



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

Date: Monday, 26 February 2018

Committee:
North Planning Committee

Date: Tuesday, 6 March 2018

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

Roy Aldcroft
Joyce Barrow
Gerald Dakin
Pauline Dee
Rob Gittins
Roger Hughes
Vince Hunt (Vice Chairman)
Mark Jones
Paul Milner
Peggy Mullock
Paul Wynn (Chairman)

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Davenport
Ann Hartley
Simon Jones
Matt Lee
David Minnery
John Price
Brian Williams

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the Minutes of the meeting of the North Planning Committee held on 6th February 2018, 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 2 p.m. on Monday, 5th March 2018.

4 Disclosable Pecuniary Interests

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

5 Land Adjoining Lower Fenemere Farm, Myddlewood, Myddle, Shropshire (17/01961/EIA) (Pages 9 - 54)

Erection of 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins

6 The Former Nursery, Barkers Green, Wem, Shropshire (16/05730/FUL) (Pages 55 - 84)

Change of use of land for the stationing of caravans for residential purposes for 3no. gypsy pitch together with the formation of hardstanding/parking and a utility/dayroom ancillary to that use

7 Appeals and Appeal Decisions (Pages 85 - 112)

8 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, 3rd April 2018, in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

North Planning Committee

6th March 2018

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 9 January 2018

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

2.00 - 5.10 pm

Responsible Officer: Emily Marshall

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

Present

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Joyce Barrow (substitute for Gerald Dakin), Pauline Dee,

Rob Gittins, Vince Hunt (Vice Chairman), Mark Jones, Paul Milner and Peggy Mullock

71 Apologies for Absence

Apologies for absence were received from Councillors Clare Aspinall, Gerald Dakin (substitute: Joyce Barrow) and Roger Hughes.

72 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 12th December 2017 be approved as a correct record and signed by the Chairman.

73 Public Question Time

There were no public questions, statements or petitions received.

74 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.

The Committee agreed to consider agenda item 8, planning application 17/01152/FUL next.

75 Proposed Foodstore To The North Of Wrexham Road, Whitchurch, Shropshire (17/01152/FUL)

The Principal Planning Officer introduced the application for the erection of a new foodstore (Use Class A1), access, substation and associated car parking and landscaping and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the

information contained within the Schedule of Additional letters, a letter from Aaron & Partners on behalf of Aldi and a document from Plan A on behalf of Lidl.

Councillor John Sinnott, on behalf of Whitchurch Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mary Yates and Gillian Hazelhurst spoke in support of the proposals, for a combined time of three minutes, 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 Peggy Mullock, as local ward councillor, made a statement and then moved to the back of the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- The site was located outside the development boundary for Whitchurch, as identified in the Shropshire adopted SAMDev Plan;
- The two allocated sites at Heath Road and Waymills were preferable;
- The site was too close to a busy road and roundabout and not well connected to the town centre; and
- The residents of Whitchurch would welcome a new food store, but not at the site currently proposed.

Mr Anthony Crean QC 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 his presentation the following points were made:

- Mr Crean began by congratulating the Principal Planning Officer on preparing a fair and thorough report to Committee;
- There were 47 towns within England with both an Aldi and Lidl, so granting permission for Aldi would not mean that the Lidl would close;
- Increased competition would improve the shopping experience in Whitchurch;
- Planning Officers had concluded that there was no breach of the National Planning Policy Framework (NPPF);
- There was no substance to the threat from planning consultants representing Lidl to commence judicial review proceedings should planning permission be granted; and
- His advice was that a decision to refuse the application would result in a successful appeal with the possibility of a costs award against the Council.

During the ensuing debate, Members commented on how useful the site visit had been as it had enabled them to view the site within the context of the surrounding historic, rural landscape and particularly the canal as a non-designated heritage asset. The Council's Natural and Historic Environment Manager was in attendance and provided advice to the Committee. Members of the Committee expressed concern at the location of the proposed development and the harmful impact on the town centre, the Principal Planning Officer (Policy) provided advice to Members.

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 refused in accordance with the Officer's recommendation for the following reason:

The proposed development will have an adverse impact on the vitality and viability of the town centre, albeit not a significant adverse impact, there remains an impact. The site, taking into account the proposed shopper bus, is not well connected to the town centre to encourage linked trips and use of alternative means of travel other than the private car. Furthermore, the application site lies in a historic and rural landscape context and the proposed development is considered to have an adverse impact on the significance of the setting of the non-designated heritage asset and an adverse impact on the immediate landscape.

The heritage and landscape impacts are not considered to be overcome by mitigation offered by the proposed landscaping or finish material for the building. Furthermore, these impacts, in addition to the impact on the town centre and the impact on connectivity are not considered to be outweighed by the public benefits of the development.

As such the proposal is not considered to comply with the Development Plan Core Strategy policies CS5, CS6 and CS17 or with policy MD13 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraph 135. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

76 Land South East Of Rosedale, Maesbrook, Oswestry, Shropshire, SY10 8QN (17/04401/FUL)

The Area Planning and Enforcement Officer introduced the application for the erection of an affordable dwelling with detached garage/store and formation of vehicular access. Members' attention was drawn to the information contained within the Schedule of Additional Letters.

Councillor Charles Green, on behalf of Kinnerley Parish Council 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 accepted the principle of an affordable dwelling in this location, however concerns remained relating to the current plot location and layout. It was felt that these concerns could be addressed through further negotiations with the applicant.

RESOLVED:

That determination of the application be deferred to allow for further negotiations with the applicant in relation to the siting, scale and design of the plot and if an acceptable solution can be found, delegated powers be given to officers to approve the application.

77 Barn To The South Of Lee, Ellesmere, Shropshire (17/04613/FUL)

The Area Planning and Enforcement Officer introduced the application under Section 73A of the Town and Country Planning Act for the erection of 1No dwelling; erection of detached storage building; change of use of agricultural land to domestic residential use; realignment of existing vehicular access track and installation of package treatment plant (amended scheme) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Brian Williams, 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 challenged paragraph 6.1.13 of the Officers report, stating that the dwelling would enhance the site and wider setting;
- There had been no public objections and the Parish Council supported the proposal; and
- If refused, the site would become derelict and an eyesore within the village.

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

Mr Ben Pocock, 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, the majority of members expressed their support for the Officer's recommendation.

RESOLVED:

That planning permission be refused, in accordance with the Officer's recommendation, for the following reason.

The development site fails to be located within or adjacent to an area identified for additional sustainable residential development in accordance with Shropshire's strategic approach and the main aims of the National Planning Policy Framework. As a result, the site is considered as being within open-countryside, where strict controls are placed on all new development to ensure that only those that maintain and enhance the vitality and character will be supported, of which open market new build

dwellings are not considered to improve the sustainability of rural communities. The development site would also fail to comply with the Settlement Policy as found at S8.2(iv) in that the development is neither an infill site or a conversion. Resultantly, the proposed development is contrary to local policies CS1 and CS5 of the Shropshire Core Strategy, MD1 and MD7a of the SAMDev Plan and to the overall aims of the National Planning Policy Framework.

78 Proposed Residential Development To The West Of Shrewsbury Street, Prees, Shropshire (17/03775/OUT)

(Councillor Wynn declared that he was the local member for this application. Councillor Hunt, as Vice-Chairman presided as Chairman for this item).

The Principal Planning Officer introduced the outline application for the erection of up to 5 no. residential dwellings including access off Shrewsbury Street 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. Members' attention was drawn to the information contained within the Schedule of Additional letters. The Principal Planning Officer reported that Highways had recommended the inclusion of an additional condition to ensure that appropriate engineering details are submitted for approval therefore the Committee were asked to consider granting delegated powers to the Head of Planning Services to grant permission.

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.

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

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

- The access may not be appropriate for the total number of dwellings to be provided on the allocated site;
- The plans seemed to show that the road was wide enough for two vehicles when in fact part of it would be single width, creating a pinch point.

The Principal Planning Officer responded to concerns raised by speakers by confirming that highways had confirmed that the access arrangements were acceptable should permission be granted for five dwellings. The Committee were reminded that they must consider only the proposals before them.

Having considered the submitted plans and listened to the comments made by all of the speakers the Committee expressed the view that whilst understanding the

concerns of the parish council and local member, they were reassured by the advice from Highways and were satisfied that the highways arrangements were appropriate for this development.

RESOLVED:

That delegated authority be given to the Head of Planning Services to grant planning permission subject to:

- The conditions set out in Appendix 1 of the report;
- An additional condition, as recommended by Highways

The meeting was adjourned at 4:08 p.m. and reconvened at 4:11 p.m.

The Committee agreed to consider agenda item 10, planning application 17/05626/VAR next.

79 Proposed Residential Development, Land At The Cross, West Felton, Shropshire (17/05626/VAR)

The Principal Planning Officer introduced the application for the variation of condition number 7 attached to Planning Permission 14/00133/OUT dated 1st October 2014 (allowed on appeal) to allow amendments to the access arrangements. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Mr Chris Jones, local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Pat Mabe, on behalf of West Felton Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Sean Jones, 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 some members expressed concern in relation to pedestrian safety. In response, the Principal Planning Officer advised that the Planning Inspector had accepted the narrowing of the highway, but did not consider that it would be a significant issue and although the proposed width of 5.5 meters fell below the standards set out in both local and national guidance, members were reminded that this was guidance only. As such it was officer's opinion that that the variation would provide improvements to pedestrian connectivity and safety and as such a refusal could not be justified.

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 delegated powers be granted to the Head of Planning Services to approve the variation of condition 7, subject to the re-wording of the condition to include the provision of the footway improvements and to refer to the recently received revised access plan and subject to the applicant entering into a S106 agreement deed of variation.

Councillor Vince Hunt left the meeting at this point.

80 Proposed Residential Development, Land At The Cross, West Felton, Shropshire (16/05336/REM)

The Principal Planning Officer introduced the application for the approval of reserved matters (access, appearance, landscaping, layout, scale) pursuant to 14/00133/OUT for residential development of 25 houses (inclusive of 2 affordable). Members' attention was drawn to the information contained within the schedule of additional letters.

Mr Chris Jones, local resident spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Sean Jones, 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.

RESOLVED:

That determination of the application be deferred to allow additional time for consultation with West Felton Parish Council and that delegated powers be granted to the Head of Planning Services to grant reserved matters consent, subject to no new material planning issues being raised by the Parish Council and subject to the conditions listed in Appendix 1 of the report.

If new material planning issues are raised by the Parish Council, the application is to come back to Committee for consideration.

81 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the northern area be noted.

82 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 6th February 2018, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Before closing the meeting, the Chairman and members of the Committee thanked Karen Townend, Principal Planning Officer for her work within planning and wished her well in her new role as a planner at Birmingham City Council.

Signed (Chairman)

Date:



Committee and Date
 North Planning Committee
 6th March 2018

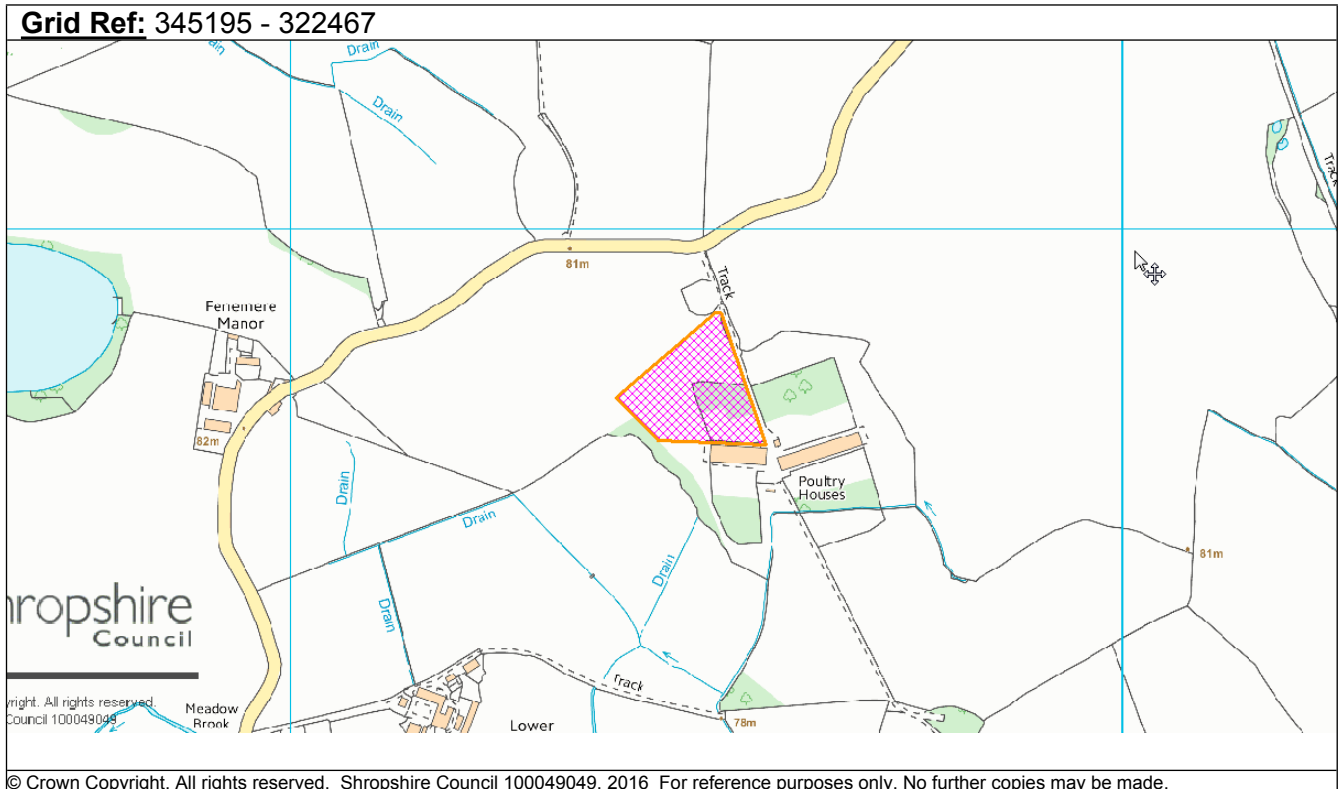
Item
5
 Public

Development Management Report

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

Summary of Application

Application Number: 17/01961/EIA	Parish:	Baschurch
Proposal: Erection of 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins		
Site Address: Land Adjoining Lower Fenemere Farm Myddlewood Myddle Shropshire		
Applicant: Mr Richard Gough		
Case Officer: Philip Mullineux	email: planningdmnw@shropshire.gov.uk	



Recommendation:- Delegate approval to the Head of Planning Services subject to the conditions as attached to appendix one of this report and any modifications considered necessary by the Head of Service.

