate sustainable use of energy. The expanded AD plant will provide around 80% of our total electricity needs which will help to secure the on-going demand for our services for many years to come. The AD plant is also fully aligned with the UK Government's directive to support the switch to low-carbon energy. We operate in a cut-throat and dynamic industry with small margins. Our business is stringently regulated and our green credentials are coming under increasing scrutiny from our customers. This demand will increase. More generally we do as much as we can to support Whitchurch and its economy, including through our long-established policy of using local suppliers and employing local people. We believe our annual wage bill of £11 million helps to sustain the town.

## 5. THE MAIN ISSUES

- Principle of the development and the proposed variation;
- Environmental implications of the proposed variation, with reference to:
  - odour;
  - traffic;
  - noise and vibration;
  - visual impact;
  - air quality and health
  - water resources;
  - community benefits.
- Other issues including enforcement and waste licensing.

## 6. OFFICER APPRAISAL

- 6.1 Need for the development: The principle of establishing an AD facility at this site has already been established by permission reference 14/01398/FUL. If the current variation application was not to proceed then the fall-back position for the applicant would be to implement this existing planning consent. The main issue to consider is whether the amendments proposed under the current application would be supported by relevant policies and guidance or whether they would lead to any unacceptable environmental or amenity impacts relative to the approved scheme.
- 6.2 The National Planning Policy Framework advises that planning authorities should not require applicants for renewable energy schemes to demonstrate the overall need for the renewable energy (s98). It is noted however that the variation proposals would deliver a significant increase in renewable electricity of the currently approved scheme (2.55MW as opposed to 1MW). This is equivalent to the electricity requirement of 2800 homes and would nearly match the total energy requirement of the nearby Grocontinental site (3MW), in turn freeing up an equivalent amount of energy for use by other local businesses.
- 6.3 The amount of renewable heat energy would also more than double. This would provide the opportunity to establish an ancillary wood drying facility within the AD site with sufficient surplus heat energy remaining to allow consideration of a local district heating scheme. The applicant has identified three potential end users. The increase in renewable energy which the proposed variation would yield is a significant planning consideration.
- 6.4 The Council's Business and Enterprise team supported the original scheme on the basis that the proposals would help provide a secure and sustainable energy source which would support the further development and growth of Grocontinental as a major local employer. A similar justification would apply for the current proposals. The applicant is a major energy user and there is an energy shortage in Whitchurch which the plant would help to address. The Business and Enterprise team has confirmed that there have been difficulties in attracting the funding necessary for the local energy supplier to upgrade the local grid system. As previously noted, the current proposals would deliver a significant increase in renewable energy relative to the approved scheme.

- 6.5 Need - Climate change: The NPPF advises that 'local planning authorities should adopt proactive strategies to mitigate and adapt to climate change (s94). The renewable energy produced by the plant would reduce carbon dioxide released from the traditional fossil fuel generation by around 5200 tonnes of carbon equivalents each year. In addition, the digestate produced by the AD process would replace conventional fertilisers, the manufacture and distribution of which is very energy intensive. The climate change benefits of the proposals are also a significant material consideration.
- 6.6 Need - Agriculture: The AD unit would be operated in association with local farming enterprises and will represent a vertical integration whereby the digestate produced can be utilised to fertilise the crops grown as feedstock for use in the digester, along with feedstock sourced from other local businesses. A collective of 11 local farming businesses has been formed to supply feedstocks and to take back organic fertiliser from the plant. These businesses have signed a letter indicating their support for the AD proposals. The letter states that the proposals would aid farm diversification and would assist in making adjustments to farming practices to adapt to a long-term decline in dairy farming activities that were traditionally practiced in the Whitchurch area. It is considered that the proposals would in principle promote the development and diversification of agricultural business in a way that supports the rural economy (NPPF s28, Core Strategy CS5)
- 6.7 Need – conclusion: The need for renewable energy and the climate change benefits of the proposals are strongly supported by the NPPF (e.g. para 97, 98) and the level of renewable energy would be significantly greater than for the currently approved scheme. In addition, it is considered that the economic benefits of a renewable power supply are significant and consistent with Core Strategy Policy CS13. The potential benefits of the scheme to the local agricultural economy also align with this aspect of Core Strategy Policy CS5. It is necessary however to also assess justification for the site location and the potential environmental effects in order to determine whether or not the proposed variation is sustainable and can therefore benefit from the NPPF presumption in favour of sustainable development.

#### Environmental considerations

- 6.8 Odour and feedstock mix: The currently approved planning scheme (14/01398/MAW) involved the importation of up to 6,000 tonnes per year of poultry manure. However, the Environment Agency's permitting team did not issue a permit due to their concerns about the potential odour impact of this material. During the processing of the above application an original proposal to also import some food waste to the facility as part of the feedstock mix was also withdrawn for the same reason. A minor change to the layout was subsequently approved in response to these changes under the non-material amendment procedure (15/02293/AMP). The applicant subsequently sought a variation in early 2016 which included an increase in output and re-introduction of food waste (16/00919/VAR) but the Environment Agency however retained reservations about the potential for odour impact from the introduction of food waste and the application was subsequently withdrawn.
- 6.9 Since this time discussions have been ongoing between the applicant and the Environment Agency, resulting in submission of the current application which does not involve the use of any waste materials as part of the feedstock mix. During these discussions the Agency's Permitting team has confirmed to that the whey permeate (– a cheese manufacturing by-product from nearby Belton Cheese) would not be classed

as a waste material. The current proposals therefore involve utilising a feedstock mix consisting just of energy crops and whey permeate. There would be no materials which are classed as wastes and which would potentially have a higher intrinsic potential to cause odour problems. The current proposals, if approved, would lead to the site being the only AD facility in Shropshire operating which does not employ the use of waste materials as part of the feedstock mix. The Environment Agency has confirmed on this basis that the proposals would not require an environmental permit.

- 6.10 The application includes an odour impact assessment which concludes as follows: 'Dispersion modelling has been completed, which predicts that the proposed development will not lead to unacceptable odour impacts, particularly given the agricultural nature of the feedstocks which are typical of the site setting. The operation of the site in accordance with an Odour Management Plan will ensure that remains the case during typical operation and abnormal events'. The Council's Public Protection team has supported this conclusion. The site as currently proposed would not require an environmental permit to operate. It is considered on balance that subject to the recommended conditions the measures proposed by the applicant are sufficient to prevent any reasonably foreseeable loss to amenity at neighbouring residences.
- 6.11 Noise and hours of working: Ambient traffic noise from the Whitchurch By-Pass is a dominant part of the local noise climate at most times. The process of anaerobic digestion is itself silent running continuously over a 24-hour period. Given the separation distance to residential properties and the positioning of the CHP, it is not anticipated that the plant would give rise to an increase in ambient noise levels at any nearby residential property.
- 6.12 A noise report accompanying the application concludes as follows: 'Based on the information contained within this report, the result of our noise assessment in line with BS4142:2014 demonstrates that the predicted/calculated daytime and night-time noise levels should not exceed the background sound level. Therefore, noise from the proposed CHP generators should have a low adverse impact, in accordance with BS 4142'. The Public Protection service has not objected. Conditions covering noise were imposed on the original planning permission and it is recommended that they are re-imposed on any consent linked to the current application. Subject to these measures it is considered that noise from the proposed facility is capable of being controlled to an acceptable degree.
- 6.13 Traffic and Access The proposed level of feedstock would increase from 26,000 tonnes to 43,000 tonnes to facilitate the more than doubling of the renewable energy output from the site. A Traffic Statement details how the likely traffic generated by the AD unit would affect the surrounding highway network based on a worst case scenario where there were no saved journeys. The A525 is a principal road and is considered suitable to carry large volumes of daily traffic. Good links are available from this road to the A41, the A49 and the wider principal road network. The AD Unit would use the following feedstocks including crops which are harvested at different times of the year so individual harvest peaks will not coincide:
- Whey Permeate – 15,000 tonnes- sourced within 2 miles of the site. This will be delivered by HGV in 27 tonne loads 556 loads distributed across the year. This will be an average of 11 (10.68) movements per week.

- Maize – 7,000 tonnes is typically harvested over a 6 week period in October and November. This will result in typically 58.33 movements per week.
  - Rye - 7,000 tonnes is typically harvested over a 6 week period in June and July. This will result in typically 58.33 movements per week.
  - Grass silage – 14,000 tonnes is typically harvested at the end of April/early May as the principal cut and a secondary cut typically between August and September as growth dictates. This will result in typically 175 movements per week or 25 movements per day.
- 6.14 Currently 11 local farmers have committed to supply a mix of feedstocks, with one other local commitment for the supply of the whey permeate. Typically the farms are located within a 6 – 7 mile radius of the site, with 5 farms located to the south, 3 from the north/north-west and two from the east. All farms have satisfactory direct access or are only a relatively short distance from a suitable highway network and can gain access to site via the higher order roads such as the A525, A41, and A49. The adjacent farm to the unit will also supply the feedstock.
- 6.15 The 15,000 tonnes of whey permeate would be sourced within 2 miles of the site and 2,000 tonnes of maize/rye crop provided would be sourced from Broughall Fields Farm itself. Hence 44% of the overall feedstock would be sourced from very near to the facility. The remaining 26,000 tonnes would be from the other contracted farms, with only 10% of the overall tonnage arriving from the west and the Ash/Calverhall south east direction. It is further stated that many of the local farms supplying the AD Plant already grow crops that are not used within their own enterprise and are sold elsewhere. Hence, most if not all trips for these harvests are already on the road network. The traffic statement also advises that overall traffic levels in the rural area have fallen significantly due to the decline in dairy farming.
- 6.16 The traffic report acknowledges that there would be an overall increase in traffic movements to the site due to the 17,000 tonnes of additional feedstock. However, it is stated that a significant number of these movements would be by HGV, meaning less movements from the larger loads. The original approved feedstock of 26,000 tonnes would potentially result in 1734 tractor and trailer movements, with 1473 outgoing tractor and trailer movements from the digestate. The current proposals for 43,000 tonnes of feedstock would result in an overall increase of 570 movements per annum or an average of 1.56 movements per day. It is not considered that this level of average increase would be likely to cause detriment to the immediate or wider highway network.
- 6.17 Notwithstanding this, the applicant has agreed to pay a voluntary contribution of £10,000 to facilitate improvements to the Ash Road where some 10% of the feedstock would be transported from, in recognition of the local concerns in relation to vehicle movements. The applicant has also previously agreed to implement a voluntary code of traffic management in order to minimise the potential for adverse highway impacts during peak times. This is to be welcomed and an advisory note covering this matter has been included in Appendix 1. Highway officers did not object to the original scheme and have indicated verbally that there are no objections to the current amended proposals. Whilst objectors maintain concerns with respect to the traffic implications of the scheme it is not considered that a highway refusal could be justified. (Core Strategy Policy CS7, SAMDev Policy MD8)
- 6.18 Visual impact: The Development Plan seeks to protect landscape quality (Core Strategy Policy CS17, SAMDev Policy MD12). The nearest residential properties are

generally well screened visually from the site and the proposed landscaping works would further improve this containment. The applicant states that the structures within the site would have an agricultural appearance and would be directly related to the agricultural activities taking place within the wider farming unit. The applicant has recently agreed to undertake additional landscaping measures in order to improve the screening and visual integration of the site.



#### Updated landscaping proposals

- 6.19 An updated planting scheme has been submitted and this encompasses a wider area surrounding the site, including planting of native tree and shrub species in a field area to the immediate west. Sections of 3m high trellis fencing with climbing plants are also proposed along sections of the site boundary including behind existing roadside hedging. These planting measures are designed to screen much of the development from the A525 and will in particular enhance the approach from the south west. The Council's Conservation section has acknowledged that these measures represent a significant enhancement relative to the original proposals.
- 6.20 Whilst the current variation proposals would result in some changes to the local landscape there would not be an unacceptably adverse impact once the proposed updated landscaping measures have been fully implemented. The proposals are therefore considered to be capable of complying with Policies CS17 and MD12.
- 6.21 Ecology An ecological assessment advises that the site is not located within or adjacent to a designated ecological area. Possible bat roosting features were identified within one tree. Compensation measures recommended in the assessment have been incorporated into the landscaping proposals which would provide a significant overall biodiversity enhancement for the area. The Council's ecology section has not objected. It is considered that the proposals can be accepted in relation to ecology and biodiversity. (Core Strategy Policy CS17, NPPF chapter 11.



- 6.22 Water resources: A Flood Risk Assessment confirms that the site is not located in an area of flood risk. The main tanks would be sited on impermeable bases within a fully bunded area and the silage clamps and reception shed would also have concrete bases. The site would have a rainwater management system that will direct rainwater to a balancing pool from where it can be released at a sustainable rate into the existing drainage system. In line with Environment Agency advice, an area of secondary containment has been provided around the main AD structures. Boreholes confirm that groundwater levels are 3-5m below the ground level within the site. Therefore a sufficient freeboard will exist between the base of any excavation and the highest seasonal groundwater table.
- 6.23 The line of a blocked up watercourse running through the site has previously been diverted around the edge of the site so that if the watercourse is reinstated at some time in the future the flow can continue around the site. The Council's land drainage sections have not objected subject to relevant drainage conditions (included in appendix 1). It is concluded therefore that the proposals can be accepted in relation to development plan policies and guidance covering the protection of water resources. (Core Strategy Policy CS18; NPPF – natural environment (s110))
- 6.24 Lighting The proposed site is located away from private dwellings. Low levels of external lighting are proposed. The applicant has confirmed that measures would be employed to minimise any unnecessary light spill. There would be no round the clock external lighting. A lighting condition has been recommended and is included in appendix 1.

Other matters:

- 6.25 Energy efficiency / use of surplus heat: As well as producing electricity, the proposed facility would generate an equivalent amount of energy in the form of surplus heat. Some of this would be used to maintain the temperature of the AD tanks and to dry wood within a building next to the feedstock clamps. It would also be possible in principle to utilise remaining heat energy in nearby buildings. The current proposals would generate additional surplus heat relative to the currently approved scheme. The ability to optimise the use of surplus heat would be beneficial in terms of national climate change and energy policy and would further reduce the carbon footprint of the proposals. It is therefore considered that, if planning permission is granted, a condition requiring an annual review of the potential to maximise use of renewable heat energy is imposed. It is understood that discussions have already taken place with three potential heat users. Subject to this it is considered that the proposals can be accepted in relation to the objectives of national climate change and energy policy and related development plan policies.
- 6.26 Variation application: The application is part-retrospective. As such, if permission is granted any consent would immediately supersede the original planning permission. It is appropriate in this instance to re-impose the bulk of the conditions attached to the original planning consent as the current proposals will require essentially the same planning controls as the previous scheme. Whilst pre-commencement conditions have previously been discharged in relation to the original application it is considered appropriate to re-impose these conditions on any permission to allow updating and review of previously submitted information. A 3 month timescale has been recommended in Appendix 1 for the submission of such updated information.

- 6.27 Retrospective application: It is regrettable that the applicant has progressed the current amended scheme in advance of any planning permission for these amendments. It is understood that the applicant had to make difficult decisions based on the need to secure funding for renewable energy and heat at a sufficient rate and within a tight timescale to optimise the viability of the scheme. Officers have expressed reservations to the applicant and have emphasized that if the current proposals are not approved then the Planning Authority would not hesitate to consider taking appropriate action in order to remedy the breach in planning control.
- 6.28 Objectors consider that the Planning Authority should have taken enforcement action as soon as the departure from the approved scheme became apparent in August 2016. However, planning enforcement is a discretionary and risk-based function and must take appropriate account of the context of any breaches. In this respect the Planning Authority had been considering an application to regularize the development for some time. Following internal discussions it was determined that it would not be expedient to take any formal action until the outcome of the application was known. If the application is approved then this will have the effect of regularising the currently unauthorized works. If the application is not approved then the applicant would have the option of appealing. Ultimately however, the proposed amended layout which is currently being constructed could be operated in principle as a 1MW scheme. In this respect officers consider that the amended proposals including enhanced landscaping measures would represent significant benefits overall relative to the currently approved proposals.
- 7.0 CONCLUSION
- 7.1 The principle of allowing a 1MW AD scheme on the same site has already been established by permission reference 14/01398/MAW. The current proposals would more than double the level of renewable electricity and heat energy produced by the facility for an increase in feedstock of 44%. Much of the additional feedstock would be in the form of whey permeate imported in larger loads from nearby Belton Cheese. The increase in renewable energy supplied by the proposals is a significant material consideration. The proposals would nearly match the amount of electricity used by Grocontinental, securing a reliable source of affordable renewable energy for the company and freeing up grid capacity for other local users (NPPF97, 98). The company is a major employer and performs a vital role in supporting the wider food industry in Shropshire.
- 7.2 The individual issues raised by the proposals have been assessed. No environmental issues have been identified which would suggest any material conflict with relevant development plan policies. The proposals include enhanced landscaping measures which would represent a significant benefit relative to the currently approved scheme. The increase in traffic would equate to be less than 1.6 extra loads per day and is not considered sufficient to warrant a highways refusal in this location on the major road network.
- 7.3 It is regrettable that construction operations departed from the originally approved scheme before the current application was determined although an application to regularize this situation has been lodged with the Council throughout this period and the applicant's discussions with the Environment Agency had resulted in significant delay to the determination of this application. The officer considers that the amended design has significant benefits relative to the approved scheme, including in terms of landscaping and renewable energy. Notwithstanding this, the amended scheme could easily be amended to a 1MW scheme in principle.