REPORT

1.0 THE PROPOSAL

- 1.1 Application proposes the erection of a 16,000 bird number free range poultry shed (for egg production) and associated hard standing and two feed bins on land adjoining Lower Fenemere Farm, Myddlewood, Myddle.
- 1.2 The application is accompanied by a set of proposed elevation and floorplans, site location plan, block plan, Design and Assess statement, Planning Statement and Environmental Statement which includes sections on a landscape and visual impact assessment, heritage appraisal, ecological appraisal, highway assessment, landscape proposals, consideration to alternative sites, drainage assessment and water management statement and odour and noise statements. During the application processing further information was received in relation to ammonia issues and landscape mitigation.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site in accordance with detail as set out on the application form equates to an area of 0.30 hectares and is located alongside an existing intensive egg laying business known as Fenemere Manor Poultry Farm which is located in open countryside approx. 1 1/2 miles to the east of Baschurch and 1 mile to the south west of Myddle. The site is accessed directly from the lane which links Eyton Lane in Baschurch with Myddlewood
- 2.2 The land holding in association with the poultry site amounts to approx. 125 acres with the fields bounded and crossed by dense and mature hedges and trees. The farm's free range poultry unit (for egg production) commenced operation in 1998 and subsequent planning permissions have resulted in five intensive buildings in association with the business.
- 2.3 The sheds, in accordance with information as supplied by the applicants agent are populated with egg laying birds as follows:
- ☐ Shed 1 - 1998 – 16,000 birds
 - ☐ Shed 2 - 2001 – 16,000 birds
 - ☐ Shed 3/4 - 2005/2007 – 32,000 birds
 - ☐ Shed 5 - 2015 – 16,000 birds
- 2.4 This equates to 80,000 birds currently on site, with the total number of birds subject to the application under discussion at 16,000, will take total numbers on site to 91,999, as it is proposed to slightly reduce numbers in each of the existing

buildings on site.

2.5 The proposed egg laying bird building measures 67.400 metres long by 19.80 metres wide. The building is 3.353 metres to the eaves and 6.037metres high to the ridge. The building will be external steel clad and coloured slate blue to match existing buildings adjacent to the site.

2.6 The building will be designed as a multi-tier system with belt clean-out and will be ventilated with high-speed extraction fans, with gable end fans. The two new feed bins positioned close to the building will each have 16 tonnes compound feed capacity. Manure, litter and dirty water will be utilised as at present for the other houses and taken off site.

2.7 A variation to the existing site environmental permit in order to allow the additional birds on site was granted by the Environment Agency on 27th January 2017. This will control on site emissions and operations.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 An Environmental Impact Assessment Scoping Opinion carried out by the Council in accordance with Environmental Impact Assessment Regulations established that further intensive egg laying development on site would require an Environmental Statement to accompany any application for development on site, owing to bird numbers as well as cumulative impact with existing birds on site. Development considered to fall into Schedule one 17(a) of EIA Regulations and therefore Committee presentation in relation to this application is mandatory in accordance with the Council's Constitution. (It must also be noted that this application was registered by the Council as valid on 10th May 2017. As such the 2015 Environmental Impact Assessment Regulations are relevant to this application. The 2017 Environmental Impact Assessment Regulations came into force on 16th May 2017. In relation to the current and relevant previous editions of the EIA Regs the criteria of schedule one developments as well as schedule two criteria in relation to intensive poultry applications are no different).

4.0 **Community Representations**

4.1 **Baschurch Parish Council** has responded indicating it supports this application

4.2 **Consultee Comments**

4.3 **The Environment Agency** raises no objections. The response indicates:

Environmental Permitting Regulations: The proposed development will provide an additional building to accommodate approximately 16,000 birds. Lower Fenemere Farm currently operates under an Environment Permit (EP) and a Variation to the Permit in consideration of the increase in total bird numbers on site has been

approved. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed. Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement and Sanctions guidance.

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

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

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

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

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

Manure Management (storage/spreading): Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does

not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Separate to the above EP consideration, we also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities.

Pollution prevention guidance can be viewed at:

<https://www.gov.uk/guidance/pollution-prevention-for-businesses>

4.4 **Natural England** have responded to the application indicating:

No objection subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

have an adverse effect on the integrity of Midlands Meres and Mosses Phase 1 Ramsar (Fenemere) and damage or destroy the interest features for which Fenemere Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the mitigation measures outlined in your authority's Habitat Regulations Assessment (HRA) should be secured.

This mitigation includes taking areas of arable land adjacent to Fenemere out of agricultural production to be managed as semi natural vegetation, reduction of applications of fertiliser adjacent to the designated site, the production of a mitigation monitoring strategy and a management plan for the areas of land to be taken out of arable use.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Earlier responses to the application indicated:

Insufficient information provided There is insufficient information to enable Natural England to provide a substantive response to this consultation as required under the Town and Country Planning (Development Management Procedure) (England) Order 2015. Please provide the information listed below and re-consult Natural England. Please note that you are required to provide a further 21 day consultation period, once this information is received by Natural England, for us to respond.

European/International Sites

Natural England previously advised that a Habitat Regulations Assessment (HRA) be undertaken by your authority to allow the consideration of impacts of the proposal on the Midlands Meres and Mosses Phase 1 and Midlands Meres and Mosses Phase 2 Ramsar sites in our letter dated 30 May 2017 (ref 215490). We would reiterate the advice in that letter and advise that a HRA is undertaken.

On receipt of the information requested, we will aim to provide a full response within 21 days of receipt. Please be aware that if the information requested is not supplied, Natural England may need to consider objecting to the proposal on the basis of potential harm to the above designated sites.

Should the developer wish to explore options for avoiding or mitigating effects on the natural environment with Natural England, we recommend that they use our Discretionary Advice Service.

An earlier response indicated:

Insufficient information provided There is insufficient information to enable Natural England to provide a substantive response to this consultation as required under the Town and Country Planning (Development Management Procedure) (England) Order 2015. Please provide the information listed below and re-consult Natural England. Please note that you are required to provide a further 21 day consultation period, once this information is received by Natural England, for us to respond.

European/International Sites

No assessment has been provided of the potential impacts that the proposal will have on a number of designated sites as identified in the Ecological appraisal. These sites are component parts of the Midlands Meres and Mosses Phase 1 Ramsar and the Midlands Meres and Mosses Phase 2 Ramsar

There is, therefore, currently insufficient information for you to undertake a Habitats Regulation Assessment (HRA) of the proposed development. We advise you to obtain the following information:

Details of the likely emissions arising from the proposal and consideration if this is likely to have significant effects on the designated sites.

A strategy for mitigating any identified impacts

We note the application documents refer to an amended Environmental Permit from the Environment Agency however we have not seen this. You may be able to refer to the detail within the Environmental Permit when undertaking your HRA.

Sites of Special Scientific Interest (SSSI)

The above information will allow us to understand the likely impacts of the features of interest for the nationally protected sites which are the component parts of the international sites. These SSSIs include Fenemere, Brownheath Moss, Sweat Mere and Crose Mere and Hencott Pool.

Please note that we are not seeking further information on other aspects of the natural environment, although we may make comments on other issues in our final response.

On receipt of the information requested, we will aim to provide a full response within 21 days of receipt. Please be aware that if the information requested is not

supplied, Natural England may need to consider objecting to the proposal on the basis of potential harm to the above designated sites.

4.5 **SC Highways** raises no objections. The response indicates:

No Objection – subject to the development being carried out in accordance with the approved plans and the following condition and informative.

Observations/Comments: [s/v 15/5/17]

The application proposes a 16,000 bird poultry shed for free range egg production which is in addition to the five existing buildings which have previously been permitted and constructed.

From the information contained within the Environmental Statement (ES) it is proposed to increase the bird population to a maximum of 91,999 laying hens and this number is to be achieved by de-stocking the current buildings upon completion of the new poultry shed.

The increase in bird numbers is related to the expected number of vehicle movements within the submitted Highways Assessment (Part 6 of the ES). Based upon the vehicle movement figures provided, the increase in traffic for the operation of the business once the building is completed is not considered to be significant in terms of the capacity of the highway network. The submitted information does identify the traffic associated with the construction phase over a period of 7 weeks which will be significant for one day within week 4 when the concrete deliveries are scheduled.

It is noted that a previous planning permission resulted in funding for passing bays along the route between the site access and the main road which links the A528 and B4397. Site observations confirm that the passing bays are in place and available for use.

It is, however, noted that the site access to the Highway appears to be formed from an unbound material which is considered to require consolidation. A condition is therefore, recommended below for the reconstruction or resurfacing of the access to the Highway before the new poultry shed is brought into use.

Conditions

Pre-occupation/bringing into use:-

1. Prior to the proposed poultry building being brought into use, the site access to the Highway shall be reconstructed or resurfaced in a bound material for a distance of 20 metres from the Highway carriageway edge.

Reason: In the interests of Highway safety.

The following informative note is relevant in carrying out the above condition.

Informatives:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- ☐ construct any means of access over the publicly maintained highway (footway or verge) or

- ❑ carry out any works within the publicly maintained highway, or
- ❑ authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- ❑ undertake the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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

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

4.6 **SC Planning Ecology** have responded indicating;

The final response to this application concluded indicating:

Summary

Based on the above mitigation & enhancement measures SC Ecology considers that there will be no effect on Fenemere Ramsar, and therefore the proposal does not need to be considered in-combination with other plans or projects.

Please note: The applicant has provided detailed modelling (Steve Smith, dated January 2018). The detailed modelling does not take into consideration Natural England's Ramsar Catchment, but it does demonstrate that SCAIL modelling is 'precautionary' at this site (i.e. detailed modelling shows that the Process Contribution is 0.25kg/ha/yr at Fenemere, and SCAIL shows 0.70kg/ha/yr). SC Ecology is therefore satisfied that what is proposed as Mitigation is sufficient, and ultimately a net gain for biodiversity.

The proposed works under application 17/01961/EIA will not have a likely significant effect on Fenemere Ramsar & SSSI. The proposed works under application 17/01961/EIA will not have an impact on the integrity of the Fenemere Ramsar & SSSI site.

I have attached a Habitat Regulations Assessment Matrix to this response, no further information is required to support ecology providing the following planning conditions are on a decision notice and are enforceable;

Habitat Regulation Assessment Conditions;

1. The development hereby permitted shall not be occupied by birds until evidence is submitted to and approved in writing by Shropshire Council to demonstrate that the area of land, buffered and provided as mitigation for impact on Fenemere

Ramsar/SSSI (0.85 hectares as shown on site plan 00 REV A dated 4th December 2017), is marked out by <900mm high posts at 20m intervals.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and section 118 of the NPPF.

2 The development hereby permitted shall not be occupied until a mitigation monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the mitigation monitoring strategy is to demonstrate; 1) that no application of artificial fertiliser is applied to 0.85 hectares of land identified on site plan 00 REV A dated 4th December 2017 for the lifetime of development, 2) the area of 0.85 hectares adjacent to Fenemere Ramsar/SSSI is managed as permanent semi natural vegetation for the lifetime of development, 3) the area of newly planted tree belt in close proximity to Marton Pool LWS (Drawing W17/2504/03 – Strategic Landscape Plan) is in place and retained for the lifetime of the development.