7.4 The NPPF requires that applications for renewable energy should be approved if the impacts are, or can be made, acceptable (s98). It is concluded on balance that the proposals are capable of being accepted in relation to relevant development plan policies, guidance and other local considerations. Approval is therefore recommended subject to the conditions set out in appendix 1.

## 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) advises that ‘development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision’. The framework sets out clearly what could make a proposed plan or development unsustainable.

9.1.2 The Government’s objective is that planning should support 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).

9.1.3 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).

9.1.4 Relevant areas covered by the NPPF include:

1. Building a strong, competitive economy;
2. Ensuring the vitality of town centres;

- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 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 The Shropshire Core Strategy was adopted in February 2011 and sets out strategic objectives including:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

9.2.2 Core Strategy policies of relevance to the current proposals include:

- CS5: Countryside and Green Belt;
- CS6: Sustainable Design and Development Principles;
- CS13: Economic Development, Enterprise and Employment;
- CS14: Managed release of Employment Land
- CS16: Tourism, Culture and Leisure
- CS17: Environmental Networks
- CS18: Sustainable Water Management

9.2.3 Site Management and Allocation of Development Document (SAMDEV) – The site falls within the Whitchurch area of the emerging SAMDEV but is not subject to any specific allocation. The SAMDEV acknowledges that 'Shropshire must play its part in providing energy from renewable sources. We want to encourage renewable energy developments but we also need to conserve Shropshire's high quality environment. Current Government guidance suggests we should develop criteria to enable low carbon and renewable energy development to proceed when there are no significant adverse effects on recognised environmental assets'. Relevant policies include:

- MD2 – Promoting sustainable design;
- MD7b – Managing development in the countryside (seeks to protect heritage, landscape and biodiversity assets);
- MD9 – Safeguarding and improving employment investment (includes seeking to protect existing employment sites in rural areas);

- MD12 – Protecting Shropshire’s natural environment;
- MD13 - Protecting Shropshire’s historic environment.

9.2.4 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.”

## 10. RELEVANT PLANNING AND SITE HISTORY:

- NS/08/02077/ENQ Enquiry regarding development of land REC
- NS/78/00100/FUL Erection of agricultural workers dwelling. GRANT
- PREAPP/13/00485 Erection of a 1 mw Anaerobic digestion plant and associated infrastructure PREAIP 11th November 2013
- 14/01398/MAW Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works GRANT 19th December 2014
- 15/00835/DIS Discharge of Condition 1 (a and b) and Condition 5 of Planning Permission 14/01398/MAW for the installation of Anaerobic Digester plant consisting of control building, feedstock / reception building, 30 m diameter digester, 30 m diameter digestate store, feedstock clamps and all associated works DISPAR 20th April 2015
- 15/02229/DIS Discharge of Conditions 15 (Complaints procedure), 17 (specifications and surface treatments), 21 (drainage), 22 (Secondary containment), 23 (surface water) , 24 ( External lighting) and 26 ( Landscaping) of planning permission 14/01398/MAW. DISAPP 15th October 2015
- 15/02293/AMP A non-material amendment to previously granted 14/01398/MAW to amend the Site layout . GRANT 1st June 2015
- 16/00919/VAR Variation of Condition No.s 2 , 3 and 8 attached to Planning Permission 14/01398/MAW dated 19th December 2014 for installation of an anaerobic digestion plant WDN 15th September 2016
- PREAPP/16/00395 Proposed demolition of Broughall Fields Farmhouse and erection of replacement dwelling PREAIP 13th September 2016 16/04784/VAR Variation of conditions 2, 3 and 8 attached to 14/01398/MAW dated 19/12/2014 (for installation of an anaerobic digestion plant) to alter the site layout and increase the quantity of feedstock accepted at the site. PDE
- NS/02/00318/FUL Erection of 11 KV overhead line supported on wooden poles APPRVD 27th June 2002

## 11. ADDITIONAL INFORMATION

### 11.1 Policies material to the determination of the application

In determining the Local Planning Authority gave consideration to the policies listed in section 10 of this report.

List of Background Papers: Planning application reference 14/01398/MAW and associated

location plan and documents
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member: Cllr Gerald Dakin (Whithurch South)
Appendices: Appendix 1 – Conditions

## **APPENDIX 1**

### **Conditions**

#### COMMENCEMENT OF DEVELOPMENT

- 1a. The development to which this planning permission relates shall be deemed to be implemented beginning with the date of this permission.
- b. Not less than seven days prior notice shall be given in writing of the intended date for the commencement of anaerobic digestion operations at the site, hereby referred to as the "Commissioning Date".

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

#### DEFINITION OF SITE AND DEVELOPMENT

2. This planning permission shall only relate to the area edged red on the approved block plan (drawing number SA22500/03) 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 the application form dated 17th October 2016 and the accompanying plans and documents and plans.

Reason: To define the permitted development.

5. Construction operations shall occur in accordance with the Construction Management Plan approved under permission reference 15/0835/DIS.

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

6. The site access 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.

#### USE OF THE FACILITY AND CONTROL OF TONNAGES

7. The principal uses of the Site shall be restricted to:
- i. the anaerobic digestion process and the associated receipt, handling and storage of agricultural wastes and crop products;
  - ii. generation of electricity and heat and other ancillary operations associated with the above activities.

Reason: To define the type and sources of materials permitted to be managed and handled at the Site in accordance with the approved scheme, in the interests of general amenity and to protect surface and groundwater from pollution.

- 8a. The maximum tonnage of materials imported to the Site in any calendar year shall not exceed 44,000 tonnes. For the avoidance of doubt a calendar year shall comprise the period between 1st January and 31st December.
- b. The Site operator shall maintain a record of the tonnage of materials including energy crops and agricultural wastes delivered to the Site and the numbers of associated HGVs and tractor and trailer loads. The record shall be made available to the Local Planning Authority upon prior written request. A report of the total tonnage of waste imported to the Site in each successive calendar year shall also be provided to the Local Planning Authority in writing within one month of the year end.

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 whilst having regard to the fact that different potential feedstocks may have different calorific values (8a). To facilitate monitoring of tonnages imported to the anaerobic digestion facility by the Local Planning Authority (8b).

*Note: The operator should employ traffic management measures to reduce the impact of Site traffic during peak times such as harvesting. Consideration should be given to:*

- *Control of dispatch of vehicles from the Site to reduce the possibility of tractor and trailer units associated with the Site meeting on narrower parts of the public highway;*
- *Reducing the need where possible to harvest different crops within the farm unit at a similar time;*
- *Controlling the importation of poultry manure so that it is not coincident with harvesting or digestate spreading wherever possible;*
- *Ensuring drivers of AD tractors & trailers adhere to appropriate speed limits and safeguards whilst negotiating the local highway network;*
- *Providing identification markings so that vehicles using the Site can be readily identified.*

#### STORAGE



9. The storage of feedstock materials at the Site in connection with the anaerobic digestion process hereby approved shall not take place other than in the approved feedstock reception areas which are shown on the approved plans.

Reason: To ensure that storage of feedstocks for the anaerobic digester can be adequately accommodated within the overall Site layout and in the interests of general and visual amenity.

#### NOISE

10. Noise from the operation of plant in the engine room (together with noise from system pumps, and from any other associated plant) shall be attenuated to achieve a calculated level which does not exceed 5 decibels (dB(A)) above the night time background noise level outside the nearest noise sensitive property.

Reason: To protect the amenity of the occupiers of nearby properties.

- 11a. Notwithstanding condition 10, the following noise attenuation measures shall be applied during operation of the site:

- i. 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.
- ii. Machines in intermittent use shall be shut down or throttled down in the intervening periods when not in use or throttled down to a minimum.
- iv. All ancillary plant such as generators, compressors and pumps shall be positioned so as to cause minimum noise disturbance;

- b. All fixed and mobile plant based at and operating within the Site shall be fitted with attenuated reversing alarms. Details of the types of reversing alarm proposed to be fitted to vehicles / plant under the terms of this condition shall be submitted for the approval in writing of the Local Planning Authority prior to the Commissioning Date.

Reason: To minimise the possibility of adverse noise impact from Site operations at the closest receptor locations, including properties adjacent to the access from the public highway.

13. 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.

#### PEST / VERMIN CONTROL

- 14a. 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 feedstock storage areas;
  - ii. An inspection regime with 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 approval of the scheme required by Condition 14a 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.

#### AMENITY COMPLAINTS PROCEDURE

15. Prior to the Commencement Date the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise, odour and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the Local Planning Authority. 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.

#### HOURS OF OPERATION

- 16a. With the exception of use of the generator 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. Notwithstanding Condition 16a, provision shall apply for extended working for not more than 10 periods in any calendar year in order to cater for exceptional circumstances. During periods of extended working no operations hereby permitted shall be undertaken at the Site, except within the hours specified in Condition 16a above and during the following hours:

Mondays to Fridays	05.00 to 23.00 hours
Saturdays:	05.00 to 23.00 hours
Sundays / Bank Holidays	06.30 to 20.00 hours

Records of extended working under this condition shall be maintained and shall be provided to the Local Planning Authority upon request.

- c. Construction activities shall be restricted to within the following times:

Monday to Friday: 07:30- 18:00,

Saturdays: 08:00 - 13:00.

No construction shall occur on Sundays or bank holidays.

- d. Vehicle movements and deliveries during construction shall be restricted to the following times:

Monday to Friday: 07:30- 18:00,

Saturdays: 08:00 - 13:00.

No construction 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 (16a, c, d) whilst making appropriate provision for extended working to cater for exceptional circumstances (16b).

*Note: Wherever possible, the Local Planning Authority should be notified in advance of any proposed periods of extended working under the terms of Condition 16b.*

#### BUILDINGS, STRUCTURES AND PLANT

17. Detailed specifications and surface treatments including cladding colour (BS reference) of the anaerobic digester units and associated buildings and structures shall be submitted for the approval of the Local Planning Authority within 3 months of the date of this permission. 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.

18. 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.

19. Not more than two digester tanks shall be constructed and used at the site under the terms of this permission.

Reason: For the avoidance of doubt and to define the permission.

#### GENERAL PERMITTED DEVELOPMENT ORDER

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no buildings, demountable structures, fixed plant, or structures of the nature of buildings or fixed plant, and no fence or soil mound, in addition to those

shown on the approved plans listed in condition 3 above, shall be erected at the Site unless approval in writing for their details and specification has first been obtained from the Local Planning Authority.

Reason: To maintain control over the appearance of the site and ensure that the development is in accordance with the permitted details.

#### POLLUTION CONTROL AND DRAINAGE

21. systems; the re-routing of drainage and the existing underground culverted Prior to the first operation of development, details of the decommissioning of existing field drainage watercourse, as shown on drawing no. SA13299/03 rev A, shall be submitted to and agreed in writing by the Local Planning Authority. There shall be no watercourses or land drainage systems within 10 metres of the site installation boundary. Thereafter the works shall be carried out and maintained in accordance with the approved plans.

Reason: To decommission the existing underground drainage system (to re-route and install a new drainage system) and divert the piped watercourse, to prevent pollution of controlled waters.

22. Within 3 months of the date of this permission a scheme confirming details of secondary containment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include provision for the following:
- i. containment of any accidental spills / leaks based on 110% containment of the tank capacity including the proposed bund as shown on drawing no. MB470002 dated September 2013.
  - ii. Compliance with the CIRIA 164 standard including ensuring that no surface water soakaway or drainage pipework breaches the bund;
  - iii. Measures for dealing with minor spillages;
  - iv. Measures for dealing with a catastrophic tank spillage event.

The containment measures shall be implemented in accordance with the approved scheme prior to the bringing into use of the Anaerobic Digester facility.

Reason: To prevent pollution of the water environment.

*Note: As required by the Environmental Permit, all storage and process tanks should be located on an impermeable surface (a hydraulic permeability of not greater than  $1 \times 10^{-9}$  m/s) with sealed construction joints within the bunded area.*

- 23a. Within 3 months of the date of this permission a drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme required by this condition shall include the following details:
- i. Confirmation of measures for dealing with surface water run-off from the site including surface water soakaways for clean water only which are designed to either cater for the 1 in 100 year + 20% storm event, or cater for the 1 in 10 year storm event, (in which case a flood conveyance drawing for exceedence flows should also be submitted);
  - ii. Measures to intercept surface water prior to flowing on to the public highway;

- iii. Confirmation that the finished floor level of buildings within the site is set above any known flood level;
  - iv. Confirmation of detailed measures for dealing with contaminated surface water runoff from the site in accordance with the principles set out in the Flood Risk Assessment, including provision to isolate, store and manage such drainage in order to prevent groundwater pollution.
  - v. Details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.
- b. Following its approval, the drainage measures shall be implemented in accordance with the approved details prior to the Commissioning Date.

Reason: To ensure that disposal of surface water is undertaken in a sustainable manner which also reduces flood risk.

Notes:

- i. *The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 20% for climate change. Flood water should not affect other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for the approval in writing of the Local Planning Authority prior to the Commencement Date. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.*
- ii. *If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval under the scheme required by Condition 22a. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 20% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.*
- iii. *All concrete areas where feedstock and digestate are handled should have a system in place to allow for water that may be contaminated to be diverted away from the clean water disposal route in to the dirty water system.*
- iv. *Any contaminated/dirty wash water should be collected via impermeable surfaces and disposed of to an appropriate system. The applicant should incorporate measures to prevent the transmission of oils, fuel, or other hazardous materials from entering the AD process. For example, a separate sealed drainage system for areas likely to be contaminated with any wheel washing or oils etc. should be installed, perhaps with a sump system for disposal elsewhere in the absence of a mains foul sewer connection.*
- v. *As part of the sustainable urban drainage scheme ('SUDS'), the applicant is encouraged to employ the following measures:*
  - Permeable surfacing on any new driveway, parking area/ paved area;
  - Rainwater harvesting system;
  - Greywater recycling system;
  - Green roofs;

- *Water Butts.*

## LIGHTING

- 24a. Within 3 months of the date of this permission updated external lighting details shall have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include the following details:
- hours of use of external lighting,
  - the exact location and nature of any lights;
  - the specification including height any fixed or mobile structures;
  - the intensity of the lights;
  - the identification of areas to be illuminated and any measures to prevent light spilling on to areas outside the Site;
  - measures such as shrouding to minimise disturbance through glare.
- b. Following approval of the lighting scheme required under condition 24a 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 and to minimise disturbance to bats, a European Protected Species.

### Notes:

- The submitted scheme shall also be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.*
- In order to reduce the likelihood of complaints regard should be had to the following considerations when considering the design of lighting schemes:*
  - What is the minimum lighting level required and what areas require lighting.*
  - Where could light produced have the potential to impact upon others? By considering which areas may be most sensitive to light it may be possible to reduce the need for lighting in these areas and in turn remove the likelihood of any complaint being received*
  - Sky glow should be minimized. As a result it is recommended that no light is emitted above horizontal and ideally all lighting should be angled below 90 degrees from vertical.*
  - Glare should be minimised by giving careful thought to the positioning and orientation of lighting as well as the need for baffling and appropriate light fittings*
  - Light spill should be reduced wherever possible. It is this aspect that is most likely to give rise to complaints. In order to reduce light spill the use of double asymmetric light fittings is suggested. They should be appropriately angled to stop light spilling onto/into other properties*
  - Where lighting is not required all of the time, e.g. security lighting, floodlighting of a sports field, it is recommended that sensors are used with an appropriate cut off time or that lighting is on a timer to ensure that lights go off once activities have finished*
  - The lowest Wattage lighting should be used in order to reduce glare and light spill.*

25. Within 3 months of the date of this permission updated details of the proposed fire protection measures to be put in place at the Site shall be submitted to and approved in writing by the Local Planning Authority and the Site shall thereafter be operated in accordance with the approved scheme.