The content of the strategy shall include the following;

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of the development.
- c) Appropriate success criteria and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods of gathering and analysing
- e) Locations and monitoring
- f) Timing and duration of monitoring
- g) Responsible persons and lines of communications

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results of the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and section 118 of the NPPF.

Planning conditions;

3. The development hereby permitted shall not be occupied until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and section 118 of the NPPF.

4. A Habitat Management plan shall be submitted to, and approved in writing by, the local planning authority prior occupation of the development. The content of the Habitat Management Plan shall include the following.

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
- i) Possible remedial/contingency measures triggered by monitoring;
- j) The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

Local Sites and Ancient Woodlands

There are 7 Natural Assets in 2km of Lower Fenemere Farm proposal. SC Ecology has identified one Environmental Permit which could act in-combination with 'The Yesters' Local Wildlife Site only. As there has not been a planning application for the identified new permitted site, and as there are no other plans or projects which would act in-combination, (since January 2016 when APIS background levels have been updated), then SC Ecology has not identified any plans projects which should

be assessed in-combination with the 7 Natural Assets.

NRW Guidance Note GN020 has been followed to establish what impact this planning application may have on Natural Assets i.e. using a 1% significance threshold to screen sites out of further assessment (please note 1% is not deterministic and sites need to be considered in-combination with other plans and projects when known).

Following Steve Smith's AS Model all Natural Assets screen out below a 1% Critical Load significance threshold, apart from Marton Pool LWS at 1.3% of the Critical Load.

In order to mitigate for 1.3% the applicant has proposed to plant a tree belt close to the sensitive receptor. Please refer to Drawing W17/2504/03 – Strategic Landscape Plan, which shows an additional buffer of 166m x 5m of planting between the proposed shed and Marton Pool.

The PC is only slightly above the significance threshold for ammonia deposition and mitigation has been proposed. If the mitigation is conditioned SC Ecology does not object to this application with regard to effects on the Marton Pool LWS. The planner should consider MD12 when making a planning decision.

The conditions set out above will ensure protection of Natural Assets.

As earlier response indicated:

Additional information is required relating to impact on;

- Midland Meres & Mosses Phase 2
- Midland Meres & Mosses Phase 1
- Fenemere SSSI

In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Recommendation:

Additional information is required relating to designated sites.

In the absence of this additional information refusal is recommended since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010). (For further detail in relation to the Ecology response please refer to the Ecology response dated 9th August 2017).

An earlier response indicated:

The proposal is for an additional 16,000 Bird Free Range Poultry Shed. From the Design & Access Statement the applicant currently has an 80,000 bird capacity. The Environmental Issues and Emissions report submitted in support of the

proposal details that the site has an Environmental Permit for 91,999 laying hens.

There are no mature trees on the site, however, the site has been subject to a recent planting regime associated with previous planning applications resulting in immature mixed species.

Protected species do not restrict the proposed development. Pearce Environment conclude that the planting of native tree species would enhance the site with respects to nesting birds. Additional information is required relating to the potential impacts on designated sites. SC Ecology has emailed the Environment Agency for the required supporting evidence.

Designated Sites

The proposed application will require an Environmental Permit from Environment Agency. Shropshire Council and Environment Agency strongly encourage applicants to 'twin track' the applications for planning permission and the Environmental Permit.

Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can therefore use the EA modelling from the permit to complete the assessment of air pollution impacts but only if Shropshire Council has seen the detailed modelling outputs, understands them and agrees with them.

The Environment Agency Permit should be provided by the applicant. A copy of the Ammonia Screening Tool (AST) assessment sheet should also be provided (this may be an excel sheet or a pdf).

The AST assessment sheet should contain the full modelling for all designated sites (European designated sites within 10km, SSSI in 5km and local sites in 2km). The AST assessment sheet should show the critical load/level of each designated site and the process contribution from the application as a % of the critical load/level.

Habitat Regulation Assessment

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

A Habitat Regulation Assessment matrix will be updated and sent to the planning case officer once the supporting evidence from the EA is received. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented.

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

integrity of any European Designated site.

4.7 **SC Archaeology** raises no objections. The response indicates:

A Heritage Assessment is included as Part 9 of the Environmental Statement. We confirm that this satisfies the requirements of Paragraph 128 of the NPPF and Policy MD13 of the Local Plan with regard to the archaeological interest of the proposed development site. The Statement finds that there is nil to low potential for archaeological remains to be present on the site. We concur with this assessment and on this basis we no further comments to make with respect to archaeological matters.

4.8 **SC Drainage** raises no objections. The response indicates:

The proposed surface water drainage is acceptable in principle.

The following drainage details, plan and calculations should be conditioned if planning permission were to be granted.

1. Details and plan on how the contaminated water in the yard from spillages or cleaning of sheds will be managed/ isolated from the main surface water system should be submitted for approval.

Reason: To ensure that polluted water does not enter the water table or watercourse.

2. Informative: On the Surface Water Flood Map, the south east corner of the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 150mm above the ground level.

Reason: To minimise the risk of surface water flooding

4.9 **SC Regulatory Services** raises no objections. The response states:

Having considered the proposals I have no objections and no conditions to recommend having taken into account all pollution sources and the potential for pests. The site is covered by an Environmental Permit issued and regulated by the Environment Agency. This will ensure that controls are in place in respect of noise, odour, water and pests.

4.10 **Public Comments**

No comments received from members of the public at the time of writing this report.

5.0 **THE MAIN ISSUES**

- ☐ Environmental Impact Regulations
- ☐ Policy and principle of development
- ☐ Siting, scale and design of structures and visual landscape impact.

- ☐ Residential amenity.
- ☐ Ecology

6.0 OFFICER APPRAISAL

6.1 Environmental Impact Assessment.

6.1.1. The Town and Country Planning (Environmental Impact Assessment) Regulations 2015 as well as the 2017 edition specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of egg laying poultry where the number of birds is 60,000 or more. As such it is considered necessary that the proposal which is part of a wider development needs to be considered in relation to EIA Regulations. The site has planning permission for 75,999, egg laying birds. Taking into account the further birds on site as referred to in the Environmental Statement submitted in support of the application, the development on site as a whole is considered to also fall into the remit of schedule 2 : 13(b)(i). development on cumulative impacts, as it is considered the development as changed or extended “may have significant adverse effects on the environment”.

6.1.2 The Environmental Statement in support of the application makes reference to a sequential site selection and Officers consider detail as set out on site selection in accordance with the circumstances and statutory consultee responses received is considered satisfactory in principle, with consideration to the farming business concerned and the location and impacts etc subject to satisfactory statutory consultee responses to this application.

6.2 Policy and principle of development

6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para.17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises, in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken into account (para. 120).

6.2.2 Policy CS6 of the Shropshire Core Strategy: ‘Sustainable Design and Development Principles’ requires development to protect to conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local

context and character. The development should also safeguard against both residential and local amenity, ensuring that sustainable design and construction principles have been incorporated. This is further reiterated within SAMDev MD2 which reinforces for the need for proposals being on appropriate sites that take into consideration their local surroundings.

6.2.3 Policy CS13 of the Shropshire Core Strategy: 'Economic Development, Enterprise and Employment' seeks to develop and diversify Shropshire's economy, through supporting existing enterprises and delivering sustainable growth. Particularly in rural areas, where it is recognised that a continued importance in diversification is essential in achieving a prospering economy.

6.2.4 The proposed development is for an extension to an existing large scaled intensive egg laying unit which is run on 'free range egg principles'. As noted earlier in this report a variation to the site's environmental permit has been granted which allows for the increase in bird numbers the subject of this application. The permit will control, on site operations and emissions and this is controlled and monitored by the Environment Agency.

6.3 **Siting, scale and design of structures and visual landscape impact.**

6.3.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. Policy MD12 of the SAMDev also puts emphasis on the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration. It is noted that the site is not located within an area designated for landscape value.

6.3.2 The application proposes one egg laying unit measuring 67.400 metres long by 19.80 metres wide. The building is 3.353 metres to the eaves and 6.037 metres high to the ridge. The building will be external steel clad and coloured slate blue to match existing buildings adjacent to the site. There will also be two associated feed bins and hard standing area turning area. The building will form part of a group (five existing), of similar intensive egg laying units, all in the control of the applicant.

6.3.3 The site is relatively open mostly grade 3 agricultural classification farm land, to which it is acknowledged that development as proposed will have a visual impact. A landscape and visual impact assessment submitted in support of the application concludes that the proposed development is likely to generate no greater than a moderate visual effect, and a low effect upon the landscape setting. With consideration to the existing intensive poultry site as a whole in relation to the surrounding land topography and character, Officers accept this conclusion and consider the proposed development acceptable on the understanding that further landscape mitigation in the form of landscape planting enhancement is put in place and it is considered that this matter can be adequately addressed via the imposition

of suitably worded conditions to any approval notice subsequently issued.

- 6.3.4 As such with suitable mitigation measures, the development will have a moderate visual impact considered not significant. It is acknowledged that there will be an increase of delivery vehicles and people travelling to the works and in particular during construction on site.
- 6.3.5 On balance Officers share the conclusions in relation to landscape and visual impact and with consideration to the economic benefits of the proposal consider the development acceptable in relation to landscape and visual impact.
- 6.3.6 Whilst it is acknowledged that intensive poultry units can have a significant impact on the landscape character as well as a visual impact, consideration also has to be given to the economic benefits.
- 6.3.7 Paragraph 129 of the NPPF indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, (including by development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.3.8 Policies CS6 and CS17 of the Shropshire Core Strategy emphasise the need to protect and enhance Shropshire's historic assets. Policy MD13 of the SAMDev emphasising the requirement wherever possible that proposals should avoid harm or loss of significance to designated or non-designated heritage assets and this includes consideration to their settings.
- 6.3.9 A heritage impact assessment has been submitted as part of the application to which Officers share the conclusion of the report in that the assessment concludes that development on this site would not cause any direct or indirect physical impact on known heritage assets, and, in view of the low potential for sub-surface archaeological deposits, no mitigation in relation to this matter is considered necessary as a result of the development as proposed.
- 6..3.10 On balance whilst it is appreciated that the development is relatively large in scale, the proposal in relationship to landscape and visual impact as well as historic character impacts and settings is considered acceptable with conditions attached as discussed. The proposal has taken into consideration the landscape character topography and setting, being one of large open arable fields with significant tree cover in the surrounding distances from the site, overall development is considered to be in accordance with Policies CS5 and CS17 of the Core Strategy, Policies MD1, MD12 and MD13 of the SAMDev and the relevant sections of the NPPF,

which includes the section on Conserving and enhancing the historic environment and the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.4.1 Residential amenity.

6.4.2 Detail in support of the application indicates that there is in the region of 75,999 birds on site. The development subject to this application is for an additional 16,000 bird places. As such the site will be regulated in accordance with the Environmental Permitting (EP), (England and Wales) Regulations (EPR) 2010 and as such the site requires a permit to be issued and monitored by the Environment Agency. As indicated earlier a site environmental permit variation has been granted by the Environment Agency. The usual legislation in relationship to these matters as applied by the Council's Public Protection is of course still relevant.

6.4.3 The closest dwelling to the site is approx.450 metres to the south-west of the site. Odour emission rates from the proposed poultry house have been assessed and quantified based upon an emissions model that takes into account the likely internal odour concentrations and ventilation rates of the poultry house. The odour emission rates so obtained have then been used as inputs to an atmospheric dispersion model which calculates odour exposure levels in the surrounding area. The modelling predicts that, at all nearby residences and commercial properties, the predicted 98th percentile odour concentrations would be below the Environment Agency's benchmark for moderately offensive odours, a maximum annual 98th percentile hourly mean concentration of 3.0 ouE/m³. This is considered to be an acceptable level in relation to Environment Agency guidelines in relation to amenity issues, and as such the Council's Public Protection Manager raises no objections on this matter.

6.4.4 The applicants have also submitted, in support of their application, a noise assessment which has considered background noise in relationship to extract fan noise on the chicken unit. (The proposed building will be vented by mechanical ventilation (tunnel ventilation) with roof mounted fans. This assessment concludes that there will be no adverse noise impacts in relationship to residential amenity issues to any dwellings outside of the applicant's control. (Nearest dwelling to the application site is approx. 450 metres to the south west). As such the proposal is considered acceptable on noise and dust issues with a condition attached to any approval notice issued with regards to hours of deliveries of feed to the site and its transportation on site from HGV to silo can be a noisy task. Whilst it is appreciated that the noise report in support of the application confirms that noise impact will be low and below the existing ambient environmental noise levels, this condition is recommended owing to background noise in this location considered very low and transportation of feed deliveries to the site as well as their unloading can be a noisy exercise. Controls in relation to poultry deliveries, is not considered necessary in relation to egg laying on site.