Reason: In the interests of fire prevention..

#### LANDSCAPING AND AFTERCARE

- 26a. Within 3 months of the date of this permission a detailed landscaping scheme to supplement the details provided in plan reference WBG1PP01 shall be submitted for the approval in writing of the Local Planning Authority. The approved scheme shall be implemented within the first available planting season following the approval of the scheme in writing by the Authority and shall include:

- i. Details and specification of planting including the species, specification, origin, method and density of planting, with provision for use of a high percentage of native species and provision of species rich hedgerow;
- ii. Details of protection measures and procedures for addition of soil ameliorants.

- b. All existing hedgerows, shrubs and trees on the margins of the Site which are not allocated for removal as part of the development and all new planting at the Site shall be retained and protected from damage for the duration of the operations hereby approved.

Reason: To local amenities by reducing the visual impact of the proposal and in the interests of ecology.

27. All new planting within the Site shall be subject to aftercare / maintenance for a period of 5 years following planting, including cultivation and weeding. Any trees or plants that are removed, die or become seriously damaged or defective within the aftercare period, 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.

- 28a. Prior to the bringing into use of the anaerobic digester facility details of three woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

- b. Prior to the bringing into use of the anaerobic digester facility six woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be installed on the site.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species (29a) and besting opportunities for wild birds (29b) in the interests of biodiversity (Core Strategy Policy CS17).

Notes:

- i. *All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and a licenced bat ecologist should be contacted for advice.*
- ii. *The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. Operations shall be managed to avoid the need to commence work affecting vegetation in the bird nesting season which runs from March to September inclusive. If it is necessary for work affecting vegetation to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests shall be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist shall be called in to carry out the check. Work affecting vegetation shall not proceed unless it can be demonstrated to the Local Planning Authority that there are no active nests present.*

## ANNUAL REVIEW

- 30a. An annual review meeting involving the operator to the Local Planning Authority shall be held in order to review the performance of the Site over the previous calendar year in relation to the requirements of conditions attached to this Planning Permission. The meeting shall be held no later than 3 months after the year end.
- b. The annual review meeting shall also assess the potential for utilizing additional heat from the CHP unit with provision for taking appropriate further action in the event that identified trigger levels are reached.

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

## CESSATION OF USE

- 31a. 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.

## RETENTION OF APPROVED DOCUMENTS



32. A copy of this planning permission and any schemes permitted under its terms and conditions shall be retained at the Site and be available for inspection by staff at the Site and officers of the Local Planning Authority.

Reason: To ensure staff on Site are aware of planning controls to be complied with.

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

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. This is in accordance with the advice of the Governments Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. The applicant sought and was provided with formal pre-application advice by the authority. Further information has since been submitted in response to comments received during the planning consultation process. The submitted scheme, has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended planning conditions and legal agreement.

### Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement

Application name and reference number:

14/01398/MAW

Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works - Broughall Fields Farm Ash Road Whitchurch, Shropshire

Date of completion for the HRA screening matrix:

19<sup>th</sup> May 2014

HRA screening matrix completed by:

Alison Slade

Planning Ecologist

Shropshire Council

01743 252578

[Alison.Slade@Shropshire.gov.uk](mailto:Alison.Slade@Shropshire.gov.uk)

**Table 1: Details of project or plan**

Name of plan or project	Anaerobic Digestion plant at Broughall Fields Farm Ash Road Whitchurch
Name and description of Natura 2000 site	<p>Brown Moss SAC and Ramsar site, part of the Midland Meres and Mosses Phase 1.</p> <p>Brown Moss SAC (32.02ha) is a series of pools set in heathland and woodland. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate.</p> <p>Criterion 1a. A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.</p> <p>Ramsar criteria:</p> <p><b>Criterion 2a.</b> Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce sixstamened waterwort <i>Elatine hexandra</i>, needle spike-rush <i>Eleocharis acicularis</i>, cowbane <i>Cicuta virosa</i>, marsh fern <i>Thelypteris palustris</i> and elongated sedge <i>Carex elongate</i>.</p> <p><b>Criterion 2a.</b> Contains an assemblage of invertebrates, including the following rare wetland species. 3 species considered to be endangered in Britain, the caddis fly <i>Hagenella clathrata</i>, the fly <i>Limnophila fasciata</i> and the spider <i>Cararita limnaea</i>. Other wetland Red Data Book species are; the beetles <i>Lathrobium rufipenne</i> and <i>Donacia aquatica</i>, the flies <i>Prionocera pubescens</i> and <i>Gonomyia abbreviata</i> and the spider <i>Sitticus floricola</i>.</p>
Description of the plan or project	<p>Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works.</p> <p>Substrate from different feed stocks is mixed in a fermentation tank or biogas digester. Methane is produced from the anaerobic process. The gas is dried and vented into a gas engine connected to a generator to produce electricity.</p>

	Liquid digestate will be stored in a tank.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

### Statement

The application site is approximately 1km to the north west of Brown Moss SAC/Ramsar site. It is outside the surface water catchment area for the European site. The application includes an Environmental Supporting Statement and Odour Risk Assessment, which describe the means by which air emissions (and odours) will be controlled. The prevailing winds are from the west and southwest, so generally away from Brown Moss.

NE states in their letter dated 30<sup>th</sup> April 2014 that emissions resulting from the anaerobic digestion process are unlikely to have a significant effect beyond 500 metres from the application site and that Brown Moss is around twice this distance from the site.

### The Significance test

The proposed works in application 14/01398/MAW Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works - Broughall Fields Farm Ash Road Whitchurch, Shropshire will not have a likely significant effect on the Brown Moss SAC and Midland Meres and Mires Phase 1 Ramsar site due to no pathways for an effect. An Appropriate Assessment is not required.

### The Integrity test

The proposed works in application No: 14/01398/MAW Installation of Anaerobic Digestion plant consisting of control building, feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works - Broughall Fields Farm Ash Road Whitchurch, Shropshire will not have an impact on the integrity of the Brown Moss SAC and Midland Meres and Mires Phase 1 Ramsar site due to no pathways for an effect. An Appropriate Assessment is not required.

### Conclusions

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

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Committee and Date  
 North Planning Committee  
 28<sup>th</sup> February 2017

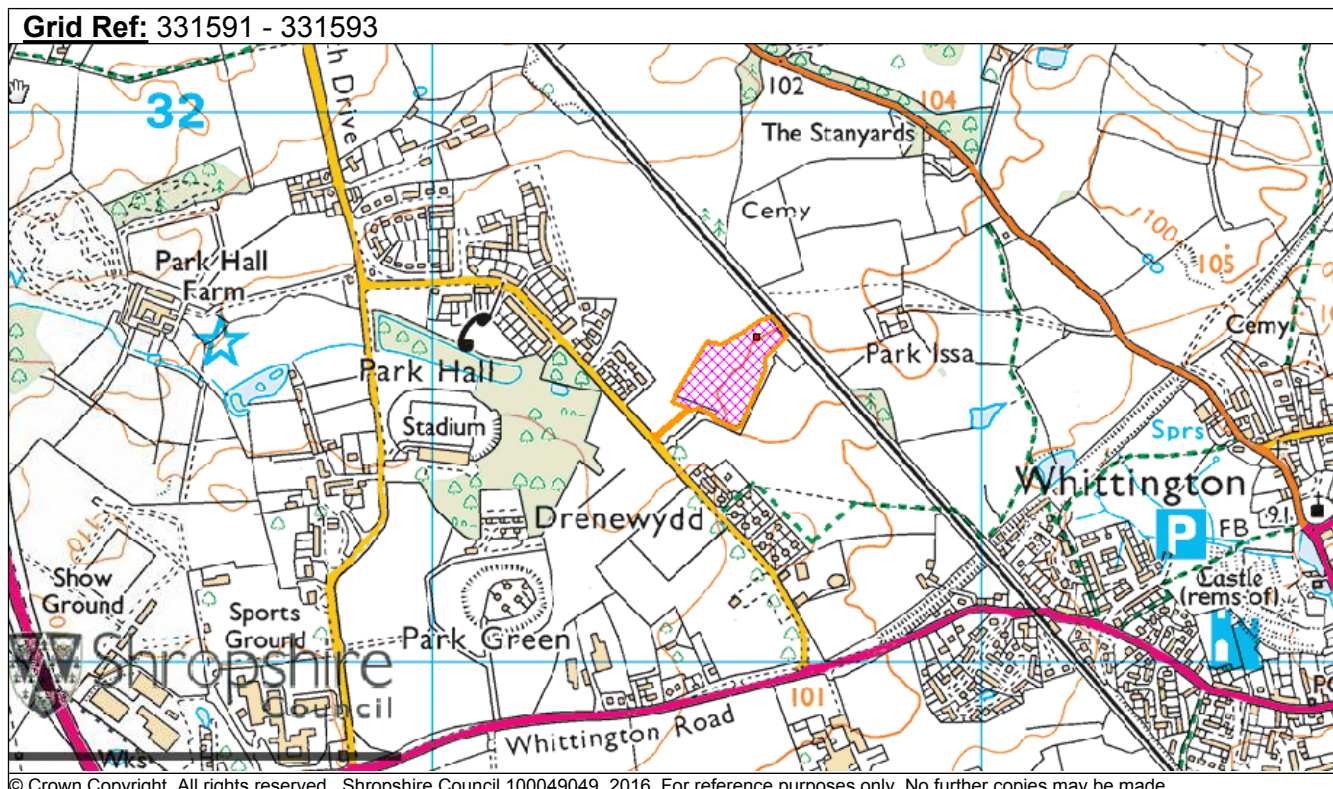
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 Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 16/05810/FUL	<b>Parish:</b>	Whittington
<b>Proposal:</b> Change of Use of Land for the Provision of up to 3 Gypsy Traveller Pitches OR up to 3 Travelling Showpeople Plots (to include construction of new vehicular and pedestrian access and bunding, and a maximum of 1 double amenity block with associated landscaping).		
<b>Site Address:</b> Proposed Development Land To The East Of Drenwydd Park Hall Shropshire		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> Karen Townend	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	



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

1.1 The application seeks consent for a change of use of the land from agricultural use to a site for the provision of up to 3 gypsy traveller pitches or showpeople plots. The application as originally submitted proposed 6 pitches. During the consideration of the application the scheme has been reduced to the provision of up to 3 pitches. The application includes the construction of a new vehicular access, bunding and landscaping around the site for the pitches/ plots and the erection of 1 double amenity block to be finished in brick and tile.

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The application site is currently agricultural land of 2.59 hectares which is situated between an existing bunded area, the railway line and sewerage treatment works. Other agricultural land lies immediately around the site which extends from the railway line to the rear of the existing houses on Drenewydd.

2.2 Park Hall is a dispersed settlement used as a military camp up to 1975 and located between Oswestry and Whittington, within the Parish of Whittington. The settlement includes two groups of houses, the majority in one group adjacent to the junction of North Drive and Inglis Road and the other smaller group along Drenewydd which is made up of three cul-de-sacs of detached and semi detached two storey dwellings finished in red brick, render and tile. A recent affordable housing scheme has been built on the edge of Park Hall extending that part of the settlement towards the housing on Drenewydd.

2.3 In the wider area, also considered part of the Park Hall area, there are several various sized business units, including the Council highway depot; community facilities including football and rugby clubs and The Venue, Park Hall Countryside Experience and Oswestry showground. There is also an existing traveller site southwest of the proposed site, accessed off the A495, which provides 15 pitches on the original site and has recently been extended with a further 10 pitches on land immediately north of the original site.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Parish Council comments are contrary to the recommendation of officers. The local members have also requested that the application be determined by committee. The Chair and Vice Chair of the North Planning Committee, in discussion with the Principal Planning Officers, have agreed that the issues raised are material planning considerations and that the matter should be decided by members at committee.

**4.0 COMMUNITY REPRESENTATIONS****4.1 Consultee Comments**

4.1.1 **Parish Council** – The site is remote from the existing travellers site which is already established and has the benefit of existing infrastructure and facilities. As such, this is not an extension but a NEW DEVELOPMENT.

The proposed use has no relationship with its surroundings, the applicant has

made little attempt to blend the scheme into the landscape. It looks like it has been 'dropped' in next to a railway line with some simple planting and little thought to design and minimum thought for how it will be managed.

The proposed new access lies next to traffic calming measures. The road is already narrow and causes problems when vehicles try to pass. The turning of caravans, lorries and trailers will cause further disruption and could, potentially, block the road. What thought has been given to the rubbish trucks gaining access to empty bins and delivery vehicles?

The infrastructure costs of providing this new road to serve the site will not only be high but will have a negative impact of the environment. Taxpayers money will be used to deliver a poorly thought scheme with very little benefit coming back into the Parish.

The site should be properly screened from nearby development but this, in itself, would present the opportunity for fly tipping and dumping of burnt out vehicles as seen on the existing site which is more visible. This could cause a problem to the nearby popular and busy railway line. Do we want people commuting to Oswestry and Gobowen to be welcomed by this site and potential eyesore?

There was a significant number of residents at a recent Parish Council meeting who are clearly upset that this new development is even being considered. The Parish Council believe that Whittington Parish has done its bit and totally object that this is even being considered by the Planners.

- 4.1.2 **West Mercia Police Architectural Liaison Officer** – I comment on this proposal as design Out Crime Officer for West Mercia Police.

Having discussed the proposal with the local Police Inspector I have no objections.

- 4.1.3 **Network Rail** – No comments received.

- 4.1.4 **Education** – No comments received.

- 4.1.5 **Public Protection** – Having considered the location I can confirm that I have no objection to the development in principal. There are no contaminated land concerns highlighted for this site and therefore no contaminated land conditions are necessary. A noise assessment has been prepared and submitted in support of this application. It assumes brick built amenity buildings and has considered noise impact from surrounding sources including the railway. I agree with its conclusions and therefore have no objection to the proposed site in respect of noise assuming that caravans are placed a minimum of 30m back from the railway line.

As a result I have no conditions to recommend on this application.

- 4.1.6 **Highways** – The proposal shows the construction of a new vehicular access onto Drenewydd, a short distance northwest of an existing access and private road leading to a pumping Station. The new access is located immediately adjacent to a build-out on Drenewdd which has not been acknowledged as part of the

submitted details. This is not however a substantive issue but clearly if the development were implemented, the build-out would need to be relocated at the applicant's expense. Is satisfied that this matter can be dealt with by condition.

The proposed junction layout appears somewhat excessive in terms of its radii, bellmouth size and width of access road leading to the Traveller site. There may be scope to reduce the overall scale of these works but this will be dependent upon the scale of the development, if reduced from that currently shown. Again this matter can be dealt with by condition.

The applications drawings do not show visibility splays being provided at the proposed access onto Drenewydd but it is apparent that the site frontage can provide the requisite visibility splays commensurate with the speed of traffic and in accordance with Manual for Streets Guidance.

Considers, therefore, that there are no highway grounds to refuse planning consent and recommend the following condition be imposed upon any consent granted:-

- Prior to the commencement of development full engineering details of the access, visibility splays, access road and parking areas together with measures to relocate the existing traffic management build-out on Drenewydd, shall be submitted to and approved in writing by the Local Planning Authority; the scheme shall be carried out fully in accordance with the approved details before the Traveller site is first brought into use/occupied. Reason: In the interests of highway safety.

4.1.7 **Rights of Way** – No comment

4.1.8 **Ecology** – No objection, recommends conditions.

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

4.1.10 **Archaeology** – No comments to make on this application with respect to archaeological matters.