6.4.5 Manure management, disposal and storage.

- 6.4.6 As part of the Environmental Permit the application will need to supply a manure management plan, this includes a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants' land ownership. The shed will be fitted with a multi-tier aviary system. The multi-tier system allows multiple perching levels within the building with manure belts situated below these raised platforms. The unit is also thoroughly cleaned down at the end of each 14month bird cycle. The manure belts deposit the manure onto an agricultural elevator which is emptied into an agricultural trailer. Manure would be removed from the poultry house twice weekly in sealed trailers and taken from the site to the receiving farms, to which it is understood each of these operate a 'Farm Manure Management Plan'. This ensures that the rates and area for spreading within the farm unit are sustainable and meet the DEFRA guidelines to meet:
- ☒ Protecting our Water, Soil and Air - A Code of Good Agricultural Practice for farmers, growers and land managers 2009 and
 - ☒ Manure Management Plan: a step-by-step guide for farmers – June 2003
- 6.4.7 The receiving farms vary dependent upon need and capacity, it is understood the applicant is currently delivering to Leaton Knolls Estate, Leaton Knolls, Berwick, Shrewsbury SY4 3HX and D R Burden, Nook Farm, Loppington SY4 5SG.
- 6.4.8 Poultry manure is considered a valuable agricultural fertiliser and there is high demand from the arable farming industry. Spreading manure provides nutrients to grow crops and also adds organic matter to the soil to improve soil structure. The storage and spreading of farmyard manure is controlled through the Nitrate Pollution Prevention Regulations 2015. These regulations dictate where manure can be stored, where it can be spread and the timing of spreading during the year. Compliance with the regulations is monitored by DEFRA under cross compliance legislation with fines in place for none compliance.
- 6.4.9 The legal process for the transfer of the waste from the site will require the applicant to record the dates and quantities of manure exported and the name address and farm holding number of the recipient farm. Once the manure reaches the recipient farm, the legal duty of compliance with the Nitrate Pollution Prevention Regulations 2015 passes to the recipient. The storage of manure in field heaps is regulated in Part 6 (para 23, sub section 3) of the Nitrate Pollution Prevention Regulations 2015 and the application of organic manure to land is controlled within Part 5 of the Nitrate Pollution Prevention Regulations 2015. The regular removal of the manure removes the potential breeding medium for flies. Essentially, using a manure belt system removes the potential for fly issues.
- 6.4.10 In accordance with the Environmental Permitting Regime, the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants' land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does

not exceed the specific crop requirements i.e. as an operational consideration. Any plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable.

6.4.11 It is noted that neither the Environment Agency or the Council's Public Protection (Regulatory Services) Manager raises any issues of concern on these matters and this includes reference to potential fly problems. Officers consider information in support of the application on these issues to be acceptable with consideration to the required processing as discussed above.

6.5 It is recommended that conditions are attached to any approval notice if members are mindful to approve the application, in order to ensure adequate consideration to disposal of manure generated on site and its spreading on land and consideration to residential amenity, as well as impacts in relation to use of surrounding public footpaths by means of a manure management plan, and also a condition in order to ensure all manure removed off the intensive poultry site is done so in sealed and covered trailers. It must also be noted that the Council's Public Protection section has statutory powers to deal with any proven amenity issues as a result of the development.

6.5.1 On balance the proposal is considered acceptable in relation to surrounding residential amenity issues with consideration to measures as discussed in the paragraph above. As such the proposal is considered to be in accordance with relevant policies of the Shropshire Core Strategy, the Council's SAMDev and the National Planning Policy Framework on issues in relation to residential amenity and public protection.

6.6 Ecological issues.

6.6.1 Policies CS5, CS6 and CS17 of the Shropshire Core Strategy and Policy MD12 of the SAMDev clearly indicate the requirement for development proposals to demonstrate that there are no unacceptable adverse environmental impacts. Applications should demonstrate a project level Habitats Regulations assessment for all proposals where the local planning authority identifies a likely significant effect on an internationally designated site. Developments should only be permitted if it can be clearly demonstrated there will be no likely significant adverse effects directly, indirectly or cumulatively in relationship to a number of criteria which includes reference to priority species, priority habitats important woodlands, trees and hedges, ecological networks, visual amenity, landscape character and local distinctiveness.

6.6.2 Both the Council's Planning Ecologist and Natural England initially raised concerns with regard to ecological issues, both requiring additional information relating to ammonia impacts on designated sites. In the absence of the required additional information, the Council's Planning Ecologist recommended refusal, indicating it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

- 6.6.3 The key issue of concern related to ammonia emissions as a result of the proposed development. All environmental sites need to be assessed in terms of ammonia screening. It is also considered necessary for the requirements for habitat enhancements as a form of ammonia mitigation which is required or should be demonstrated on a proposed landscape plan. (For further information on this issue please refer to paragraphs 4.4 and 4.6 above).
- 6.6.4 On receipt of further information in relation to ammonia outputs and mitigation and enhancement measures offered, the Council's Planning Ecologist considers that there will be no effect on Fenemere Ramsar, and as such the proposal does not need to be considered in-combination with other plans or projects. Natural England also concluded that without appropriate mitigation the application would: have an adverse effect on the integrity of Midlands Meres and Mosses Phase 1 Ramsar (Fenemere) and damage or destroy the interest features for which Fenemere Site of Special Scientific Interest has been notified, and that in order to mitigate these adverse effects and make the development acceptable, the mitigation measures outlined in the Council's Habitat Regulations Assessment (HRA) should be secured. (Copy attached as a separate document as annexe two to this report).
- 6.6.5 Natural England advised that mitigation should include taking areas of arable land adjacent to Fenemere out of agricultural production to be managed as semi natural vegetation, reduction of applications of fertiliser adjacent to the designated site, the production of a mitigation monitoring strategy and a management plan for the areas of land to be taken out of arable use. This could be secured by means of an appropriate planning condition or obligation attached to any planning permission in order to secure these measures.
- 6.6.6 With consideration to the issues as raised by both the Council's Planning Ecologist and Natural England, it is recommended that conditions as recommended by the Planning Ecologist in relation to a landscape plan, habitat enhancement and mitigation are attached to any approval notice issued as to the conditions set out in appendix one attached to this report.
- 6.6.7 With consideration to the above-mentioned and with additional mitigation and biodiversity enhancement it is considered that based on the further information received in support of the application that the concerns as initially raised by both Natural England and the Council's Planning Ecologist on ecological issues can be addressed satisfactorily and as such the development on balance now considered to be in accordance with Policies CS5, CS6 and CS17 of the Shropshire Core Strategy, Policy MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development and environmental and ecology matters.
- 6.6.8 **Other matters.**
- 6.6.9 **Drainage.**

6.6.10 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development. The site is located in Flood Zone 1 (low probability, in Zone rating) based on the EA indicative Flood Zone Map. The applicants have submitted a land drainage assessment in support of the application and its findings are considered acceptable. It is noted neither the EA or the Council's Drainage Manage raise any objections in relation to drainage matters. The latter recommending a condition with regards to how the contaminated water in the yard from spillages or cleaning of sheds will be managed/ isolated from the main surface water system should the application be approved. It is recommended that a condition with regard to a sustainable drainage system is attached to any approval notice issued. With consideration to such a condition the proposed development considered acceptable on drainage matters and in compliance with Policies CS5 and CS18 of the Shropshire Core Strategy and Policies MD2 and MD7b of the SAMDev and the NPPF on drainage matters.

6.7 Highway and transportation issues.

- 6.7.1 Highway and transportation issues are considered acceptable and it is noted that the Council's Highways Manager raises no objections in relation to the proposed development. The increase in bird numbers is related to the expected number of vehicle movements as referred to in the applicants Highways Assessment that forms part of their Environmental Statement. Based upon the vehicle movement figures provided, the increase in traffic for the operation of the business once the building is completed is not considered to be significant in terms of the capacity of the highway network. The submitted information does identify the traffic associated with the construction phase over a period of 7 weeks which will be significant for one day within week 4 when the concrete deliveries are scheduled.
- 6.7.2 It is noted that a previous planning permission resulted in funding for passing bays along the route between the site access and the main road which links the A528 and B4397. Site observations confirm that the passing bays are in place and available for use.
- 6.7.3 The Highways Manager's response to the application has noted that the site access to the Highway appears to be formed from an unbound material which is considered to require consolidation. A condition is therefore, recommended for the reconstruction or resurfacing of the access to the Highway before the new poultry shed is brought into use.
- 6.7.4 Overall, with consideration to the highway junction improvements as discussed above and vehicle movements as indicated by the applicants which includes consideration to HGV movements and the response from the SC Highways Manager, it is considered on balance that the proposed development is acceptable in relation to highway and transportation issues and overall in accordance with relevant local plan policies and the NPPF on highway and transportation matters.

7. CONCLUSION

- 7.1 The proposal is for one large egg laying unit, two feed silos and hardstanding area on a greenfield site as an extension to an existing intensive egg laying complex, which will house up to 16,000 birds.
- 7.2 It is acknowledged that the development is significant in scale and does have a limited impact on the landscape. However it is considered that the proposed development, with consideration to the surrounding landscape character, topography and field layout, with further landscape mitigation, can be successfully integrated into the surrounding landscape. This will also assist in relation to ammonia emissions which has been a contentious issue in relation to this application, a matter that has been subject to detailed and complex consideration, to which further mitigation as offered by the applicants has now resolved this concern. Consideration has also been given to impacts on the historic landscape.
- 7.3 On balance with consideration to the location, size and scale and cumulative impacts, it is considered that there will not be an adverse impact. Also the economic benefits to the business concerned and production of local food with further landscape mitigation in the form of native planting and the external colour of the development, is on balance acceptable in principle.
- 7.4 Public highway access and transportation issues are considered acceptable, as are residential amenity issues, with conditions attached to any approval notice with regards to a manure management plan and transportation of manure off site. It is also noted that matters in relation to on site issues in relation to amenity and day to day management of the site are subject to the Environment Agency's permitting regime. It is noted that the Local Parish Council support the application and that no letters of objections have been received from members of the public.
- 7.5 The findings and conclusions as indicated in the information submitted in support of the application and the Environmental Statement are on balance considered acceptable.
- 7.6 As such the proposed development overall is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the SAMDev, the National Planning Policy Framework and other relevant planning guidance and legislation which includes the provisions of the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The recommendation is therefore one of approval subject to conditions as attached as appendix one to this report, with any modifications as considered necessary by the Head of Service.
- 8.0 **Risk Assessment and Opportunities Appraisal**
- 8.1 **Risk Management**

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of

defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

NS/03/01115/DET Proposed details of single storey farm workers dwelling in accordance with Planning Permission N/02/1085/BA/579 Outline (design and external appearance only)

CONAPP 9th December 2003

NS/04/01132/FUL Renewal of planning permission for the erection of a single storey agricultural workers dwelling INVALID 5th November 2004

NS/04/01250/VAR Variation of condition 1 attached to PP N/043/1052/BA/579 Details to extend development commencement date of erection of agricultural workers dwelling by 6 months

CONAPP 10th January 2005

NS/04/01252/FUL Retention of polytunnel for sheep housing CONAPP 17th January 2005

NS/05/00476/DOC Single storey farm workers dwelling REC

NS/05/00741/AMP Revised porch ~ N/02/1085/BA/579 REC

NS/05/01034/FUL Erection of free range poultry building CONAPP 20th July 2005

NS/05/02253/AMP Amended plans for new dwelling. REC

NS/06/00377/FUL Erection of agricultural workers dwelling CONAPP 24th March 2006

NS/07/01184/FUL Erection of extension to existing free range poultry building CONAPP 7th September 2007

16/02178/SCO Erection of free range poultry shed to provide 16,000 birds EIA 21st June 2016

17/01961/EIA Erection of 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins PDE

NS/02/01111/FUL Retention of residential caravan for agricultural worker (previously approved under N/99/861/BA/579 dated 13.12.99) CONAPP 24th April 2003

NS/02/01171/OUT Erection of a single storey dwelling in place of existing mobile home approved for person involved in agriculture. CONAPP 24th April 2003

NS/94/00028/FUL PROPOSED SITING OF RESIDENTIAL CARAVANS FOR AGRICULTURAL WORKER CONAPP 23rd September 1994

NS/94/00029/FUL ERECTION OF TWO POLY-TUNNELS FOR LAMBING PURPOSES CONAPP 26th September 1994

NS/96/00021/FUL RETENTION OF RESIDENTIAL CARAVANS FOR AGRICULTURAL WORKER CONAPP 17th September 1996

NS/96/00022/FUL LOWER FENEMERE FARM - BASCHURCH SHROPSHIRE SY4 2JF CHANGE OF USE OF AGRICULTURAL BUILDING TO WORKSHOP, OFFICE AND STORAGE BUILDING CONAPP 28th May 1996

NS/98/00019/FUL RETENTION OF RESIDENTIAL CARAVANS FOR AGRICULTURAL WORKER CONAPP 11th November 1998

NS/99/10021/FUL LAND ADJOINING LOWER FENEMERE FARM - BASCHURCH RETENTION OF RESIDENTIAL CARAVANS FOR AGRICULTURAL WORKER CONAPP 13th December 1999

NS/99/10022/FUL ERECTION OF ONE POLYTUNNEL CONAPP 8th November 1999

NS/04/00519/PN Prior notification for the erection of agricultural building PDDEV 26th May 2004

NS/08/01189/FUL Proposed conversion of outbuilding into annexe ancillary to existing farm house REFUSE 21st August 2008

09/70163/FUL Conversion of outbuilding to form ancillary accommodation GRANT 2nd June 2009

PREAPP/11/00535 1. Holiday cabins around the lake
2. New poultry shed on the chicken unit PRRQD 12th April 2011

11/03275/FUL Erection of free range poultry shed and associated feed bins GRANT 15th December 2011

11/03501/FUL Conversion of redundant agricultural buildings into 1 dwelling with associated access, parking, amenity area and drainage WDN 10th August 2015

12/04493/FUL Conversion of former agricultural building into one holiday let property; formation of new vehicular access with visibility splay; formation of parking and amenity area; installation of septic tank drainage system GRANT 7th January 2013

14/04224/AMP Non Material Amendment attached to Planning Permission 11/03275/FUL for the erection of free range poultry shed and associated feed bins GRANT 29th October 2014

16/02961/FUL Conversion of Stables/Stores into Dwelling GRANT 13th September 2016

17/01961/EIA Erection of 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins PDE

17/02579/AGR steel framed portal building clad in steel sheeting to match existing building PNR 4th July 2017

NS/02/00956/FUL Erection of free range egg production building WDN 26th November 2002

NS/03/00248/PN Prior Notification for the erection of a general purpose agricultural building PDDEV 18th March 2003

NS/96/00030/PN PRIOR NOTIFICATION FOR THE ERECTION OF A GENERAL PURPOSE AGRICULTURAL BUILDING PDDEV 18th June 1996

11. Additional Information

[View details online:](#)

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

Cabinet Member (Portfolio Holder)
Cllr R. Macey

Local Member
Cllr Nick Bardsley

Appendices
APPENDIX 1 - Conditions
APPENDIX 2 – Habitat Regulations Assessment (HRA)

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. Prior to any development on site details will be submitted to the Local Planning Authority and approved in writing with regards to a sustainable drainage system which will take account of both surface and foul water, (contaminated), drainage.

Reason: In order to ensure an adequate drainage system is in place.

4. Prior to any development on site details will be submitted to the Local Planning Authority and approved in writing with regards to a Manure Management Plan which will consider the effects on residential amenity, any nearby public rights of way and ecological concerns from manure spreading to be effectively monitored and controlled.

Reason: In order to ensure adequate consideration to the residual affects of development on site and impacts of disposal of waste , (to which it is accepted manure produced on site is considered a valuable organic fertilizer), generated on site and its subsequent disposal.

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

5. The development hereby permitted shall not be occupied until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables. (Prior to any occupation of the building by birds).

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and section 118 of the NPPF.

6. A Habitat Management plan shall be submitted to, and approved in writing by, the local planning authority prior occupation of the development. The content of the Habitat Management Plan shall include the following.

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that may influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
- h) Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
- i) Possible remedial/contingency measures triggered by monitoring;
- j) The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

7. Prior to the proposed poultry building being brought into use, the site access to the Highway shall be reconstructed or resurfaced in a bound material for a distance of 20 metres from the Highway carriageway edge.

Reason: In the interests of Highway safety.

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

8. All manure removed off site will be done so in sealed and contained trailers.

Reason: In consideration of surrounding amenity.

9. (a) The number of birds kept at the intensive poultry complex as a whole to which the approved building forms part of within the poultry enterprise shall not exceed 91,999 birds at any one time. (In accordance with detail as set out in the information submitted in support of the application).

(b) Records of the number of birds delivered to the site during each cycle shall be made and these shall be made available to local planning authority on request.

Reason: In consideration of the amenity and biodiversity of the surrounding area.

10. No feedingstuffs will be delivered to the site outside the hours of 8am - 6pm Monday - Saturday or at any times during a bank holiday.

Reason: In the interests of surrounding residential amenity.

11. Notwithstanding the approved plans all building development on site, (including all the feed silo's), are to be all externally coloured in accordance with colour code BS18B29, (dark blue).

Reason: In consideration of the visual impact and to mitigate the development into the surrounding landscape.

Informatives

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

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

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

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

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Habitat Regulation Assessment (HRA)

1.0 Introduction

The proposal described below has the potential to adversely affect designated wildlife site of international importance. The likelihood and significance of these potential effects must be investigated.

This is a record of the Habitats Regulation Assessment for the erection of an additional 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins at the Land Adjoining Lower Fenemere Farm, Myddlewood, Myddle Shropshire.

In accordance with Government policy, the assessment is being made in relation to a site listed under the 1971 Ramsar convention. Hence regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010, in accordance with the EC Habitats Directive (Council Directive 92/43/EEC) apply and this HRA must be made before the council, as the 'competent authority' under the Regulations can grant planning permission.

Date of completion for the HRA screening matrix:

17th January 2018

HRA completed by:

Nicola Stone
Natural Environment Planning Ecologist
Shropshire Council
Nicola.stone@shropshire.gov.uk

2.0 Stage 1 – Screening

This stage of the process aims to identify the likely impacts of a project upon a European site, either alone or in combination with other plans and projects, and to consider whether or not the impacts are likely to be significant.

2.1 Summary Table 1: Details of project

Name of plan or project	Erection of an additional 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins at Lower Fenemere Farm.
Name and description of Natura 2000 sites	<p>Midland Meres and Mosses (Ramsar phase 1) Phase 1 of the Ramsar designation covers 513.25ha and is entirely co-incident with the following 16 Sites of Special Scientific Interest (SSSI). Fenemere SSSI is within 5km to the current proposal.</p> <p>Reasons for designation</p> <ul style="list-style-type: none"> • Criterion 1a. A particularly good example of a natural or

	<p>near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.</p> <ul style="list-style-type: none"> • Criterion 2a. Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce six-stamened 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>. • Criterion 2a. 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>Fenemere Fenemere Midland Meres and Mosses Ramsar Phase 1 (16.34ha) is a particularly rich and interesting mere with eutrophic water. Fenemere is also important for its rich aquatic invertebrate fauna. It is included within the Ramsar Phase for its open water, swamp, fen, wet pasture and Carr habitats with the species <i>Cicuta virosa</i> and <i>Thelypteris palustris</i></p> <p>Conservation objectives of all EU designated sites Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> • The extent and distribution of qualifying natural habitats • The structure and function (including typical species) of qualifying natural habitats, and • The supporting processes on which qualifying natural habitats rely.
Description of the plan or project	<p>Erection of 16,000 Bird Free Range Poultry Shed (for Egg Production) and Associated Hard Standing and Feed Bins.</p> <p>The following potential effect pathways have been identified:</p> <p>1. Ammonia Emissions; Assessment of ammonia impacts on nature conservation sites must be undertaken in relation to both the direct effects of air pollution and indirect impacts from acid deposition (acidification) or nutrient nitrogen deposition (eutrophication).</p>
Is the project or plan directly connected with or necessary to	No

the management of the site (provide details)?	
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	<p>N/A</p> <p><i>Assessing Projects Under the Habitats Directive, Guidance for Competent Authorities (David Tyldesley & Associates, September 2011) states;</i></p> <p><i>'In-combination Assessment;</i></p> <p><i>In checking for the need for an appropriate assessment it may be concluded that the project could affect the site in some way, but that alone these effects are unlikely to be significant. In such cases the competent authority should check whether significant effects would be likely if the project was combined with other plans or projects. An in-combination assessment is required in order to comply with the Habitats Regulations, and should include any other plans or projects that have been checked for the need for an appropriate assessment and where the following applies:</i></p> <p><i>1a) It has been concluded that the other plan or project may affect the site, but the effects are not significant on their own. A number of plans or projects with effects that individually have been determined to be insignificant may still result in a significant effect on the site if all effects on the site are combined.</i></p> <p><i>1b) It has been concluded that the other plan or project may have a significant effect alone and where measures have consequently been included to reduce the effect to a level where it is no longer considered to be significant when the plan or project is considered alone, but where the measure applied will not remove the effect completely. Such residual effects could still contribute to a significant effect when considered in-combination with other effects.</i></p> <p><i>An in-combination assessment does not need to include any other plans or projects that have been checked for the need for an appropriate assessment and where the following applies:</i></p> <p><i>2a) It has been concluded that the other plan or project will not have any effect at all on the site, and thus it cannot have an effect either alone or in-combination.</i></p> <p><i><u>2b) It has been concluded that the plan or project may have an effect on the site and the necessary measures have been put in place to completely remove the likelihood of any effects (that is, avoidance measures are integral to the project)'. </u></i></p> <p>The applicant has proposed necessary mitigation measures to remove the Process Contribution impacts from this proposal on Fenemere Ramsar SSSI. No effect on Fenemere Ramsar has been identified, no in-combination assessment is required.</p>

2.2 Description of the project

The proposal is for 16,000 bird places at Lower Fenemere Farm.

2.3 Consultations

Natural England should be consulted on this proposed Habitat Regulation Assessment Matrix.

2.4 Current baseline

Please refer to SC Ecology comments attached to this HRA titled LowerFenemere(12) 17 01961SS, dated 17th January 2017.

2.5 Initial screening for likelihood of significant effects on European Sites.

Natura 2000 and SSSI Designations

SC Ecology has followed NRW Step 1 'Distance Screen' (Guidance GN020) to establish which Natura 2000 and SSSI designations should be considered by Shropshire Council when determining a planning application.

There is 1 SSSI and 1 Ramsar site within 5km of this proposal – Fenemere Ramsar/SSSI.

Table 2 – Initial screening for likelihood of significant Effects

Please Refer to supporting planning document;

- A report on the modelling of the dispersion and deposition of Ammonia prepared by Steve Smith (AS Modelling & Data Ltd, January 2018).
- Natural Resource Wales (NRW) guidance note 20 (NRW GN020) dated October 2017

There is 1 SSSI and 1 Ramsar site within 5km of this proposal – Fenemere Ramsar/SSSI.

A report on the modelling of the dispersion and deposition of ammonia has been prepared by Steve Smith (AS Modelling & Data Ltd, January 2018) in support of this proposal. The predicted maximum annual mean ammonia concentration and nitrogen deposition has been modelled at 6 receptors on Fenemere Ramsar/SSSI. The results are detailed below;

Receptor Number at Fenemere	Grid Ref	Process Contribution (PC) as a % of the Critical Level	Process Contribution (PC) as a % of the Critical Load
1	344774, 322799	0.9	1.4
2	344822, 322911	1.1	1.6
3	344555, 322773	0.6	1.0
4	344585, 323096	0.7	1.1
5	344288, 322721	0.4	0.7
6	344404, 323053	0.5	0.8

The detailed screening has shown that the Process Contribution (PC) from this proposal will be over the '1% significance' threshold used by NRW in GN020.

It should be noted that a 1% threshold does not mean anything under the 1% is 'de-minimis' and screens out of the

Habitat Regulations Assessment Process. As highlighted through the Wealden Judgement, a number of sites under a 1% significance threshold could, in-combination with other plans and projects, be significant. Therefore each site should be considered on a case by case basis.

SC Ecology is aware of other plans and projects within 5km of the Natura Site which could act in-combination with the current planning proposal. The background level at Fenemere Ramsar/SSSI are already significantly over their Critical Level and Critical Load threshold.

2.6 Summary of Stage 1 screening

SC Ecology has concluded that the project may have a likely significant effect on the site in the absence of mitigation measures.

3.0 HRA Stage 2 Detailed analysis of further information and Appropriate Assessment

The applicant has proposed to mitigate for the Process Contribution of 16,000 birds. The detail of the mitigation is set out below and is calculated to reduce N input to Fenemere Ramsar/SSSI by more than the predicted Process Contribution.

Data gathering

SC Ecology has run SCAIL modelling to calculate the Process Contribution of Nitrogen Deposition for the 16,000 bird unit on Fenemere Ramsar & SSSI (17th January 2017). Please note SCAIL Modelling is known to be a precautionary screening model.