## 4.2 **Public Comments**

4.2.1 209 comments have been received objecting to the application on the following grounds:

- Already have a traveller site in the area which has recently been extended and is not full/ overcrowded
- Combination of traveller sites would dominate settlement
- Traveller and showpeople groups do not always get on
- On greenbelt land
- Land currently used by community
- Land sold to Council by MOD on the basis it would be used for agriculture for 99 years – development contrary to this agreement
- Other sites available – Smithfield, Oswestry; Maesbury School; St Martins school;
- Council should legitimise site opposite Henlle golf club



- No evidence of need
- No public consultation carried out
- Lack of school places and other amenities
- Too close to the railway line
- Roads too narrow and existing traffic speeding issues
- Access opposite traffic calming bollards and therefore may not be suitable for large vehicles such as site occupants vehicles and bin collection vehicles
- Increase in traffic and footfall
- Loss of property values
- Increased crime and disorder
- Adverse impact on community cohesion
- Impact on farming of adjacent land
- Impact on neighbours amenities from noise
- Impact on future residents of proposed site from noise of trains
- Affect on wildlife

4.2.2 A petition of 190 signatures has also been received objecting on the following points:

- Site is outside settlement, therefore countryside
- Impact on openness and green wedge
- Increase in traffic on already highly trafficked road
- Increase in debris and rubbish
- Impact on privacy of residents
- Decrease in property value
- Whittington already accommodates traveller site
- No consideration of other sites/ brownfield sites
- Not sustainable location
- No public consultation
- Impact on character of area
- Should await results of Gypsy and Traveller Accommodation Assessment

## 5.0 THE MAIN ISSUES

- Policy & principle of development
- Need and status of applicants
- Suitability of proposed site
- Layout of site, scale and design of buildings
- Impact on local area and neighbours amenities
- Access and highway issues
- Trees and ecology
- Drainage
- Other matters

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & Principle of Development

6.1.1 This application is to establish a new site for either up to 3 gypsy traveller pitches or up to 3 travelling showpeople plots. As noted above the scheme has changed since the original submission to reduce the number of pitches/ plots and also to clarify that the site will only be used for one or the other and not both uses. The

proposal is to accommodate existing families who are currently living on sites which only have temporary planning permission in the North Shropshire Area.

6.1.2 Gypsy travellers are defined in the Planning Policy for Traveller Sites (PPTS) (2015) as being:

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily but excluding members of an organised group of travelling show people or circus people travelling together as such.”*

6.1.3 Travelling Showpeople are defined in the Planning Policy for Traveller Sites (PPTS) (2015) as being:

*“Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family’s or dependants’ more localised pattern of trading, educational or health needs or old age have ceased to travel, temporarily”.*

6.1.4 The PPTS also defines the difference between “pitch”, which means a pitch on a “gypsy and traveller” site and “plot”, which means a pitch on a “travelling showpeople” site (also called a “yard”). For ease of reference this report from this point on will refer to the proposal as being for up to 3 pitches but with the understanding that it would be up to 3 plots if the site is used by the travelling showpeople community.

6.1.5 The development of such sites, by their very nature, is often contentious. However, local planning authorities are obliged to ensure that the accommodation needs of gypsies and travelling showpeople is assessed and addressed through a plan-led process and local authorities are also obliged to react to other immediate requirements which may not be able to be planned through the plan led process.

6.1.6 Within the supporting statement submitted with the application it advises that the current application is proposed as part of the ongoing management of gypsy and traveller sites. Furthermore, as noted above the proposal is intended to provide a permanent site for existing families currently residing on sites within the north west Shropshire area which only benefit from temporary planning permission. As such the current proposal is reacting to a current identified need to re-site some of these existing families. The revised proposal is for up to 3 pitches, the end layout and number of pitches will depend on which family takes on the site. It is not intended to use the site as a transit site and, as confirmed above, it is not intended to allow the site to be occupied by gypsies and travelling showpeople at the same time.

6.1.5 National policy for this form of development is within the PPTS which was amended in August 2015. The PPTS advises that it should be read in conjunction with the National Planning Policy Framework (NPPF). Both the NPPF and the PPTS reiterate the requirement that planning decisions must be taken in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this instance the Shropshire Core Strategy which has a specific policy Gypsies and Traveller Provision (Policy CS12). Policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and

Development Principles) and CS9 (Infrastructure Provision) are also material to the decision along with the Supplementary Planning Document on Type and Affordability of Housing (SPD).

- 6.1.6 The PPTS and NPPF are also supplemented by additional key evidence and supplementary policies namely;
- Regional Gypsy and Traveller Accommodation Assessment 2014 (updated January 2015); and
  - Designing Gypsy and Traveller Sites. National Good Practice Guide (2008)
- 6.1.7 Policy CS12 of the Core Strategy is the key local policy for consideration of the accommodation needs of gypsies and travellers. This policy advises that the accommodation needs will be addressed by:
- Allocating sites to meet identified needs
  - Supporting suitable development proposals for sites close to Shrewsbury, the market towns, key centres, community hubs and clusters
  - Supporting small exception sites (up to 5 pitches) where a strong local connection is demonstrated
  - Identifying a site for Travelling Showpeople in North-West Shropshire
  - Ensuring all sites are accessible to services and facilities, incorporate suitable design and screening, have suitable access and manoeuvring areas and make provision of business and recreation within the sites.
- 6.1.8 The current proposal is for a site close to the development boundary of the settlement of Park Hall which is part of a community cluster with Hindford, Babbinswood and Lower Frankton in the recently adopted SAMDev and also close to the boundary of Whittington which is a community hub in the SAMDev. The site is not being considered as a small exception site (third bullet point) but as a site close to the community cluster (second bullet point) or a site for Travelling Showpeople (fourth bullet point). As such it is officers advice that the principle of the change of use for gypsy or travelling showpeople is in line with the adopted development plan.
- 6.1.9 The key issues when assessing applications for new sites is also set out in the PPTS as follows:
- The existing level of local provision and need for sites
  - The availability (or lack) of alternative accommodation for the applicants
  - Other personal circumstances of the applicant
  - That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/ plots should be used to assess applications that may come forward on unallocated sites, eg:
    - Is the site in a suitable and sustainable location?
    - Is the site reasonably accessible to services and facilities?
    - Is suitable access provided?
    - Is the site well planned or landscaped in such a way as to positively enhance the environment and increase its openness
- It is consideration of these issues which forms the basis of this report.

## 6.2 **Need and status of applicants**

- 6.2.1 In a Shropshire context accommodation needs for gypsies and travellers and

Travelling Showpeople have been identified in the sub-regional Gypsy and Traveller Accommodation Assessment and updated in the 2014 Shropshire Gypsy and Traveller Accommodation Assessment (GTAA). Through the Core Strategy Shropshire aims to facilitate the provision of 79 gypsy pitches, one transit site and a site for Travelling Showpeople. The most recent published GTAA (2014) has demonstrated that there is a shortfall of 19 gypsy pitches over the period 2014/15 to 2018/19 (excluding turnover) and sufficient capacity if turnover is considered. However, the GTAA notes that the Council is seeking to deliver a minimum of 5 additional pitches and a transit site of around 5 pitches. The GTAA also confirms the need to provide a permanent site for Travelling Showpeople.

- 6.2.2 The GTAA has been undertaken to inform planning applications and local plan preparation. The work carried out includes an assessment of pitch and plot requirements by utilising information on current supply and the results of interviews with gypsy and travelling showpeople families. The GTAA considers the number of existing households, the number of authorised pitches, households planning to move, the turnover of pitches and emerging housing in establishing the need for future pitches. This document is therefore useful in understanding need.
- 6.2.3 To date the Council has not identified any alternative sites for the existing families currently living on temporary sites in the north west of Shropshire. This is a locational specific need. These families have existing connections to the area and it would meet the needs of these families to provide them with sites in other parts of the County. It is therefore considered that there is an identified need for sites to accommodate these families in the north west of Shropshire. The proposal as now amended will provide for one group and as such it is accepted that further sites may still need to be found at a later date. However, the current proposal could accommodate one of the existing gypsy families or the travelling showpeople living in the North of Shropshire on a site with temporary planning permission.
- 6.2.4 Objectors have questioned why the gypsies in need of accommodation cannot be provided for within the recently extended existing site at Park Hall. Case law has established that, for Gypsy and Traveller applications, the balance between rights of the individual and the rights of others has to take into account the difficulties faced by this recognised ethnic group in finding any suitable sites on which to live, that respects their culture. This legal situation means that the identified need for gypsy and traveller sites is a material consideration which must be given significant weight by the Council in reaching any decision.
- 6.2.5 The personal circumstances of gypsy and showpeople families currently living on sites with temporary consent is sufficient justification to provide an additional site. The Council operate the existing Park Hall site and are aware of the potential families which may occupy the current application site. Furthermore, it would be unreasonable of the Council to require a gypsy family to live on a site that does not meet the locational needs of the family having regard to their children's education etc. and other family links to an area. As with the settled community members of the gypsy community have a choice and have human rights which need to be respected. Officers advise that it is the personal circumstances of the families that means they cannot be accommodated on the existing Park Hall site.

- 6.2.6 The concerns raised about anti-social behaviour need to be considered with great care as there is no reason to assume that gypsy families create any more anti-social behaviour issues than the settled community. The comments from the local police Inspector are noted at 4.1.2 above and no objections are raised.
- 6.2.7 The concerns of the Parish Council and the local residents are noted, however, there is no requirement for the applicant to prove a local connection under the PPTS or the NPPF and both of these documents supersede the Core Strategy. As noted above the current application is being proposed under the second bullet point or fourth bullet point of policy CS12. It is considered by officers to be compliant with the principle of the second bullet point of this policy in that it is close to settlements with services and facilities. The site is considered to be in close proximity to both Park Hall and Whittington which are being promoted as a community hub and a community cluster. Alternatively, as a site for showpeople the proposal would be compliant with the principle of the fourth bullet point. As such policy CS12 is supportive of the principle of the proposal in either form.
- 6.3 **Suitability of proposed site**
- 6.3.1 The application site is outside the development boundary for both Park Hall and Whittington as identified in the SAMDev and as such, for planning purposes the site is considered to be countryside. However, policy CS12 of the Core Strategy supports development for gypsy and showpeople sites where they are close to community hubs (such as Whittington) or community clusters (such as Park Hall). Accordingly there is policy presumption in favour of developments outside development boundaries for the proposed use. The site is between the two identified settlements and within a short drive of both. Whittington provides a good range of services and facilities and access to other facilities is available in Oswestry which is approximately 3 miles away. It is considered by officers that the development of this site for the proposed use would be appropriate and would enable integration with the community.
- 6.3.2 Both settlements are considered to be sustainable locations suitable for open market housing as both have housing allocations and settlement guidelines for new housing. As such both settlements are considered to be sustainable and the site is not significantly detached from either settlement and as such it is officers opinion that the site is in a sustainable location.
- 6.3.3 Furthermore, it is considered that the development of this site as proposed would meet the sustainable criteria in paragraph 11 of the PPTS. The site provides the opportunity to promote integrated co-existence between the occupants and the community; provides the occupants with a settled base to access health services and schools and reduce the need for long distance travel. In this case the families are also already resident in the area and therefore already accessing these services and facilities. The proposal would firstly not add pressure to existing services and facilities and secondly would allow the families an element of consistency. The issues of impact on the amenities of existing and future residents are considered later in the report, however there is no issue of flooding at this site, the scale of the development proposed would not place undue pressure on the local infrastructure and services.

#### 6.4 **Layout of site, scale and design of buildings**

- 6.4.1 Policy CS12 also requires all developments to incorporate suitable design and screening and have suitable access and areas for manoeuvring and parking. Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.4.2 The proposed layout plan shows a new vehicular access driveway off Drenewydd following a similar line to the existing access to the sewerage pumping station. At the end of the new driveway the proposal is for a tarmac hardstanding area providing 3 pitches with one amenity building in between the pitches. The amenity building is approximately 6.7m by 7.3m, single storey, with a low pitched roof. Internally the building will provide an open plan kitchen/ day room and a bathroom. It is proposed to construct it out of brick and clay tile. The provision of amenity buildings on gypsy and traveller pitches is accepted as there are known hazards and welfare issues with cooking and bathing in a caravan on a regular basis. The principle of the proposed single building is not unacceptable and the scale and design of the proposed structure is considered to be appropriate for the use and the site.
- 6.4.3 Policy CS12 requires all gypsy and traveller developments to incorporate suitable design and screening and the PPTS requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. It is acknowledged that the 3 pitches will be hard standing, however the plan shows the existing bund on the western edge, a new bund on the northern and eastern edges and new landscaping on the southern edge. The details of the size of the bund and the amount and type of landscaping can be dealt with through an appropriately worded condition. The scheme would need to ensure that the visibility of the caravans is minimised but it is not necessary to attempt to completely hide them from view. Officers accept that the site is currently highly visible from the nearby properties, as will be considered below, and as such there is a need for additional bunding and landscaping to reduce this impact. The addition of the new bund and landscaping will ensure that the site is designed in accordance with the good practice guide on designing gypsy and traveller sites and will help to soften the development.
- 6.4.4 Officers also acknowledge that the site is within existing fields and in an area identified in the development plan as open countryside. However, the principle of gypsy and traveller sites in rural locations is accepted, as detailed in section 6.2 above. Officers consider that the development of the site for 3 pitches would be read as part of the settlement of Park Hall and not as a visually intrusive or isolated development in the countryside. It also lies adjacent to an established railway line and water treatment pumping station. It will result in a change of appearance of the site and any future lighting may also result in a greater impact. However, officers do not consider that this impact is of significant harm to outweigh the benefits of providing 3 additional pitches towards the identified need in the County and specifically the benefits of providing settled pitches for families currently living on sites with only temporary planning permission.
- #### 6.5 **Impact on local area and neighbours amenities**
- 6.5.1 Paragraphs 12 and 23 of the PPTS states that when considering the suitability of a site in a rural area regard should be had to the scale of the nearest settled

community. The nearest community is Park Hall which, as noted above, is being promoted as part of a Community Cluster, the fourth tier in the settlement hierarchy below Shrewsbury, the Market Towns and Community Hubs. It is acknowledged that it is a small settlement with limited, to no, services and facilities. However, it is an identified settlement with existing housing and allocations and consent for new housing. The proposals for 3 pitches would not therefore dominate the settlement.

- 6.5.2 Concerns have been raised about the cumulative impact of this proposal with the existing gypsy site. The original Park Hall site provides 13 pitches, the extension to Park Hall provided a further 10 pitches and this application is for 3 pitches. Therefore, if this application is granted there will be 26 pitches. The area does not have a higher proportion of gypsy pitches than other parts of the County as is assumed by some objectors, there are other Parishes across Shropshire that also have similar numbers of pitches. In considering whether cumulatively the overall pitch provision would dominate the settlement members need to consider the scale of the existing settlement. There are currently 33 houses in the group of houses on Drenewydd to the south of the application site. These houses are detached from the main body of Park Hall which is larger and also has an allocated housing site for 20 further dwellings. The existing settlement is significantly bigger than the combination of Park Hall and the proposed pitches and as such it is officer's opinion that it would be difficult to argue that the proposal would result in pitch provision dominating the settlement.
- 6.5.3 The Parish Council and residents have raised concerns about the impact on recreational use of the land and the impact on the amenities of existing residents from noise, air pollution, loss of privacy and light pollution. The land is not designated recreational and does not have any rights of way passing through it. The existing use by dog walkers and others has been at the discretion of the land owner and the tenant farmer and there is no protection over retaining this use.
- 6.5.4 The nearest neighbouring properties are the houses on Drenewydd which are approximately 150m away from the edge of the hard standing proposed as the new pitches. The distance will ensure that there is no loss of privacy and will also reduce the potential for light pollution providing the lighting is provided appropriately to not spill beyond the site. The noise and air pollution from the site would not be any greater than if the site were in a residential use and as such would not be any greater than the noise and air pollution from the existing residential properties.
- 6.6 **Access and highway issues**
- 6.6.1 As noted above the application proposes a single vehicular access off the existing public highway, Drenewydd, serving a driveway which leads to the area for the proposed gypsy pitches. Local concerns have been raised about the safety of the proposed access point, the proximity of the access to existing traffic calming measures, speed of traffic on this section of road and the increase in traffic which could result from the proposed development.
- 6.6.2 The Council Highway Officer's comments are provided in full under section 4.1.6 above. Within the comments the Highway Officer has noted the proximity of the access to the traffic calming build-out but has also confirmed that this is not an

issue and that the build-out could be relocated. The Highway Officer has also commented on the detail of the access proposal and advised that the size of the access could be reduced and that visibility will need to be shown. These issues, as noted by the Highway Officer, can be dealt with by condition and the Highway Officer is at no point stating that there is not a solution to the access junction design.