SC Ecology SCAIL Model inputs are as follows;

Project Details

Project Notes [?](#)

Project Run Mode [?](#) Conservative Met Realistic Met

Location Details

Select Country [?](#)

Installation Details

Installation [?](#)

Installation Name [?](#)

Installation Location [?](#) Landranger x,y
 [?](#)

Source Details

Source [?](#)

Source [?](#) Pig Poultry Cattle User defined emissions

New or Existing Source [?](#)

Source Name [?](#)

Source Location [?](#) Provides a link to GoogleMaps to check the location.
 Landranger x,y
 [?](#)

Source Type [?](#)

Type [?](#)

Details [?](#)

Livestock Number [?](#)

Housing Floor Area [?](#) m²

Naturally Vented

Building Height m

Fan Location [?](#)

No. of Fans (optional) [?](#)

Fan Diameter [?](#) m

Fan Flowrate [?](#) m³/s

Total emissions [?](#)

Pollutant	Source Emissions	Running total of all emission sources	Units
NH ₃ :	1280	1280	(kg)
PM ₁₀ :	528	528	(kg)
Odour:	706406400	706406400	(kOu)

[?](#)

SC Ecology SCAIL Model Results for Fenemere Ramsar & SSSI (Please note Met Site data is automatically selected by SCAIL);

Results

Scail Home | User Guide | SCAIL-Agriculture Report | SEPA/EA/NIEA/EPA Contact Details | Online Tutorial

Content Specific Help Text

Site Information Fenemere (SSSI) ▼ ⓘ

Region:	England
Site Name:	Fenemere
Site Code: ⓘ	2083
Designation Status: ⓘ	SSSI
Distance from Installation (m): ⓘ	703
Receptor Type:	Habitat
Grid Reference:	344809.8,322900.6
Met Site: ⓘ	CROS
Run Mode: ⓘ	Conservative
PM ₁₀ Percentile: ⓘ	Average

Installation Information ⓘ

No.	Name	No. of sources	No. of new sources	PM ₁₀ (t/a)	NH ₃ (t/a)	Odour (kOu/a)	Conc NH ₃ (µg/m ³)	Dep N (kg/ha/yr)	Dep Acid (kEq H ⁺ /ha/yr)	Conc PM ₁₀ (µg/m ³)	Conc Odour (Ou/m ³)
1	Lower Fenemere	1	1	-	1.3	-	0.09	0.67	0.045	-	-

Total Depositions/Concentrations and Exceedances ⓘ

Concentrations/Depositions and Critical Loads/Levels	NH ₃ (µg/m ³)	N Dep. (kg N/ha/yr)	Acid Dep. (kEq H ⁺ /ha/yr)	PM ₁₀ (µg/m ³)	Odour (Ou/m ³)
Process Contribution (PC) at receptor edge	0.09	0.70	0.047	-	-
Background concentration at receptor edge ⓘ	3.05	40.04	3.06 (N:2.86)(S:0.20)	-	-
Predicted Environmental Concentration/Deposition (PEC) ⓘ	3.14	40.74	3.11	-	-
Environmental Assessment Level or Critical Load / Level ⓘ	Lower: 1 Upper: 3 ⓘ	5.0 Broad-leaved, mixed and yew woodland	maxN: 1.05 maxS: 0.91 minN: 0.14 Broad-leaved, mixed and yew woodland	-	-
ALTERNATIVE CRITICAL LOAD INFO					
USE OWN THRESHOLDS?					
% of relevant standard PC ⓘ	Lower: 9% Upper: 3%	14%	5%	-	-
% of relevant standard PEC ⓘ	Lower: 314% Upper: 105%	815%	296%	-	-
EXCEEDANCE ⓘ	Lower: 2.14 Upper: 0.14	35.74	2.06	-	-

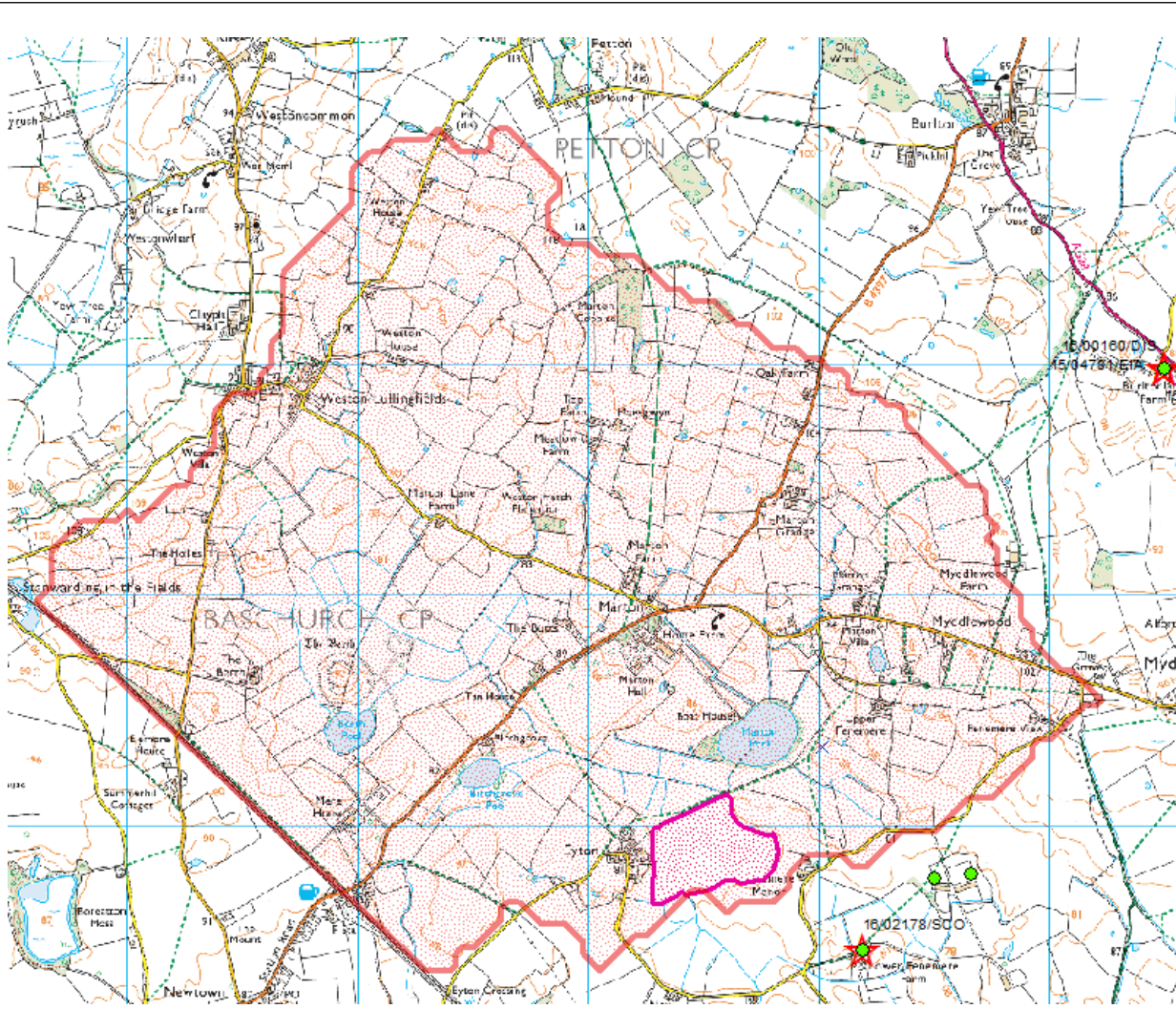
Project Notes

Lower Fenemere

The SCAIL model shows that the Process Contribution at Fenemere Ramsar/SSSI will be approximately 0.70 kg/N/ha/yr. Fenemere Ramsar/SSSI is 16.37 Hectares, therefore the proposal will deposit approximately **11.46kg/yr** Nitrogen on the area of Fenemere Ramsar/SSSI itself.

Fenemere Catchment

SC Ecology has taken into account the Fenemere Catchment, as Nitrogen deposited in these areas could drain into Fenemere. (Red is Fenemere Catchment, Pink is Fenemere Ramsar & SSSI boundary).



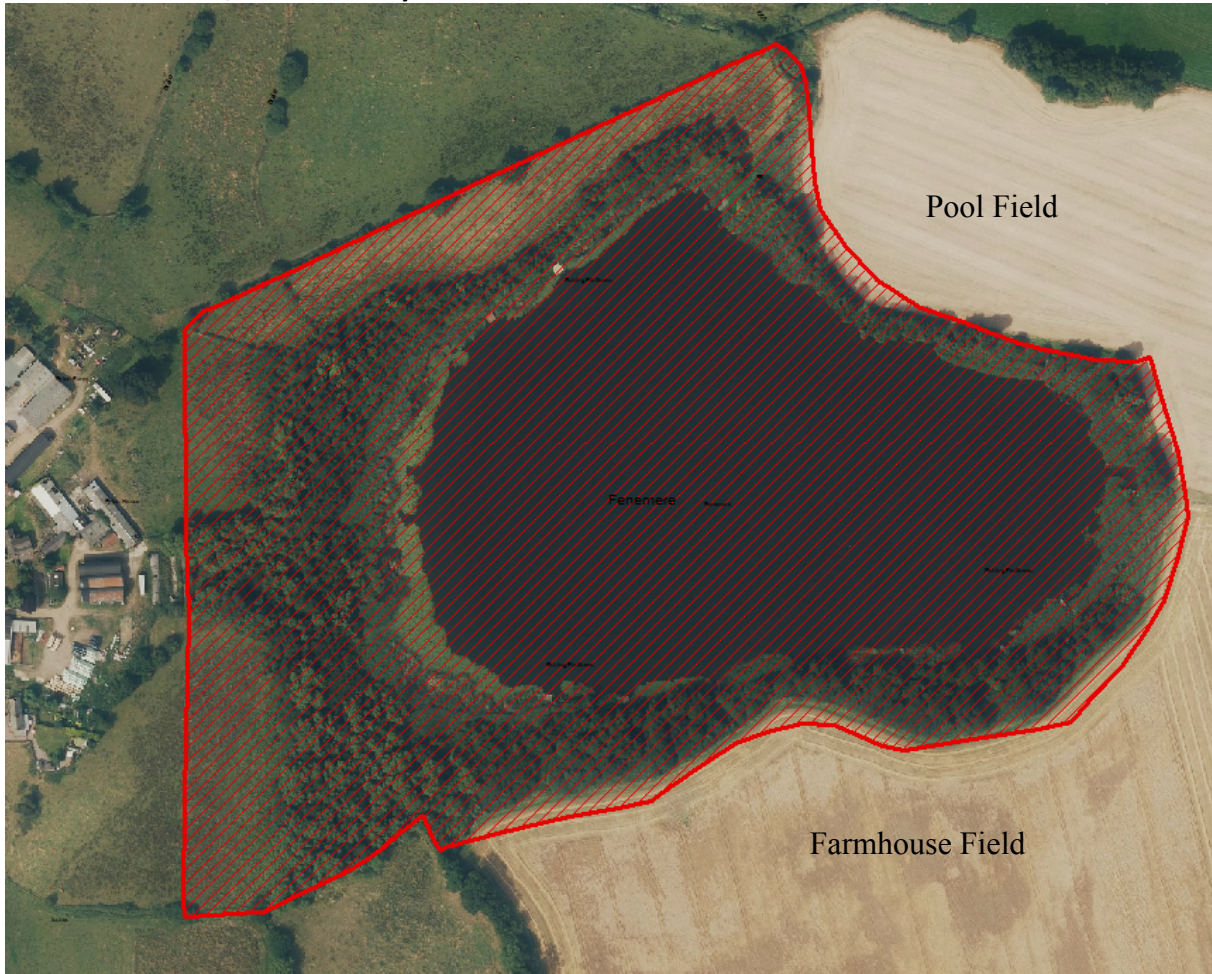
In order to ensure that Fenemere Catchment has been considered in the mitigation modelling, SC Ecology has run the SCAIL model buffering the installation by 500m, 1km, and 1.5km.

Buffer installation from	Grid Ref used in SCAIL modelling	N Dep from kg/ha/yr from SCAIL modelling	Total Area (ha) in the Ramsar Catchment, within the specified buffer	Total N kg/yr
1.5km	344001,323071	0.16	128.18	20.50
1km	344478, 322932	0.26	90.70	23.58
500m	345011,322895	0.78	19.97	15.58
			Total N/kg/yr in Ramsar Catchment	59.66

Precautionary deposition: Fenemere Ramsar/SSSI boundary will have 11.46 kg/N/yr added, and Fenemere Catchment will have 59.66 kg/N/yr added.

Precautionary Mitigation (which includes Natural England's Ramsar Catchment) must include a reduction of N fertiliser application within the Ramsar Catchment of 71.12 kg/N/yr.

Fenemere Ramsar/SSSI Boundary & Lower Fenemere Farm Field Names;



The applicant is the land owner of 'Pool Field' and 'Farmhouse Field' which are to the north east and south east of Fenemere Ramsar/SSSI. The proposed precautionary mitigation for impact on Fenemere is;

- No application of artificial fertiliser on 0.85 hectares of land. The 0.85 hectares must not already be included in the Ramsar site boundary and must currently be included in arable production.
- Restoration of 0.85 hectares of land to permanent semi natural vegetation.
- Monitoring will be via site visits, fixed point photography and/or aerial photography. The land 0.85 hectares will be marked by <900mm high posts at 20m intervals to ensure the planning condition is easily enforceable.
- *The applicant will develop a land management plan which will be submitted to the local planning authority prior to the occupation of the units by birds. (Please note the non-application of fertiliser to the area of land indicated on the plan below is required for the Habitat Regulations Assessment and for the protection and enhancement of the SSSI, the precise management of the land is not a requirement from the HRA but it is an enhancement under local planning policy).*

Field Fertiliser Application records have been provided by the applicant for the last 5 years. SC Ecology has summarised this in the table below;

	Year	Crop	Kg/N/ha/Yr
Pool Field (7.70 ha)	2016/17	Winter Wheat	220
	2015/16	Oil seed rape	220
	2014/15	HLS	50
	2013/14	Oil seed rape	220
	2012/13	Oil seed rape	220
		Average	
Farmhouse (16.20 ha)	2016/17	Potatoes	270
	2015/16	HLS	80
	2014/15	HLS	50
	2013/14	HLS	80
	2012/13	Wheat	80
		Average	

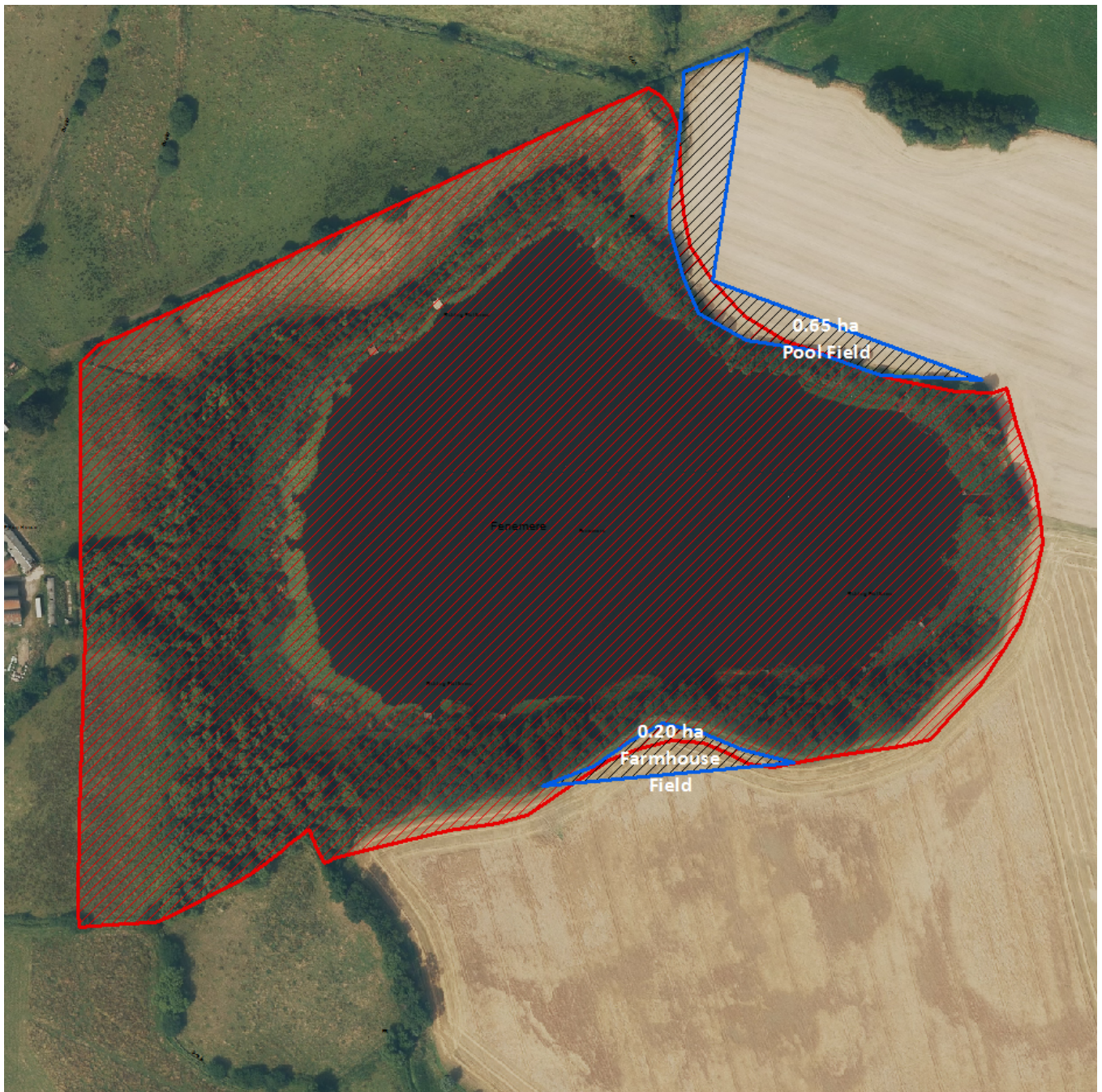
Proposed mitigation:

Area A, Pool Farm field; 0.65 hectares, from the current vegetated edge = reduction based on average N fertiliser application from the last 5 years is 118.95kg/yr of N Fertiliser application,

Area B Farmhouse Field; 0.20 hectares, from the current vegetated edge = reduction based on average N fertiliser application from the last 5 years is 22.4kg/yr of N Fertiliser.

Total mitigation & enhancement proposed at this site = removal of 141.35 kg/yr of N Fertiliser.

Area shown on site plan, with Red Ramsar Boundary;



Distance in meters from the banks of the water to the top of the mitigation buffer to ensure that the planning condition is easily enforceable;

Figure 1



Letter	Distance (m)
A	38
B	51
C	23
D	38
E	36
F	45
G	47
H	43

3.1 Further assessment of possible Emissions Impact

Based on the above mitigation & enhancement measures SC Ecology considers that there will be no effect on Fenemere Ramsar and therefore the proposal does not need to be considered in-combination with other plans or projects.

Please note: The applicant has provided detailed modelling (Steve Smith, dated January 2018). The detailed modelling does not take into consideration Natural England's Ramsar Catchment, but it does demonstrate that SCAIL modelling is precautionary at this site (i.e. detailed modelling shows that the Process Contribution is 0.25kg/ha/yr at Fenemere, and SCAIL shows 0.70kg/ha/yr). SC Ecology is therefore satisfied that what is proposed as Mitigation is sufficient, and a net gain for biodiversity.

SC Ecology has concluded that the project may have a likely significant effect on the site in the absence of mitigation measures, but the necessary measures, once put in place, will completely remove the likelihood of any effects (that is, the avoidance measures as set out above are integral to this project).

An in-combination assessment does not need to include any other plans or projects that have been checked for the need for an appropriate assessment and where the following applies:

2a) It has been concluded that the other plan or project will not have any effect at all on the site, and thus it cannot have an effect either alone or in-combination.

2b) It has been concluded that the plan or project may have an effect on the site and the necessary measures have been put in place to completely remove the likelihood of any effects (that is, avoidance measures are integral to the project).

No further assessment required.

3.4 Securing of mitigation measures

Habitat Regulation Assessment Conditions;

1. The development hereby permitted shall not be occupied by birds until evidence is submitted to and approved in writing by Shropshire Council to demonstrate that the area of land, buffered and provided as mitigation for impact on Fenemere Ramsar/SSSI (0.85 hectares as shown on site plan 00 REV A dated 4th December 2017), is marked out by <900mm high posts at 20m intervals.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and section 118 of the NPPF.

2. The development hereby permitted shall not be occupied until a mitigation monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the mitigation monitoring strategy is to demonstrate; 1) that no application of artificial fertiliser is applied to 0.85 hectares of land identified on site plan 00 REV A dated 4th December 2017 for the lifetime of development, 2) the area of 0.85 hectares adjacent to Fenemere Ramsar/SSSI is managed as permanent semi natural vegetation for the lifetime of development, 3) the area of newly planted tree belt in close proximity to Marton Pool LWS (Drawing W17/2504/03 – Strategic Landscape Plan) is in place and retained for the lifetime of the development.

The content of the strategy shall include the following;

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of the development.
- c) Appropriate success criteria and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods of gathering and analysing
- e) Locations and monitoring
- f) Timing and duration of monitoring
- g) Responsible persons and lines of communications

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results of the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and section 118 of the NPPF.

Planning conditions;

3. The development hereby permitted shall not be occupied until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with the Habitats & Species Regulations (2017), MD12, CS17 and

section 118 of the NPPF.

4. A Habitat Management plan shall be submitted to, and approved in writing by, the local planning authority prior occupation of the development. The content of the Habitat Management Plan shall include the following.
- a) Description and evaluation of the features to be managed;
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
 - h) Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
 - i) Possible remedial/contingency measures triggered by monitoring’;
 - j) The financial and legal means through which the plan will be implemented.
- The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

4.0 Summary of re-screening including counteracting measures

Table 4 – Summary of HRA conclusions

EU Site (Ramsar)	Effect pathway	HRA conclusion	Natural England agree: Y/N
Fenemere	Ammonia Emissions; Assessment of ammonia must be undertaken in relation to both the direct effects of air pollution and indirect impacts from acid deposition (acidification) or nutrient nitrogen deposition (eutrophication).	No effect	

5.0 Final conclusions

In view of the above, and according to the details submitted with this application (please refer to word document titled ‘LowerFenemere(12)17 01961SS), Shropshire Council can conclude that the proposed development will not adversely affect the integrity of the European Designated Site Fenemere either alone or in combination with other projects through Ammonia Emissions.

The Significance test

The proposed works in application No 17/01961/EIA SC Ecology has concluded that the project may have a likely significant effect on the site in the absence of mitigation measures, but the necessary measures, once put in place, will completely remove the likelihood of any effects (that is, the avoidance measures as set out in the conditions above are integral to this project).

The Integrity test

Based on the proposed mitigation measures, secured through enforceable planning conditions, SC Ecology conclude that there will be no likely adverse effect on the integrity of Fenemere SSSI & Ramsar from planning application 17/01961/EIA.

Conclusions

Shropshire Council can legally grant planning permission.



Committee and Date
 North Planning Committee
 6th March 2018

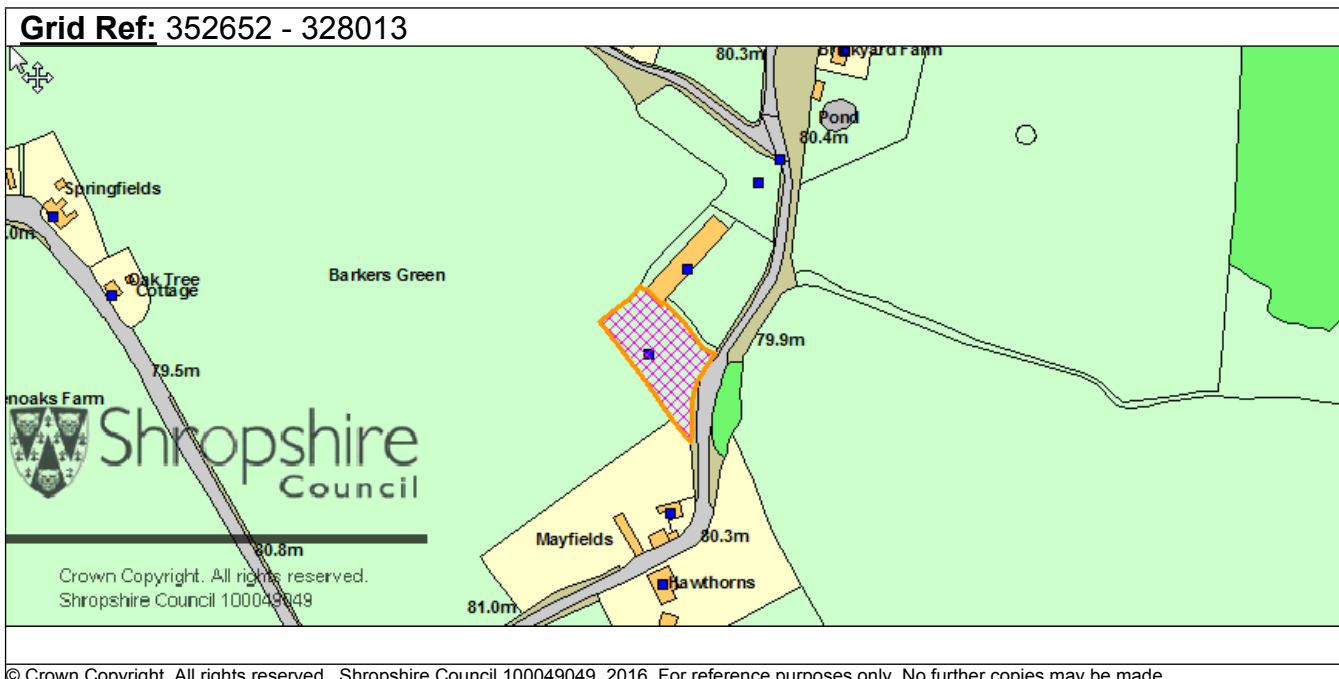
Item
6
 Public

Development Management Report

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

Summary of Application

Application Number: 16/05730/FUL	Parish:	Wem Rural
Proposal: Change of use of land for the stationing of caravans for residential purposes for 3no. gypsy pitch together with the formation of hardstanding/parking and an utility/dayroom ancillary to that use		
Site Address: The Former Nursery Barkers Green Wem Shropshire		
Applicant: Mr J Roberts		
Case Officer: Jane Preece		email: planningdmne@shropshire.gov.uk