- 6.6.3 Although there is no control over traffic movements it is unlikely that the larger static caravans would be moved from the site once they have been sited unless either ownership changes or a new caravan is purchased. The majority of traffic movements would be with cars or 3.5T (or less) vehicles as could be associated with any domestic dwelling. The touring caravans are likely to move when the occupants travel but this could also be expected at an open market property with a caravan.
- 6.6.4 It is acknowledged that if the site is occupied by the travelling showpeople that there is a potential for large show vehicles to need to be on site. Officers experience of applications for travelling showpeople plots is that the vehicles are out at fairs and shows for most of the year, as this is the source of income for the family, there may be occasions when vehicles are brought back but it is not likely to be frequent or for there to be many vehicles at any one time. The site could not accommodate a significant number of fair vehicles.
- 6.6.5 In conclusion, although the concerns of the local community are noted, the technical issues can be overcome by amending the design of the access and relocating the build-out on the road and the level of traffic which would be associated with up to 3 pitches could not be considered to have a severe impact on highway capacity or safety to justify refusal. As such the proposal is considered, in principle, to be acceptable in highway terms.
- 6.7 **Trees and ecology**
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The site is currently agricultural land and open to the adjacent fields. An ecological survey has been undertaken and submitted with the application and considered by the Council's Ecologist.
- 6.7.2 The submitted ecology report considers the potential impact on great crested newts, birds, bats and badgers and details the habitats on site as being improved grassland with small areas of bare ground and a single small area of scrub. No existing trees or hedges are present within the application site. The report advises that there are no suitable breeding habitats for GCN within 250m of the site and no records within 500m. No signs of birds nesting in the area of scrub and no features present for bats or badger activity. The report considers that although there are species recorded in the local area none of these are considered likely to rely on the application site for their continued presence and abundance in the locality.
- 6.7.3 In conclusion the report considers that the potential ecological impact is minimal. Construction monitoring is recommended as too are the provision of nest boxes to



enhance opportunities for nesting birds. The Council Ecologist has raised no objection to the proposed development recommending conditions to provide ecological enhancements and to manage the timing of development to outside nesting season.

6.7.4 As noted above there are no trees or hedges within the site or on the boundaries of the site and as such the development will not have a detrimental impact on existing trees or hedges. New planting is proposed and a suitably worded condition can be imposed to ensure that the planting is of native species and appropriate for the landscape. Given the minimal ecological and tree impact the development can be considered to be compliant with policy CS17.

## 6.8 **Drainage**

6.8.1 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. The application form advises that the foul drainage from the development is proposed to be disposed of to the existing mains drainage system in the area and surface water disposed via soakaways.

6.8.2 The supporting statement submitted with the application details that there is an existing combined sewer which runs through the site which will provide connection to the mains drainage subject to the necessary agreements with Severn Trent Water. Percolation tests will also be required to ensure that the surface water drainage system is designed appropriately and provided with sufficient length of outfall. The Council Drainage Engineer has confirmed that this could also be dealt with by condition and would also need to include details of how the surface water will be accommodated and the finished floor levels to ensure that they are above the known flood levels of the surface water flooding.

6.8.3 Subject to the details required by condition the development of the site can be undertaken in accordance with the requirements of CS18.

## 6.9 **Other matters**

6.9.1 The supporting statement notes that the site was formally used as part of an army camp during the first and second world wars and that the land was reclaimed and the buildings demolished in the 1970's and as such the site is not considered to have any specific archaeological interest.

6.9.2 Local objectors have commented that the sale of the site from the MOD to the Council was on the basis that the land was used for agricultural uses for 99 years. This may be the case but would not be a planning matter. If the Council are not able to use the site for the proposed use due to clauses of purchase this is a separate matter. The planning merits of the proposal are considered separate to any land ownership and legal rights.

## 7.0 **CONCLUSION**

7.1 The application site is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy as the site is close to the proposed Community Cluster of Park Hall and as such is close to a sustainable settlement. The scale and design of the development, as amended, is considered to be acceptable and

although it would result in some harm to the character and appearance of the area this harm is not considered to be significant. The proposed use of this site would not result in harm to the amenities of nearby residents given the distance of existing properties from the site and the proposed landscaping and bund.

7.2 The specific need to accommodate families which are currently residing on sites with temporary consent in the north west of Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed the harm.

7.3 As such it is officer's opinion that the proposal for the change of use of the site from agricultural use to the provision of up to 3 gypsy pitches or up to 3 travelling showpeople plots, and the associated infrastructure works of the new access, driveway and amenity building is acceptable and complies with CS12 of the Shropshire Core Strategy, the NPPF and the Planning Policy for Traveller Sites.

## **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 three months after the grounds to make the claim first arose.

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

### **8.2 Human Rights**

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

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

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

**8.3 Equalities**

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

**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  
 Planning Policy for Traveller Sites  
 CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS12 - Gypsies and Traveller Provision  
 CS9 - Infrastructure Contributions

Relevant planning history:

No relevant history

**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 Steve Charmley
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 amended 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.

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.

Reason: To control the occupation of the site in accordance with adopted policy.

4. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

5. Prior to the commencement of development full engineering details of the access, visibility splays, access road and parking areas together with measures to relocate the existing traffic management build-out on Drenewydd, shall be submitted to and approved in writing by the Local Planning Authority; the scheme shall be carried out fully in accordance with the approved details before the Traveller site is first brought into use/occupied.

Reason: In the interests of highway safety.

6. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of bunding and landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- Details of the height, width, length and materials of bunding of the site
- Means of enclosure
- Hard surfacing materials
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
- Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

Implementation timetables

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

7. At the same time as the landscaping scheme required by the above condition is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule. The existing hedges around the site shall be retained at the agreed minimum height for the lifetime of the development.

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

8. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

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

9. No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other lighting shall be installed or operated.

Reason: To ensure the amenity and character of the area is protected.

10. A total of 5 woodcrete artificial nests suitable for small birds such as sparrow shall be erected on the site prior to the first occupation of the site and retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds.

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## Committee and Date

North Planning Committee

28<sup>th</sup> February 2017

## Item

# 7

Public

## Development Management Report

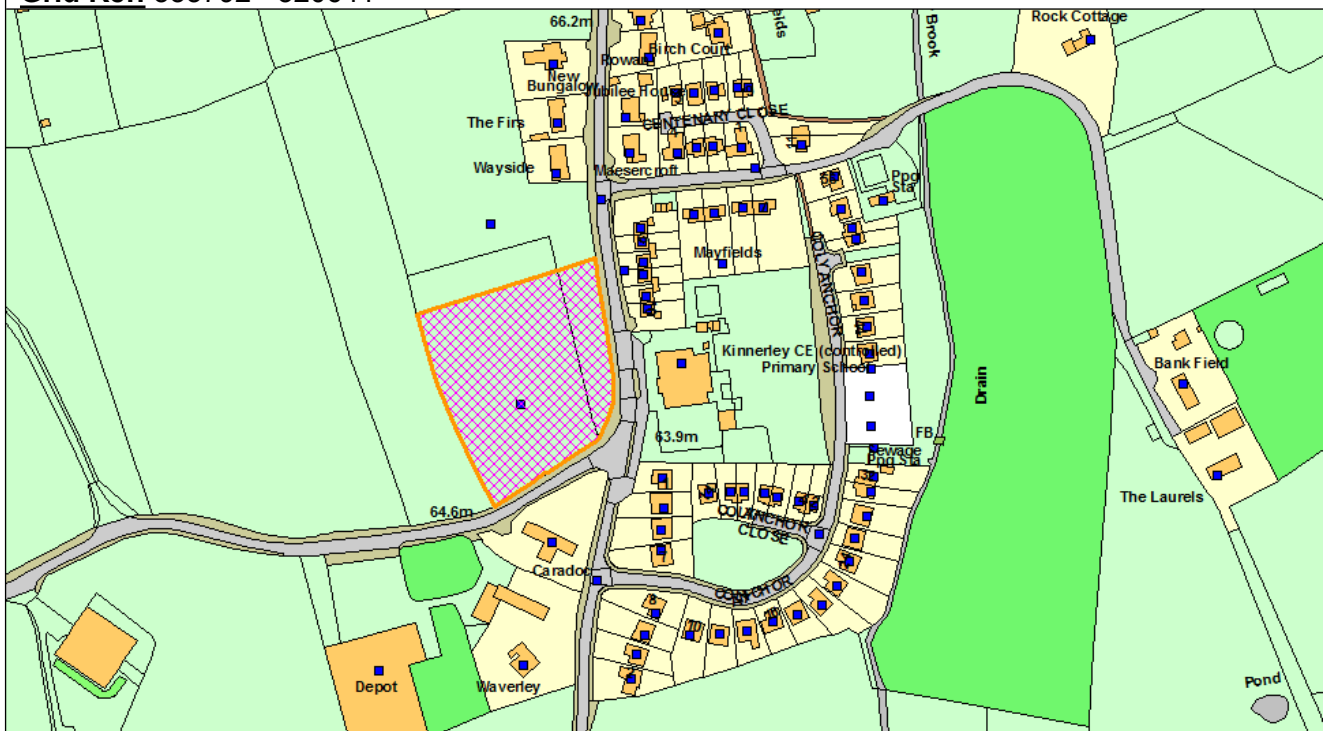
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 16/04719/FUL	<b>Parish:</b> Kinnerley
<b>Proposal:</b> Erection of residential development of 18 no. dwellings; formation of vehicular access	
<b>Site Address:</b> Proposed Residential Development Opposite School Kinnerley Shropshire	
<b>Applicant:</b> Milford Investments Ltd	
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

Grid Ref: 333792 - 320641



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and the applicant signing a S106 to secure 2 affordable dwellings.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The proposal is a full application for the erection of 18 dwellings to include the creation of a new vehicular access with provision of car parking spaces and formation of pedestrian access to School Road. The scheme proposes a mix of 2, 3 and 4 bedroom dwellings, detached and semi-detached. All are two storeys although some have their first floor accommodation set into the roof.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a plot of agricultural grazing land located adjacent to the highway through Kinnerley and the Kinnerley/ Meverley road, and lies opposite the primary school. It has thick hedgerows to the west, north and eastern boundaries and some mature trees, and has a gentle slope downhill to the South.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The comments of the Parish Council are contrary to the recommendation from officers. The Council scheme of delegation therefore requires discussion with the local member Chair and Vice Chair. Following these discussions with the Principal Planning Officer the relevant members confirmed that the Parish Council's concerns about the development are material planning considerations and warrant consideration by the planning committee.

### 4.0 Community Representations

#### - Consultee Comments

- 4.1 **Parish Council** - Kinnerley Parish Council maintains its support for development of this site but upholds its objection to eighteen houses.

The Parish Council appreciates that the size of the site means that additional houses are achievable and would accept an increase in the number of houses but it maintains its position that eighteen houses is too many. In SAMDev the site was designated as being acceptable for twelve houses by Shropshire Council and this is supported in the Kinnerley Parish Neighbourhood Plan. The housing stock in Kinnerley Village has already significantly been increased over and above the levels planned in SAMDev which means a proportionate increase in car and other vehicle movements on the narrow country lanes leading into and out of the village.

Support therefore cannot be given for eighteen new houses due to the cumulative effect of additional residents and traffic which will affect the residential amenity of the existing residents and create extra traffic on the rural roads. Existing road safety concerns will consequently be worsened particularly around the area of the school.

- 4.2 **Highways** - No objection subject to conditions and informatives
- 4.3 **Drainage**- The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.



- 4.4 **Affordable Housing**- The affordable housing proforma shows a slight over provision of 2 dwellings on site. It is noted that these will be 2 bedroomed properties at plots 15 and 16, which will meet some of the identified need in the area.
- 4.5 **Trees**- no objection subject to conditions to ensure protection of the trees on the site.
- 4.6 **Archaeology**- The site is deemed to have low-moderate archaeological potential. A programme of archaeological should be conditioned.
- 4.7 **Police**- The applicant should aim to achieve the Secured By Design (SBD) award status for this development. SBD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment.
- 4.8 **Conservation**- The site is not within the newly designated conservation area nor is it considered to have the potential to impact on any other designated or non-designated heritage assets.

## 5.0 THE MAIN ISSUES

Principle of development  
 Design, scale and character  
 Highways  
 Ecology  
 Trees  
 Archaeology  
 Other issues

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that '*Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise*'.
- 6.1.2 The application site is approximately four fifths of the site that is allocated for housing in SAMDev (KYN002). The area allocated does extend beyond the application site up to the boundary hedge to the north of the application site which includes a series of mature trees.
- 6.1.3 The settlement of Kinnerley is part of a community cluster along with Maesbrook, Dovaston and Knockin Heath which will provide growth of around 50 dwellings during the plan period. The allocation site, within which the application site sits, is shown in SAMDev as providing 12 dwellings, the development guidelines also details, "the retention of the existing hedges; vehicular access via Argoed Road

only; and the provision of parking spaces to help address existing parking issues at the school”.

- 6.1.4 SAMDev also states that development proposals will be expected to demonstrate that they have taken account of the adopted guidance from the Community Led Neighbourhood Plan for Kinnerley.
- 6.1.5 Prior to the adoption of SAMDev the applicant did obtain outline planning permission for the erection of 12 dwellings on the site with all matters except access reserved for later approval (14/00581/OUT). This was approved on the 2<sup>nd</sup> March 2015 and remains an extant permission until March 2018. The outline planning permission specified 12 dwellings in the description and therefore as this scheme proposes more it was necessary for a new full application to be submitted rather than a reserved matters application.
- 6.1.6 It is acknowledged that both the Kinnerley Neighbourhood Plan and SAMDev give the allocated site a provision of 12 dwellings. This in turn contributed to the development guideline for the number of dwellings in the cluster. As stated in paragraph 3.21 of SAMDev the guideline is not a maximum figure but development beyond it by too great a degree could result in unsustainable development. Policy MD3 recognises that housing guideline is a “significant policy consideration” and it also sets out considerations to which regard will be had in determining applications which would result in the provision of more dwellings than indicated by the guideline for a settlement. This includes, the benefits arising from the development; and the impacts of the development, including the cumulative impacts of a number of developments in a settlement; and the presumption in favour of sustainable development.
- 6.1.7 The principle of a residential development on the site has already been established by the previous outline planning consent and the site’s allocation in SAMdev. Consideration must now be given to the extra six dwellings that are proposed as part of this new full planning application, in addition to the normal Development Management considerations.
- 6.2 **Design, scale and character**
- 6.2.1 When the previously approved outline planning permission was considered it included an indicative layout showing the 12 dwellings. This indicative scheme showed all of the dwellings in very substantial plots with the smallest dwellings shown as having an internal floor area of around 125 sqm. The provision of 12 dwellings would represent a very low density of development on the site.
- 6.2.2 This new scheme is for the erection of 18 dwellings and comprises a mix of 4 x 2-bed, 12 x 3-bed and 2 x 4-bed dwellings, ranging from 62 sqm to 157 sqm. Eight of the dwellings are proposed to be 100 sqm or smaller. The Kinnerley Neighbourhood Plan specifically identifies a need for smaller dwellings. It states that Kinnerley Parish Design Statement and the results of the Neighbourhood Plan Consultation, the following policies are established, which:
- i) propose to address the need for smaller housing to restore the balance over the period 2012 – 2026, acknowledging the fall in average household size over the last 20-30 year period.*

*ii) propose that larger 4/5 bedroom houses should be built only on an infill site and only if the developer can demonstrate a particular community need.*

- 6.2.3 The previous outline planning permission for 12 dwellings would likely deliver larger and more expensive dwelling in spacious plots in order to make the scheme viable financially. The applicant has advised that in order to deliver more smaller dwellings, which in this case also includes 2 dormer bungalows on plots 4 and 9, it is necessary to increase the number of dwellings on the site as a whole. As part of the planning consideration and increase in density still needs to be at a level that is appropriate for the site, and its surroundings.
- 6.2.4 The proposed scheme shows that the dwellings would be accessed by a single vehicular access from Argoed Road, but there would also be a secondary pedestrian access onto School Road. As required by policy S14.2(vii) the scheme also incorporates the provision of a parking area to help address the existing parking issues at the school. This parking area would be sited in the north eastern corner of the site and would provide 10 parking spaces with access provided directly to School Road.
- 6.2.5 The layout proposes a mix of dwelling types and sizes which are of a style and character that make a positive contribution to the area. Some of the dwellings have the character of agricultural barns with the two dwellings to the north and south of the site of a more traditional farmhouse type character. The rest of the dwellings are generally smaller with dropped eaves, exposed rafter feet, dormer windows and detailing to the eaves. The dwellings on the eastern side of the estate road (plots 12 to 17) are linked together by open fronted car ports. The car ports help to tie the buildings together and create a strong street scene. The provision of car ports allows occupiers vehicles to be more discreetly parked than they would be on driveways to the front of dwellings. This row of dwellings also follows the curved line of the pavement around to the two corners on the estate road.
- 6.2.6 The dwellings that would be most visible from and closest to the main road would be plots 9 and 18. Plot 9 would be a dormer bungalow and plot 18 a smaller barn type dwellings with lowered eaves. Both dwellings would be accessed from within the estate but both have been designed so that they have attractive elevations facing towards the rest of the village.
- 6.2.7 The proposed development is for six more dwellings than the outline permission consented and the figure quoted in SAMDev. The appropriate amount of housing for a site can only be fully considered once the type and scale of the dwellings is known. All of the dwellings shown on the submitted plan are considered to have good sized gardens and all of the properties have at least 2 off street parking spaces. It is considered by Officers that the provision of 18 dwellings, of the type and size proposed, would not result in the over development of the site and would provide a good mix of dwelling types and sizes, in particular the provision of smaller dwellings.
- 6.2.8 It is considered by Officers that the number and type of dwellings proposed would enhance the character and appearance of the site and this part of the village.

### 6.3 **Highways**

- 6.3.1 As referred to above there would be a single vehicular access to the site plus the access to the parking area. A new pedestrian pavement would be provided around the road facing sides of the site providing safe pedestrian access for future occupiers and those parking in the proposed school parking area.
- 6.3.2 In order to provide an acceptable level of visibility at the junction into the proposed estate and at the junction between Argoed Lane and School Road it has been necessary to remove some small sections of hedgerow. These hedges will then be replanted back behind the required visibility splays. The junction of Argoed Road and School Road already has restricted visibility for emerging vehicles; as such improving the available visibility will benefit not just those living in the proposed development but also the wider community who may also use this section of road.
- 6.3.3 Following consultation with the Council's Highways Department there have been no objections raised subject to addition of appropriate conditions. Conditions will be imposed to secure the provision of a 1.8m footway and a formal pedestrian crossing point between the site and the primary school.
- 6.3.4 The Parish Council have expressed concerns about the increase from 12 to 18 dwellings and the increase in vehicle movements on the lanes leading into and out of the village and the impact that this will have on road safety around the school. No concerns have been raised by the Highways Officer subject to ensuring that the necessary improvements, referred to above, are made.
- 6.4 **Ecology**
- 6.4.1 The scheme included the submission of an ecology report and this has been assessed by the Planning Ecologist who has recommended a number of conditions and informatives ensuring that the development is carried out in accordance with the ecological recommendations.
- 6.5 **Affordable Housing**
- 6.5.1 The proposed scheme is for 18 dwellings and therefore it is liable to make a contribution towards the provision of affordable housing. The policy requirement, as set out in the Type and Affordability of Housing SPD, requires a 10% affordable housing provision which would equate to 1.8 dwellings. This would be made up of one affordable dwelling provided on site plus a financial contribution equivalent to 0.8n of a dwelling. The applicant has chosen to provide two on site affordable dwellings, this is a slight over provision against the policy requirement. As affordable housing is only required on developments of more than 5 dwellings, given the size of Kinnerley there is unlikely to be many future occasions where developments would be required to provide affordable housing on site. Other than the allocated sites most development would be for single infill plots or for very small numbers of dwellings.
- 6.5.2 The applicant has identified that plots 15 and 16 would be provided as affordable dwellings and these are two small 2-bed properties. The applicant would be required to enter into a S106 legal agreement in order to secure the affordable dwellings.

## 6.6 **Trees**

6.6.1 The application site contains a number of mature trees, the most significant of which is located in the hedgerow in between the school parking area and plot 8, with other smaller trees in the north western and southern corners of the site. The applicant has submitted an arboricultural impact assessment which has been considered by the Tree Officer. The Tree Officer is satisfied that it has been adequately demonstrated that the development has made provision to retain the significant trees on the site and that they would be appropriately integrated into the scheme. The Impact assessment also set out how the trees will be protected during the construction phase of the development to ensure their long term future.

## 6.7 **Archaeology**

6.7.1 The Council's archaeologist has commented that the site is deemed to have low-moderated archaeological potential because to a number of cropmark archaeological sites within 500m of the site. It is considered appropriate for a condition to be imposed requiring a programme of archaeological work to be carried out.

## 7.0 **CONCLUSION**

7.1 The proposed residential development of the site for 18 dwellings is considered acceptable in principle given its sustainable location and designation as an allocated site. It is considered by Officers that the figure of 12 dwellings set out in the Kinnerley Neighbourhood Plan and SAMDev should not be seen as an upper limit for the site but as a development guideline. A scheme of 18 dwellings needs to be considered on its individual merits. The development proposed includes a significant number of smaller dwellings providing a wide mix of dwellings helping to meet the housing need locally which include 2 affordable dwellings. The provision of smaller dwellings is encouraged by the Kinnerley Neighbourhood Plan. The scheme is not considered to represent the over development of the site and the likely extra traffic generated is not considered to impact upon the safety of highway users.

7.2 The proposed scheme includes sensitively designed dwellings of varying styles and have been laid out to respect the existing trees and hedgerow in the locality. It is considered by Officers that the proposed development complies with policies CS4, CS6, S11 and CS17 of the Core Strategy and policies MD3 and S14.2(viii) of SAMDev.

## 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 1970.

## 9.0 **Financial Implications**

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

## 10. **Background**

### Relevant Planning Policies

Central Government Guidance:  
 Planning Policy Guidance  
 National Planning Policy Framework

Core Strategy and Saved Policies:  
 Type and Affordability of Housing SPD  
 CS4- Community Hubs and Clusters  
 CS6- Sustainable Design and Development Principles  
 CS11- Type and Affordability of Housing

CS17- Environmental Networks

MD3- Delivery of Housing Development

MD12- Natural Environment

S14.2(vii)- Kinnerley, Maesbrook, Dovaston and Knockin Heath

Relevant planning history:

14/00581/OUT Outline application for the erection of 12 dwellings to include alterations to vehicular access with provision of car parking spaces and formation of new pedestrian access to School Road GRANT 2nd March 2015

## 11. ADDITIONAL INFORMATION

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

3. 1. Work shall be carried out strictly in accordance with the Survey for Badger Sett report prepared by Greenscape Environmental Ltd (July 2016) attached as an appendix to this planning permission. This includes development works to cease two hours before sunset. Within 90 days prior to the commencement of development the approved badger reasonable avoidance measures secured through Condition 1 shall be reviewed by an ecological consultant and, where necessary, amended and updated. The review shall be informed by further ecological survey commissioned to i) establish if there have been any changes in presence and/or abundance of badgers and their setts, and ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for the implementation, will be submitted to and approved by writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure the protection of Badgers protected by the Protection of Badgers Act 1992.

4. The programme of archaeological work for the development approved by this permission shall be carried out in complete accordance with the specification (Written Scheme of Investigation) by Castlering Archaeology dated 2 June 2016.

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

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree



surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

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

c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

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

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

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

6. Prior to the commencement of the development full engineering details of the proposed vehicular accesses and minimum 1.8 metre footways along Argoed Road and School Road as indicated on the Proposed Site Plan (Revision C) and including surface water drainage arrangements, shall be submitted to, and approved in writing by, the Local Planning Authority. The access and footway works shall be fully implemented in accordance with the approved details before any of the dwellings are first occupied.

Reason: To ensure a satisfactory means of access to the highway.

7. Prior to the commencement of the development full engineering details of an uncontrolled pedestrian crossing point to School Road, between the development site and primary school in conjunction with the footway works required under Condition 1 above, shall

be submitted to, and approved in writing by, the Local Planning Authority. The crossing point works shall be fully implemented in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interests of pedestrian safety.

8. Prior to the commencement of the development the land between the visibility splay lines and Highway at the new access road junction onto Argoed Road and to the north of the Argoed Road/ School Road junction, as shown on the Proposed Site Plan (Revision C) shall be cleared with any boundary fence, hedge, wall or other means of enclosure set back behind the visibility splay lines and the land within the visibility splays maintained at all times free from any obstruction exceeding 225mm above the level of the adjacent carriageway.

Reason: In the interests of highway safety

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

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

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

10. 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.

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

11. The car port for plots 13, 14 and 17 as shown on the approved plans shall remain open fronted for the lifetime of the development.

Reason: To ensure an adequate provision of off street parking.

12. The car parking area indicated on the Proposed Site Plan (Revision C) shall be surfaced in a bound material and drained before any of the dwellings are first occupied and shall thereafter be retained free of any impediment to its designated use.

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

13. A minimum of 2 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

14. A minimum of two 2F Schwegler Bat Box (General Purpose) or similar woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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Committee and Date  
 North Planning Committee  
 28<sup>th</sup> February 2017

Item  
**8**  
 Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 17/00142/FUL	<b>Parish:</b>	Cockshutt-cum-Petton
<b>Proposal:</b> Erection of a single storey extension to front elevation to provide new reception and circulation space		
<b>Site Address:</b> Cockshutt C Of E School Shrewsbury Road Cockshutt Shrewsbury Shropshire		
<b>Applicant:</b> Shropshire Council (Learning & Skills)		
<b>Case Officer:</b> Janet Davies	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 343451 - 329247



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

## REPORT

### 1.0 THE PROPOSAL

1.1 The application seeks full planning consent for the erection of a single storey extension to the front elevation of Cockshutt C of E Primary School to provide a new reception and circulation space and is submitted by Shropshire Council's Learning and Skills section.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 Cockshutt Primary School is a traditional building located at the centre of the village and is of red brick construction with stone surround windows. The building is set back from the main road behind boundary brick walls.

2.2 Part of the original school has been previously separated off to form a separate residential dwelling, The Old Schoolhouse. This is located within the left hand gable, which also houses the village post office, and separated off by way of a boundary fence with separate parking area.

2.3 Adjacent to the south east of the school is St Simon and St Judes Church and on the other side of the road is a small open space, the Church Green, but otherwise the site is surrounded by residential dwellings.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The ward member has requested that the application be considered by committee on account of this being an application submitted by Shropshire Council and on account of the daylight issue as it affects the attached neighbouring property.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 - Consultee Comments

4.1.1 **SC Drainage** – no objection subject to an informative relating to the issue of sustainable drainage for the disposal of surface water.

#### 4.2 - Public Comments

4.2.1 **Parish Council** - do not support or object to the application without further information.

Loss of light - The Council has sympathy with the neighbour's comments about loss of light and access for maintenance.

The oil tank will be moved and will be surrounded by the hall, new boiler room and reception area. There is no indication that the position of the oil tank or the tank itself will comply with appropriate regulations.

It is unfortunate that the applicant did not produce a Design and Access

Statement for this second application explaining the reasoning/justification of the proposal as it could have covered areas of concern and are sure that if these areas of concern are not resolved now they will be raised again at Committee stage.

### **Neighbour objection –**

- although the previous, issue of trespass on our property has been resolved by leaving a small gap between our house wall and the side wall of the proposed extension, the window in our house wall has not been shown on the plans.
- The construction of a brick wall approximately 4 feet away from our window would restrict our legal right to light and does not comply with the 60 degree rule for single storey extensions.
- Proposal would also leave us little room to manoeuvre, should the need arise, to carry out any maintenance work on that part of our house.
- Question what would happen to the large, newly installed replacement double glazed window at the front of the school? Is the plan now to remove it and brick it up? Would be a shocking waste of public money and would result in loss of daylight in the school hall.
- We are aware of the reasons for the need of an office area at the front of the school, although to date we have not been invited to take part in discussions to try and find a solution which would be acceptable to all parties concerned.
- Believe that there is a way of creating the space that is needed for a reception area within the existing building, without building an extension at the front of the school, and without the need to replace and re-site the heating oil tank which the OFTEC website states, in order to comply with current regulations, should be sited "2 meters away from buildings or boundaries."

## **5.0 THE MAIN ISSUES**

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Core Strategy Policies CS6 (Sustainable Design and Development), CS8 (Facilities, Services and Infrastructure Provision), CS17 (Environmental Networks) and SAMDev Policy MD2 (Sustainable Design) are all considered to apply to the consideration of this application.
- 6.1.2 Policy CS6 of the Core Strategy requires development to be designed to a high quality using sustainable design principles. It seeks to ensure that development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design to its local context. New development is also required to safeguard residential and local amenity.
- 6.1.3 Policy CS8 seeks to protect and enhance existing facilities, service and amenities that contribute to the quality of life for residents and visitors. It aims to defend against the loss of a range of existing service and facility provision including schools and recognises the need to adapt to changing circumstances.

- 6.1.4 CS17 requires development to protect and enhance the diversity, high quality and local character of the County's natural, built and historic environment without adversely affecting its visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.
- 6.1.5 Policy MD2 of the Council's adopted SAMDev Plan requires development to contribute to and respect local distinctive or valued character and existing amenity value.
- 6.1.6 The proposal is considered to fall broadly into line with the above policy framework and is therefore supported in principle.
- 6.2 **Siting, scale and design of structure**
- 6.2.1 The proposed extension is to be located at the front of the school between the two front gables and is to take the place of the existing fenced off oil tank.
- 6.2.2 The proposed brick structure is to be single storey and of a lean to form with a largely square plan measuring approximately 4.3m x 4.5m. The new accommodation is to provide a new reception area and circulation space. It is explained that other options for creation of the new entrance were considered but that this could not be otherwise achieved on account of the existing amount of internal circulation space available at the front of the building and on account of security concerns involved relocating the entrance to the side or rear of the building.
- 6.2.3 The only proposed new openings are to be located within the front elevation and concerns have been raised regarding the horizontal design of the proposed right hand window which is considered out of character with the existing fenestration. The applicant has indicated that he would be in agreement to a condition requiring that the design of this opening is amended and relating to the introduction of a suitable detail window surround to reflect those on the existing building.
- 6.2.4 Further to comments lodged during the consultation process the applicant has agreed that the previously installed aluminium windows to be removed as part of the proposal can be put in storage with a view to their future use in other Council run building projects.
- 6.2.5 Comments have also been received stating that the proposed relocation of the heating oil tank would fail to meet fire regulations. However, the 2 metre distance requirement referred to applies to combustible walling material whilst in this case the tank is to be located alongside existing brick walling.
- 6.3 **Impact on Amenity**
- 6.3.1 The nearest affected neighbouring property to the site is The Old Schoolhouse and Post Office which is located within the attached gable.
- 6.3.2 The applicant has explained that they met with the neighbour on site to discuss the proposal. The affected window referred to in the neighbour's objection would



be at a distance of approximately 1.5 metres from the side wall of the proposed single storey extension and it is considered that this would adequately allow for future maintenance work to be carried out without too much difficulty.

- 6.3.3 As regards the daylight issue it is noted that this is small opening which currently lights an existing storage cupboard which appears to be used in association with the post office. Therefore, it is considered that it would be difficult to sustain an objection on the grounds of loss of amenity to any existing dwelling.

## **7.0 CONCLUSION**

- 7.1 The siting, scale and general design of the proposed extension is deemed to be acceptable for its location, subject to conditional agreement over the design and finish of the front window, and there are not deemed to be any significant issues of loss of amenity to be overcome. The application is therefore recommended for approval.

## **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 PoliciesRelevant planning history:

NS/09/00203/DEEM Formation of extension to existing car park NOOBJC 25th February 2009  
11/04425/VAR Variation of Condition No.2 attached to planning permission ref CC2001/0026 dated 14th September 2001 to allow for the retention of the demountable unit for a further temporary period of ten years GRANT 15th December 2011

NS/01/00682/DEEM Installation of 5 bay demountable classroom unit, extensions to existing hard play area and car park NOBJ 11th September 2001

NS/97/00124/FUL erection of single storey extension to provide staff room, headmasters office and a classroom CONAPP 30th June 1997

SC/CC2009/0002 Construction of extension to existing staff car park NOOBJC 17th March 2009

SC/CC2001/0026 Installation of 5-bay demountable classroom unit and extension of existing car park and play area PERMIT 14th September 2001

**11. Additional Information**

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Brian Williams
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Appendices APPENDIX 1 - Conditions
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**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. Notwithstanding the existing elevation plans, the exact scale, and detail of the proposed windows and window surrounds shall be submitted to the local planning authority for approval in writing prior to development commencing on site and shall be carried out as approved.

Reason: To safeguard the visual amenities of the area.

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<u>Committee and Date</u>
North Planning Committee
28 <sup>th</sup> February 2017

<u>Item</u>
<b>9</b>
Public

## Development Management Report

Responsible Officer: Tim Rogers  
 Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### SCHEDULE OF APPEALS AS AT COMMITTEE 28<sup>th</sup> February 2017

#### Appeals Lodged

<b>LPA reference</b>	16/02401/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Shingler Homes- C/O Nigel Thorns
<b>Proposal</b>	Erection of 4 detached dwellings
<b>Location</b>	Land South Of Longwood Park Higher Heath Prees
<b>Date of appeal</b>	07.02.17
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	16/02687/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Gareth Roberts
<b>Proposal</b>	Outline application (all matters reserved) for the erection of agricultural worker's dwelling and detached garage to serve existing agricultural business
<b>Location</b>	Llawr y Pant Farm, Selattyn, Oswestry, SY10 7HX
<b>Date of appeal</b>	13.02.17
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

**Appeals determined**

<b>LPA reference</b>	15/05053/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr J Rickerby – C/O Base Architecture
<b>Proposal</b>	Outline application for the erection of four dwellings with associated hard and soft landscaping and creation of new access (all matters reserved)
<b>Location</b>	Land Adjacent Old Barn Wollerton Shropshire
<b>Date of appeal</b>	14.10.16
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	09.02.17
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	16/02162/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	D A Roberts Ltd
<b>Proposal</b>	Change of use of commercial land to residential curtilage and erection of ancillary pool building
<b>Location</b>	1 Hillbrook Drive Grindley Brook Whitchurch
<b>Date of appeal</b>	27.06.2016
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	31.01.2017
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	16/00661/out
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Roger Hughes
<b>Proposal</b>	Outline application for the erection of an open market dwelling to include access
<b>Location</b>	Glencott, Longslow, Market Drayton, TF9 3QY
<b>Date of appeal</b>	17.11.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.02.2017
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>



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## Appeal Decision

Site visit made on 12 December 2016

**by Elizabeth Hill BSc(Hons), BPhil, MRTPI**

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

**Decision date: 9 February 2017**

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**Appeal Ref: APP/L3245/W/16/3158559**

**Land adjacent to Pound Court, Mill Lane, Wollerton, Shropshire, TF9 3NB**

- 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 J Rickerby against the decision of Shropshire Council.
  - The application Ref 15/05053/OUT, dated 24 November 2015, was refused by notice dated 28 April 2016.
  - The development proposed is described on the application form as 8 no. residential dwellings with associated hard and soft landscaping and creation of new access.
- 

### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The application is in outline form with all matters reserved for subsequent determination.
3. The original application was for 8 dwellings but was amended to four dwellings prior to determination by the Council. Since I do not consider that anyone would be prejudiced by my consideration of the smaller proposal, I have based my decision on the amended description for four dwellings and the amended illustrative plans.

### Main Issues

4. The main issues in this case are:
  - a) whether the proposal would provide a suitable site for housing; and,
  - b) the impact on the setting of nearby listed buildings.

### Reasons

#### *Housing*

5. The proposed development lies outside the village development boundary for Wollerton, which is defined as a community cluster area, together with Marchamley and Peplow, in policy MD1 of the Site Allocations and Management of Development (SAMDev) Plan, adopted in December 2015. Section s11.2(viii) of the SAMDev states that there will be limited future housing in these areas, with 15 dwellings to 2026, with Wollerton and Marchamley providing dwellings through limited infilling, conversions and groups of dwellings on suitable sites inside the development boundaries for the villages.

- Development outside development boundaries is covered by policy CS5 of the Shropshire Core Strategy (CS), adopted in March 2011, where new development will be strictly controlled.
6. Wollerton is claimed to be of mediaeval origins or earlier. The historic core of the village, with a number of listed buildings, lies to the south of the more modern village and the village development boundary is drawn round the core of the newer area of the village. The appeal site, which is greenfield, lies close to the older core, well beyond the village development boundary as currently defined by the development plan. It is bounded on two sides by country roads along which development is more sporadic with fields and green spaces in between. The boundaries are hedgerows/low walls but a new access would be created and the development, which is shown as two-storey on the illustrative plans, would be seen through the access and other gaps in the hedgerow as an incursion into the countryside.
  7. Despite its reduced size in terms of footprint, as shown on the illustrative plans, the proposed development would represent new development on a significant scale for the size of the village, especially if it was additional to the infill sites which might be developed within the village development boundary. The amended proposal reduces the footprint in comparison to the scheme as originally submitted, removing the covered parking area with an open parking area, and breaking the built form into two separate blocks. However, overall this does not translate into much of a reduction in terms of the overall mass of built development on the site.
  8. The amended plans show two blocks of buildings around a courtyard, but the regular shape of the proposed buildings shown in the illustrative plans would be incongruous with the surrounding older buildings which have evolved over time and have a more organic, irregular outline. As such, I do not consider that the proposal would fit into the existing grain and form of the existing older cluster of development to the east and south-east of the plot and would be seen as out of keeping with other development locally. Therefore it would not comply with the principles for sustainable design set out in policy CS6 of the CS. This policy seeks to protect, restore, conserve and enhance the natural, built and historic environment, by being appropriate in terms of scale, density, pattern and design, taking into account local context and character.
  9. CS policy CS1 sets out the levels of growth in rural areas and policy CS4 the need for rural communities to become more sustainable. However, the SAMDev sets out how that will be achieved in the Marchamley, Peplow and Wollerton community cluster, in policies MD1 and S11.2. The Council has indicated that there are potentially four available infill plots within the village boundary and, although these mainly depend on plot subdivision, there is nothing to suggest that they will not come forward for development in due course. If the levels of housing set out in the local plan did not come forward and it was considered that a revision of the village development boundary was necessary, this would be a matter for the review of the local plan.
  10. The appellant has pointed out that a development near Laburnum Villa, outside the village boundary, was approved by the Council (quoted as Ref 14/05144/OUT). He says that this was partly on the basis that it would improve the supply of housing, support building jobs and help existing facilities remain viable. However, this would also be the case for any dwellings built on

the infill plots within the village boundary and the amount of development necessary in the community cluster has already been considered by the SAMDev, which was adopted after the development quoted by the appellant had come forward. Although a local public house has already closed, there is no evidence that any of the other community facilities in the village are under threat and neither has any detailed evidence been submitted that there is currently a shortage of housing land in Shropshire. Policy CS5 of the CS strictly controls development in the countryside. The proposal would not fall into any of the exceptions set out in the policy and I have already considered the extent to which there would be local economic and community benefits from it. As such, I consider that the proposal would be contrary to this policy.

11. Therefore I conclude that the proposal would not provide a suitable site for housing and would be contrary to policies CS1, CS4, CS5 and CS6 of the CS and policies MD1 and S11.2 (viii) of the SAMDev.

#### *Heritage assets*

12. The site is not within a Conservation Area. However, a number of listed buildings are located in the vicinity of the site, together with non-designated heritage assets, as described in the appellant's heritage impact assessment (HIA). There is no suggestion that the development proposed would have a direct impact on any listed building or non-listed heritage asset. Nevertheless, S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of listed buildings. Considerable weight and importance is to be given to any harm in this respect. Whilst no statutory protection is afforded to the setting of other heritage assets, paragraphs 128 and 129 of the National Planning Policy Framework (NPPF) require an assessment of the significance of heritage assets that might be affected by a development proposal, including any contribution to their significance made by the setting of those assets. Paragraph 132 of the Framework confirms that the significance of a heritage asset can be harmed or lost through development within its setting.
13. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. Setting embraces all of the surroundings from which an asset can be experienced, or that can be experienced from or within the asset. Where there would be an impact on the setting, an assessment is then required as to whether that impact would harm the special interest and significance of the asset.
14. The nearest listed buildings to the site are a grade II listed animal pound, which is also a Scheduled Ancient Monument, and the grade II listed Pound Cottage. The pound, which dates from the late 18th/early 19th century, is a modest horseshoe-shaped structure constructed of red hand-made brick with a moulded stone coping, standing almost 2 metres high. It occupies a prominent location, sited on a small grassed island at a road junction, immediately to the north-west of the appeal site. As an interesting and unusual surviving feature of the early agricultural settlement, its special interest derives not only from its individual form and historic fabric, together with its collective value as part of the grouping of historic buildings in this part of the village, but also from the open fields that surround it, including the appeal site, which provide an historic context for the structure. Notwithstanding the hedgerows and walling on the boundaries that currently separate the appeal site from the pound, the pound

and the site are seen together from the road near the village room and in glimpsed views elsewhere through the hedge. As such, I consider that the appeal site lies within the setting of the pound and that the open and undeveloped nature of the appeal site contributes to the special interest and heritage significance of the listed structure.

15. I recognise that it is intended to retain the hedgerows and walling, which would be considered under reserved matters. However, even if the boundary treatment remained, it is likely that the upper parts of the proposed two storey buildings would be seen over it. The appeal scheme would bring built development much closer to the pound, eroding its open rural, agricultural setting, compromising the link between the pound and the older agricultural buildings which represent the environment which it would have served. All in all, I do not agree with the appellant's HIA that the effect on the special interest of the listed pound would be negligible in this regard. Rather, there would be a material adverse effect, although the harm would be less than substantial, in the terms used in the NPPF.
16. The grade II listed Pound Cottage lies a short distance just to the north-east of the appeal site. It is a timber-framed dwelling, of probably 17th century origin, and is a prominent feature when viewed from the road, over its low boundary wall. The special interest of Pound Cottage is derived largely from its age, form, fabric and use. Although it has been much altered and is now surrounded by domestic gardens, it has been well-restored, albeit with some modern fabric. The HIA states that, historically, part of the appeal site was an orchard associated with Pound Cottage and/or the wider group of buildings, and was once within the curtilage of Pound Cottage. There is intervisibility between the two, the appeal site lying within its setting. Although the orchard has mostly been grubbed out now, the appeal site had a functional link to the historic buildings, including Pound Cottage, and thus contributes to its special interest and heritage significance. The development proposed would intrude into its open agricultural setting with consequent harm to that special interest and significance. Again though, that harm would, in the terms used in the NPPF, be less than substantial.
17. The former farmstead of what is referred to as Pound Court or Pound Farm, lies immediately to the east of the appeal site. It comprises a grouping of unlisted red brick former agricultural buildings, probably of early 19<sup>th</sup> century date, arranged around three sides of a foldyard, with Pound Cottage lying just to the north. The buildings have been converted to residential use, with the adjacent land having been subdivided into private gardens. Whilst the buildings are not listed, they have heritage significance and comprise a non-designated heritage asset, as recognised in the HIA. Although there has been a change to their use and immediate surroundings, the fabric of these buildings has been largely preserved and their layout and inter-relationship within the larger group is important to the historic context of the area. Moreover, as confirmed in the HIA, the appeal site was once part of the farm. It forms part of the green, agricultural context for this group of buildings and is an integral part of their setting. Notwithstanding the gardens that now surround the buildings, their presence is a visual reminder of the agricultural history of this part of the village, the open undeveloped nature of the appeal site allowing for an appreciation and understanding of the buildings in their wider context. The development proposed would, therefore, result in some harm, albeit less than substantial harm, to the heritage significance of Pound Court.

18. Other listed buildings referred to by the parties are further away from the appeal site than the buildings already referred to. These include the grade II\* listed Wollerton Old Hall, and its outbuildings, and Wollerton Farm (the farm house to which and a barn, North Barn, are grade II listed), as well as 1 and 2 Wollerton, also grade II listed. All of these buildings lie approximately south-east of the appeal site. The noted gardens to Wollerton Old Hall lie mainly to the rear of that building.
19. The heritage significance of the Old Hall, a former high status residence, is largely derived from its historic age (likely to be late 16<sup>th</sup> century) form, fabric and surviving architectural features, including the close-studded timber-framing to the front gable. It is set back from the road in a fairly secluded position. In what limited public views there are, it is seen within the context of the other buildings in that immediate grouping. There is no intervisibility with the appeal site nor any suggestion of any functional connection. The other buildings in this group also derive their special interest and heritage significance largely from their age, vernacular form and architecture. In terms of setting, the Old Hall and the other buildings in its vicinity derive most of their significance from their more immediate, rather than extended, setting.
20. Nevertheless, inasmuch as the undeveloped nature of the appeal site is part of the immediate rural context for this historic grouping of buildings, which lie within the oldest part of the settlement, I am persuaded that it does make some, albeit limited contribution to their heritage significance. Although the site is a little distant from the group, it forms an important green backdrop/frontispiece to them. Any development on the site would impact on the ability of the public to interpret the heritage significance of the building group. In addition, the deep setback of the group from the road along the main road frontage, past the Old Hall and turning the corner toward the village room, which includes the development site, serves to separate the older core of the village and its heritage assets from the more modern centre. The site also has a role, therefore, in preserving their wider setting. Development in this area would have an adverse effect on it, albeit that the harm would be less than substantial.
21. There would be no loss of any heritage asset, as the harm I have identified relates only to their setting. I recognise that the application is in outline form and that detailed design is reserved for subsequent approval. Even so, I am in no doubt that the impact consequential upon the erection of four dwellings on the land here would undermine the open, former orchard/agricultural nature of the appeal site, which I have found to be an integral part of the special interest and historic significance of the buildings here to varying degrees. Whilst there would be less than substantial harm, in terms of the NPPF, this would still need to be weighed in the planning balance.
22. Paragraphs 134 and 135 of the NPPF require the harm that I have identified in this regard, to be weighed against the public benefits of the proposal. Some of the public benefits have already been assessed in terms of impact on the countryside, above. The promotion of further development in the village would provide housing and would support facilities and services locally. However, the site is outside the village development boundary and the Council has demonstrated that there are areas which could be developed within the village sufficient to accommodate its needs and support facilities and services, as set out in the local plan. Whilst I accept that there would be no harm to ecology,

and that trees could be protected by appropriate conditions, which would comply with policy CS17 covering environmental networks, these are neutral matters in the balance.

23. As such, I consider that the public benefits of the proposal would not outweigh the identified harm and I conclude that the proposal would be contrary to Section 12 of the NPPF and policy CS6 of the CS.

**Conclusions**

24. Therefore, for the reasons given above and having regard to all other matters raised, I conclude on balance that the appeal should be dismissed.

*E A Hill*

Inspector

## Appeal Decision

Site visit made on 6 December 2016

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

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

**Decision date: 31 January 2017**

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**Appeal Ref: APP/L3245/W/16/3158316**

**1 Hillbrook Drive, Chester Road, Grindley Brook, Whitchurch SY13 4QJ**

- 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 Paul Roberts (DA Roberts Ltd) against the decision of Shropshire Council.
  - The application Ref 16/02162/FUL, dated 17 May 2016, was refused by notice dated 30 June 2016.
  - The development proposed is described as 'change of use of underused commercial land to form extended residential curtilage and erection of standalone ancillary pool building.'
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of commercial land to form extended residential curtilage and erection of standalone ancillary pool building at 1 Hillbrook Drive, Chester Road, Grindley Brook, Whitchurch SY13 4QJ in accordance with the terms of application, Ref 16/02162/FUL, dated 17 May 2016, subject to the attached schedule of conditions.

### Application for costs

2. An application for costs was made by Mr Paul Roberts (DA Roberts Ltd) against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matter

3. I have used a slightly different description in the decision from the banner heading omitting the word 'underused' which is not an act of development and is superfluous.

### Main Issues

4. The main issues are:
  - whether the proposal would result in a restricted occupancy dwelling and outbuildings of a size above that required for the operation of the related garage business, thereby affecting future affordability; and,
  - the effect of the proposal on the living conditions of occupiers of nearby properties, with particular regard to noise.

## Reasons

### *Size of restricted occupancy dwelling and outbuildings*

5. The appeal site is an area of land adjacent to a two-storey restricted occupancy dwelling at 1 Hillbrook Drive. On higher ground to the south east lies a residential property, The Bungalow, with the A41 road skirting the western boundary of the site. The site is within Grindley Brook, a small rural settlement surrounded by open countryside
6. The Council advises that the original dwelling was granted planning permission on 24 April 1995, Ref NS/94/00891/FUL. As the site was considered to be in the countryside, the Council advises that condition 10 of that permission indicated that the development would be unacceptable unless justified by the needs of the attached business premises. Therefore, the occupation of the dwelling was limited to a person solely employed in the adjacent garage business.
7. The proposal is to construct a large separate outbuilding comprising a swimming pool on an area of commercial land to the south east of the dwelling. It would be used privately by the occupants of the dwelling.
8. It is submitted by the Council that the proposal would be contrary to Policy CS11 of the Shropshire Local Development Framework: Adopted Core Strategy (CS)<sup>1</sup> and the Type and Affordability of Housing Supplementary Planning Document (SPD). That is on the basis that it would result in a restricted occupancy dwelling that would be *'excessively large in scale and floor area in relation to the requirements of the operation of the garage business'*.
9. The Council holds that such occupational dwellings are, according to the SPD which refers to Policy CS5 of the CS, treated as part of the pool of affordable housing and should remain affordable. Consequently, it is suggested by the Council that the additional building would increase the size of the overall dwelling to a point where it would no longer be affordable and thus be in conflict with Policy CS11.
10. However, the appeal proposal is for an outbuilding rather than a new dwelling. Policy CS5 aims to strictly control development in the countryside but also explains circumstances where proposals will be permitted. That includes development on sites which maintain and enhance countryside vitality and character and where proposals improve the sustainability of rural communities by bringing local economic and community benefits. In that context, CS5 gives examples of such development which includes *'dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need in accordance with national planning policies and Policies CS11 and CS12.'*
11. Policy CS11, entitled 'Type and Affordability of Housing', advises that to meet diverse housing needs *'an integrated and balanced approach will be taken with regard to existing and new housing, including type, size tenure and affordability.'* It goes on to explain how that will be achieved which includes: *'Permitting exception schemes for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and Other Key centres, Community Hubs and Clusters and recognisable named settlements, subject to*

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<sup>1</sup> March 2011



*suitable scale, design tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.'*

12. Exception sites are explained more fully in Section 5 of the SPD as being in locations where planning permission would not normally be given. Applications relating to 'Single plot' exception sites are *'usually individuals who wish to utilise the Council's 'build your own affordable home' single plot scheme (i.e. owner occupied affordable housing).'* Section 106 agreements are envisaged as the appropriate method detailing requirements and restrictions.
13. Section 3 of the SPD deals with farm workers and other occupational dwellings in rural areas and alludes to the exceptions for occupational dwellings and other affordable housing referred to in Policy CS5. It states that the new occupational dwellings will be secured from the start by a section 106 agreement for affordable housing to make them more flexible than in the past. It is clear therefore, that the arrangements to ensure affordability in perpetuity would normally, in the case of single plots, be made as part of the planning permission process and consist of a s106 agreement.
14. Therefore, it is clear that the policy and guidance framework is primarily directed at situations where a new occupational dwelling is being proposed. That is clearly not the case here, where the original occupational dwelling already exists and was permitted under a different policy framework, the former North Shropshire Local Plan, a considerable time ago. There is no s.106 agreement to regulate affordability and the Council have confirmed that, contrary to current guidance in 3.7 of the SPD, permitted development rights were not removed under the relevant planning permission.
15. All planning decisions have to be judged against the current development plan. However, in this somewhat unusual scenario, the proposal is for an outbuilding and change of use of land that would become associated with a pre-existing occupational dwelling. It is inappropriate and tenuous to attempt to treat that proposal almost as if it were an application for a new occupational dwelling and outbuilding. Therefore, I do not consider that the proposal itself is the type of exception scheme for local needs affordable housing envisaged by Policy CS11, upon which the Council's future affordability argument is based.
16. It is, therefore, on a mistaken premise that the Council's seeks to apply the maximum gross internal floor space of 100m<sup>2</sup> for rural occupational dwellings, quoted in 3.7 of the SPD. The Council advises that the existing occupational dwelling, permitted before the SPD was in place, is approximately 160m<sup>2</sup> and that the swimming pool would be about 130m<sup>2</sup>. In any event, 3.7 of the SPD also refers to the 100m<sup>2</sup> figure as a *'starting point'* and something that *'rural occupational dwellings should aim for'*.
17. Furthermore, exceptions are contemplated where, for example, the dwelling would be the principal dwelling for a rural enterprise. In those circumstances an applicant can make the case for a larger amount of floor space. The SPD does not specifically state that the size of a separate outbuilding of this type should be aggregated with the gross internal floor space of the dwelling, yet that is the approach that the Council have taken.
18. Specific reference to outbuildings or other buildings associated with the main occupational dwelling appears in 3.7 of the SPD, where it states that *'there may be a need for a farm office or wet room as part of the development, and*

*this will be taken into account.'* Later in the same section, following a discussion of the possibility of larger principal dwellings, it states: *'Similarly any outbuildings will need to be justified'*.

19. The Council suggest that the proposal is not justified to support the business and is, therefore, contrary to the SPD and Policy CS11 but CS11 makes no specific mention of outbuildings in this context. The SPD speaks of justification mainly in relation to the occupational dwelling. It states that applicants must demonstrate that a dwelling at the business is essential by showing a functional need for the occupier to be present at the business for the majority of the time. The original dwelling was justified on a similar basis.
20. The appellant advises states that the dwelling is occupied by a principal director of the adjoining garage business who needs to be on hand 24 hours a day, 7 days a week. Due to the pressures and demands of the business, the appellant states that leisure time and time to spend with his young family is very limited. Therefore, a leisure facility on the same site would enable the appellant to achieve a better work-life balance and assist the contribution that he can make to a large busy rural enterprise. I also note the benefits that the proposal would provide to the appellant's wider family including the appellant's father, a managing director of the business.
21. Though particular personal circumstances are not generally the focus of planning policy, it is reasonable, in these circumstances, to make a connection between a facility that will contribute to the health and well-being of the members of the family business to enable them to better meet the demands of that business. That enterprise does contribute to the aim of *'enhancing the broad social and economic wellbeing of rural communities'* referred to in Policy CS6 of the CS.
22. Whilst the Council asserts that the proposal is not justified to support the business, there is no explanation or assessment of evidence detailing how that conclusion was arrived at. Therefore, on balance, I find that I am more persuaded by the justification given by the appellant.
23. The proposal would also make use of an area of commercial land that is considered under used, due to its position separated from the garage by the dwelling. Furthermore, it is accepted by the Council that the proposal would not adversely affect the character and appearance of the area.
24. The appellant refers to pre-application advice from the Council, PREAPP/16/00047, which also considers permitted development rights for a similar-sized building to the north west of the existing dwelling. The Council's opinion is that the alternative would be considered as permitted development, albeit that formal legal confirmation could only be given if a Certificate of Lawfulness was submitted for consideration. The Council also confirms that the original planning permission for the dwelling did not remove any permitted development rights.
25. It seems to me that, even though that building would be located on the existing access to 1 Hillbrook Drive, it does represent a realistic fallback position, as an alternative access would be possible. I also agree with the appellant that a building in that position would appear more prominent, with a potentially adverse effect on the character and the appearance of the area. In contrast, the proposed development is on land well below road level and would

be less conspicuous. The fallback is not referred to in the in the Council Officer's report. As any contemplated harm caused by the fallback would be equal to or potentially greater than any harm caused by the proposal, I give the fallback significant weight.

26. Taking the above factors into account, I do not consider that the proposal would cause public harm. The particular circumstances in which it would have an adverse effect on the future affordability of an occupational dwelling with a clear tie to a family business are not fully explained by the Council. Overall therefore, I conclude that the proposal would not result in a restricted occupancy dwelling and outbuildings that would be of a size above that required for the operation of the related garage business.
27. Consequently, there would be no clear conflict with the objectives of Policy CS11 of the CS or the SPD, which amongst other things seek to meet the diverse housing needs of Shropshire residents and ensure that occupational dwellings and outbuildings are commensurate and justified for the needs of the associated business.

### *Living Conditions*

28. The second element of the Council's reason for refusal is that insufficient details about the location of plant equipment, extraction fans and any noise mitigation measures have been provided. Policy CS6 of the CS states that development should safeguard residential and local amenity. That would include the potential adverse effects of noise on the living conditions of occupants of neighbouring or nearby properties.
29. Some further information on that aspect has been provided in the appellant's Appeal Statement. It states that the plant room would be within the building itself and located closer to 1 Hillbrook Drive, which the swimming pool would serve, than to adjoining properties. The only equipment with outdoor extraction would be the air handling system.
30. Given its proximity to the restricted occupancy dwelling, I accept that it would be in the interests of the appellant to ensure that appropriate measures are in place to minimise noise to protect the living conditions of his family. Thereby, potential effects on neighbours further away should also be addressed. Overall, I conclude that potential adverse effects with regard to noise on the living conditions of occupiers of neighbouring properties could be satisfactorily dealt with by condition.

### **Conditions**

31. I have considered the conditions suggested by the Council, making minor modifications if necessary. A condition setting a time limit for commencement of the development is required by statute. It is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A materials condition is included to ensure that the external appearance of the development is satisfactory.
32. A drainage condition is necessary to ensure satisfactory drainage on the site and to avoid flooding. It is appropriate to include a contaminated land condition to ensure that risks from land contamination are minimised.

33. A condition suggested by the appellant regarding the type, specification and location of any plant or extraction equipment is included, with minor alteration, to ensure mitigation of any noise associated with such equipment.

### **Conclusion**

34. Therefore, I conclude that, for the reasons given above and having regard to all other matters raised, the appeal should be allowed.

*Jonathan Tudor*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development shall be carried out strictly in accordance with the approved plans and drawings: Location Plan W12/2202/00 Rev B; Existing and Proposed Block Plan W/15/2352/01 Rev B; Proposed Elevations W/14/2352/03 Rev C; Proposed Block Plan and Front Elevation W/15/2352/05 Rev B.
- 3) No development shall take place until details of all external materials, including hard surfacing, have been first submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approval details.
- 4) No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).
- 5) Prior to the installation of any plant or extraction equipment, full details of the equipment, its specification and position in the building must be submitted to and approved in writing by the local planning authority. Equipment meeting the approved details shall be retained thereafter.
- 6) (a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the local planning authority.  
  
(b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the local planning authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

(d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to approval in writing by the local planning authority.

(e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the local planning authority that demonstrates the contamination identified has been made safe, and that the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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## Appeal Decision

Site visit made on 24 January 2017

**by Paul Singleton BSc (Hons) MA MRTPI**

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

**Decision date: 16<sup>th</sup> February 2017**

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**Appeal Ref: APP/L3245/W/16/3163216**  
**Glencott, Lonslow, Market Drayton TF9 3QY**

- 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 Roger Hughes against the decision of Shropshire Council.
  - The application Ref 16/00661/OUT, dated 12 February 2016, was refused by notice dated 19 May 2016.
  - The development proposed is the erection of an open market dwelling to include access.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of an open market dwelling to include access at Glencott, Lonslow, Market Drayton TF9 3QY in accordance with the terms of the application, Ref 16/00661/OUT, dated 12 February 2016, and the plans submitted with it subject to the following conditions:
  - 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
  - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
  - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
  - 4) Details of the parking and turning area to serve the new dwelling and the existing double garage shall be submitted as part of the first reserved matters application. The approved scheme shall be completed prior to the first occupation of the dwelling and the parking and turning areas shall thereafter be maintained for that purpose.
  - 5) No development shall take place until a scheme of foul and surface water drainage has been submitted and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the first occupation of the dwelling hereby approved.

## **Procedural Matter**

2. I have adopted the description of development as used in the appeal form and the Council's decision notice as providing a more accurate description of the appeal proposal than that set out in the original planning application.

## **Main Issues**

3. The main issues are whether the appeal site lies within the settlement of Lonslow and the effect of the proposal on the character and appearance of the settlement.

## **Reasons**

### *Site location*

4. As part of the Council's strategy of rebalancing the rural population in the district Policy CS4 of the Shropshire Core Strategy (CS) seeks to focus new residential development in community hubs and clusters. Lonslow forms part of a community cluster with nearby Bletchley and Morton designated under Policy MD1 of the Shropshire Site Allocations and Development Management (SAMDev) Plan. The second bullet of CS Policy CS4 states that investment should be focussed in hubs and clusters. CS paragraph 4.69 advises that windfall development adjoining a village is not acceptable unless it is an exception site for affordable housing or other development specified under Policy CS5.
5. No settlement boundary for Lonslow village is defined in the SAMDev Plan and the Council accepts that it is matter for the decision maker to determine whether the site should be regarded as being within or outside of the settlement. In agreement with the Council, I consider that the question of where the boundary might reasonably be considered to be is best assessed on the basis of the location of the existing dwellings and their relationship with each other. I undertook that assessment as part of my site visit.
6. When approaching from the direction of Longford the Glencott bungalow and double garage are clearly in view when passing the cottages on the left hand side of the road and these read as part of the grouping of dwellings and outbuildings around the 'T' junction. The double garage which abuts the road is prominent in view when approaching from the north and provides a clear signal that one is entering the settlement. That sense of doing so is quickly confirmed as the bungalow and other dwellings come into view as one climbs further up the hill. From the west, having passed the group of farm buildings, the bungalow comes into view as one is level with Hop Cottages and there is no sense of having left the village until one has passed the double garage and its obviously domestic driveway.
7. In my view the storage building immediately to the north of the site has the appearance of a small industrial workshop/store rather than an agricultural building. Due to its location close to the road, this building is not obviously related to an agricultural use or holding and could be perceived as being associated with the dwelling on the Glencott site. I would not argue that the storage building should be regarded as being within the settlement. However, there is nothing about its appearance or close proximity to the appeal site which would lead me to a conclusion other than that existing bungalow and garage are within the settlement.



8. Although Glencott was constructed in the 1960s it replaced two cottages which formally occupied the site and this land has, therefore, been in residential use for very many years. The site of the proposed new dwelling forms part of the lawn and garden to the existing bungalow and, as such, it also has a residential use and would benefit from the permitted development rights that attach to a residential curtilage. In terms of its appearance and function this land forms part of the curtilage of the existing dwelling. It is also of a very different character to the rough paddock and pasture land to the north.
9. In light of these considerations I consider that the appeal site should logically and reasonably be considered to fall within the established limits of the settlement. Accordingly, the proposal to develop a single dwelling in this location derives positive support from CS Policy CS4 which seeks to direct new housing to community clusters. The proposals is also in accordance with SAMDev Policy S11.2 (ix), which states that the community cluster will provide limited housing growth of approximately 20 dwellings over the plan period to 2026 to provide for small scale development. I note the Parish Council's comment that the appeal site is not an infill plot but the policy provides for other forms of development on suitable sites and I consider that the appeal site satisfies the policy criteria. No conflict with the development plan, therefore, arises in this respect.

#### *Character and appearance*

10. There is significant variety in the form and layout of the existing residential development in Lonslow. Although some properties face towards the road other stand with their gable end to the road and most are set back behind front gardens of varying depth and with a variety of frontage and boundary treatments. Plot widths vary quite considerably and there is no clear building line which would need to be respected in order to preserve the character and appearance of the village.
11. As the application has been submitted in outline all detailed matters, other than the means of access, are reserved for subsequent approval and are not before me as part of the appeal. However, based on my assessment set out above, I can see no reason why the site should not be capable of development for a single dwelling in a manner which would not cause significant harm to the character and appearance of the existing dwelling or of the village as a whole. The indicative layout shows adequate room for the parking and turning of cars within the site but gives rise to some uncertainty as to how access to the existing double garage would be maintained as it indicates an area of landscaping in front of the garage doors. However, I consider that this is a detail which could be resolved at the reserved matters stage.
12. Accordingly I find no conflict with CS Policy CS6, which seeks that all new development should be designed to a high quality which takes account of local context and character, or with SAMDev Policy MD2, which requires that development proposals should contribute to and respect locally distinctive and valued character.

#### **Conditions**

13. As the permission is in outline, other than in respect of access, conditions have been attached requiring the submission of all reserved matters for approval and setting out the timescales by which this must be done. In view of the

uncertainty as to the effect of the proposed access on the future use of the existing garage I have attached a condition requiring details of the proposed parking arrangements to be submitted as part of the reserved matters. Finally, as no details were submitted with the application, a condition is needed to require the submission and approval of a scheme of foul and surface water drainage. These details will need to be approved prior to the commencement of development in order to ensure a satisfactory standard of development and avoid any potentially abortive works.

### **Other Matters**

14. The Council has referred me to recent appeal decisions in Shropshire which deal with the application of CS Policy CS5 and SAMDev Policies MD3 and MD7a. However, in view of my finding that the site lies within the settlement rather than the open countryside, these policies are not relevant to the determination of the appeal.

### **Conclusions**

15. For the reasons set out above and having regard to all matters raised by the parties I conclude that the appeal should succeed.

*Paul Singleton*

INSPECTOR