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the change of use of land for the stationing of caravans for residential purposes for 3 gypsy pitches together with the formation of hardstanding/parking and a utility/dayroom ancillary to that use.
- 1.2 More specifically permission is sought to station three mobile homes for residential occupation; the storage of 3 touring caravans for use when travelling and the erection of a single shared utility block. The utility block building will have a footprint of 6 m x 5 m with a pitched roof of 4 m high to the ridge. It will provide bathroom, laundry and kitchen/dining facilities.
- 1.3 The hardstanding area space is also shown for the parking of up to 6 vehicles.
- 1.4 The site will only be used for residential purposes and no business use is intended.
- 1.5 As described by the agent '*The site is already largely enclosed with hedgerow, pine trees and fencing ... Existing landscaping would be retained*'. No new landscaping is proposed.
- 1.6 For drainage purposes foul drainage it is intended to be disposed of to an existing septic tank on the site. Surface water will be disposed of to soakaways.
- 1.7 In support of the application the agent states that permission is sought on behalf of Mr J Roberts, his wife and their three sons. '*... They currently live on plot 18 Manor House Lane Gypsy site at Prees. The family have outgrown their plot at Prees. They need additional plots for their two adult sons. They want to live as an extended family which is why consent is sought for three mobile homes. ...*'

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is an area of land located within the settlement of Barkers Green, adjacent to Jewsons builders yard. Under the Site Allocations and Management of Development (SAMDev) Plan the area is defined as being in countryside with no defined infill boundary.
- 2.2 The land itself is relatively flat and the existing boundaries are formed by hedges, trees and fencing. Otherwise the site is bounded to the north east by a builders yard (Jewsons); to the east/south east by the local highway (a class C road); to the southern tip by garden land belonging to the neighbouring property of Mayfields Farm; to the remainder of the south/south west and to north west by agricultural land. Within the site, adjacent to the south west boundary there stands a large glass house.
- 2.3 The wider settlement of Barkers Green comprises a string of residential development and rural properties. Generally the spatial pattern of the existing development follows the line of the highway. The nearest settlement to access facilities and services such as shops, schools, a doctors surgery etc is the market town of Wem, which lies a short distance away to the north west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council are of a contrary view to officers and local members request that the application be referred to committee for a decision.

4.0 **Community Representations**

4.1 **Consultee Comments**

- 4.1.1 **SC Gypsy Liaison Officer** – Shropshire Council’s owned and managed Gypsy/Traveller sites are currently full. We also have a waiting list of roughly 35 applicants.

The applicants have lived on the Manor House Lane site for many years and have no history of anti-social behaviour or neighbourly disputes.

Their pitch is overcrowded due to the age of the applicant’s children needing their own caravans. The turnover of plots on the Manor House Lane site is low and we would struggle to accommodate them in the foreseeable future.

Advisory update: The above comments remain. Additionally, Mr Roberts is suffering with health problems and the overcrowding issues remain on the plot.

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

- 4.1.3 **Severn Trent Water** - No comments received.

- 4.1.4 **SC Ecology** – Re-consultation comments – Conditions and an informative are recommended.

Conditions: Ecological clerk of works; Landscaping plan; Bat and bird boxes; Lighting plan condition.

Informative: Nesting birds

- 4.1.5 **SC Trees** - No objection. There are no important or protected amenity trees on this site. The substantial boundary hedge is shown as retained as a boundary screen for the site.

- 4.1.6 **SC Planning Policy** – See section 6.1 of the report below where the Planning Policy Officer comments are quoted in full.

- 4.1.7 **SC Highways** – No objection – subject to the development being constructed in accordance with approved details and recommended conditions and informatives.

Conditions: 1. Removal of permitted development rights for erection of access gates or other means of enclosure; 2. Surfacing of access apron to accord with Council’s specification; 3. Development not to be brought into use until approved parking and turning area provided.

Informatives; Mud on highway; No drainage to discharge to highway; Works on, within or abutting the public highway

- 4.1.8 **SC Public Protection** – Re-consultation comments - Information has been submitted which highlights that no noise assessment was required for a similar site use at a similar

distance to the Jewsons site. Having reviewed this application, can see that advice from public protection included the potential for an acoustic fence to be included. It was felt necessary for this to be conditioned along the boundary with the Jewsons site. Therefore, for consistency, advise that a condition requiring the provision of an acoustic barrier along the boundary where it boarder the adjacent commercial site is included should planning permission be granted for this site.

Condition: Acoustic barrier

4.2 Public Comments

4.2.1 **Wem Parish Council – Objects** At the meeting of Wem Rural Parish Council held on 7 February 2017 it was resolved to object to the application for the following reasons:

- It was considered contrary to Local Plan policies as the Parish is classed as 'Countryside' with new development being strictly restricted.
- The Inspector in her SAMDev report stated there was an adequate 5 year supply of sites of this type.
- It was considered contrary to the Parish Council own Planning Policy.

The Council also considered the proposal to be overdevelopment, contrary to national guidance and had serious concerns with site's sustainability.

The Council reviewed the responses from Shropshire Council regarding ecology, highways and drainage and the applicant's agent and further clarification would be required to comment on these areas.

4.2.2 Re-consultation comments - The Parish Council has considered the Ecology Report. It is considered the Report makes no difference to the nature of the grounds that the Parish Council has already objected to the application. The Parish Council continues to object.

4.2.3 **Public representations** - Twenty two representations received objecting to the proposal. Multiple representations have been made from the same contributors/households/addresses.

4.2.4 Objections/concerns raised include:-

- inaccurate statements in the Planning Statement
- highway safety implications
- increase in traffic
- the scheme would conflict with the local plan
- the application site is not previously developed land
- associated work has been undertaken without planning permission
- the site is not considered to be sustainable development
- the proposal would result in harm to the character and appearance of the countryside
- adverse impact on existing levels of residential amenity
- increased noise
- the site may be contaminated
- potential to adversely impact on ecology
- the location is not considered to be accessible to services and facilities

- the plot size is unsuitable for the proposed development/overdevelopment
- ambiguity over proposed 7.5 tonne vehicles to be kept on the site
- adverse impact on visual amenity
- loss of privacy
- would dominate settled community
- potential for flooding
- piped brook extends along the boundary which has caused flooding in past
- the application would conflict with national policy and guidance
- dangerous access to the site
- there is no acknowledged need for the scheme at this site
- son of family has site elsewhere
- loss of agricultural land
- increase in pressure on local services and facilities
- public right of way crosses field to the north, which connects to Shropshire Way. Development would be conspicuous to footpath users/visual intrusion in landscape
- family own land opposite. Concern for further development
- light pollution
- security concerns

4.2.5 The full content of all consultee, objector and contributor comments are available to view on line.

5.0 THE MAIN ISSUES

- Policy and principle of development
- Planning history
- Gypsy and traveller status
- Sustainable location
- Impact on character and appearance of area
- Residential amenity
- Natural environment
- Highways
- Drainage
- Other

6.0 OFFICER APPRAISAL

6.1 Policy and principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

The Development Plan

6.1.2 For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy, adopted March

2011; the Site Allocations and Management of Development (SAMDev) Plan adopted 17th December 2015 and the Supplementary Planning Document (SPD) on the Type and Affordability, adopted September 2012. The countryside status of the area is defined in the development plan.

- 6.1.3 Development plan policies of particular relevance to assessing the acceptability of this application in principle include:
- 6.1.4 Shropshire Core Strategy policy CS5 (Countryside and Green Belt) – CS5 strictly controls development in accordance with national policies protecting the countryside. The policy lists housing exceptions that may be permitted on appropriate sites in countryside locations, to include those that meet a local need in accordance with national policies and policy CS12.
- 6.1.5 Shropshire Core Strategy policy CS12 (Gypsy and Traveller Provision) – Policy CS12 recognises the need to meet the housing needs of the gypsy and traveller population and sets out the measures by which this will be achieved. Reference is made to supporting suitable development proposals for sites close to market towns and key centres (such as Wem) and ensuring all sites are reasonably accessible to services and facilities. Reference is also made for the need to demonstrate a strong local connection for small exception sites (under 5 pitches). However, the application has not been submitted for consideration as an exception site.
- 6.1.6 SPD on the Type and Affordability of Housing – Section 6 of the SPD advises of the law protection gypsies and traveller culture and the difficulties the travelling community face in finding appropriate sites to suit their way of life. It highlights how the Councils' approach applies the relevance of The Human Rights Act (1998) to determining planning applications for Gypsy and Traveller accommodation.
- 6.1.7 The SPD goes on to advise that the need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment and that, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller and the availability of alternative suitable sites. Occupancy conditions will be used to limit initial and future occupancy to bona fide Gypsies and Travellers who meet the established lawful definition. The SPD further states that the Council will seek to establish whether the applicant(s) reside in or resort to Shropshire and expands with further guidance on the criteria in Policy CS12.
- 6.1.8 Gypsy and Traveller Accommodation Assessment (GTAA) – The GTAA identifies the needs of Gypsies and Traveller from across the County, the aim of which is to provide a robust evidence base to plan for future provision and to inform the consideration of planning applications.

National policy considerations

- 6.1.9 National policy relation to planning provision for gypsy and traveller development is set out in Planning Policy for Traveller Sites (PPTS) August 2015 which is intended to be read in conjunction with National Planning Policy Framework (NPPF) March 2012.
- 6.1.10 The aim of the PPTS is to ensure that the need of the travelling community are assessed and provided for in a fair way for the purposes of both plan-making and

decision taking at a local level. The PPTS also aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations to address under provision. This is to be balanced against the need to protect local amenity and the environment and the objective of contributing to the achievement of sustainable development consistent with the NPPF. The PPTS makes it clear that the local planning authorities should determine application for sites from any travellers and not just those with local connections.

6.1.11 Local and National Planning Policy Assessment

An assessment of the local and national planning policy position as it applies to this application has been provided by the Council's Senior Policy Officer and is quoted in full as follows (paragraphs 6.1.12 to 6.1.34 inclusive):

6.1.12 **'Site context and introduction**

The application relates to a site in countryside just to the south east of Wem. Barkers Green is a small, loosely developed, ribbon settlement. The centre of Wem, the closest settlement of significant size with a range of services and facilities, lies approximately 2.5 kilometres away by road. Wem is identified as a market town in Policy CS3 of the adopted Cores Strategy and there are a range of proposals identified for the town as a district centre in the SAMDev Plan.

6.1.13 It is understood that a single pitch gypsy site to the south of the site was approved on 6th August 2015 (15/01036/FUL). This approval pre-dated the adoption of SAMDev Plan (17th December 2015) and updated Planning Policy for Traveller Sites- PPTS (31st August 2015).

6.1.14 **The Proposal**

The submitted application details indicate that this is for a 3 pitch gypsy site to accommodate different members of the same extended family who currently live on the Manor House Lane site at Prees. It is understood from submitted information that they have established gypsy status.

6.1.15 **Policy Background**

The relevant national planning policy relating to gypsy and traveller sites (including travelling showpeople) is set out in Planning Policy for Traveller Sites (PPTS) August 2015. This needs to be read together with the National Planning Policy Framework (NPPF), whilst those elements of Core Strategy Policies CS5 and CS12 (that haven't been superseded by PPTS) provide the local context.

6.1.16 The 2015 PPTS update made a number of changes to national planning policy and most significantly amending the planning definition of gypsies and travellers and travelling showpeople to exclude persons who have permanently stopped travelling; increasing the emphasis given to the protection of countryside; and strengthening the presumption against the approval of planning applications for site provision in the green belt. This site is countryside but outside the Green Belt.

6.1.17 The broader legal situation, together with provisions in paragraph 24 of PPTS, however, require that the personal circumstances of the applicant, lack of alternative accommodation and identified need for Gypsy and Traveller sites should still be taken into account in determining planning applications. The PPTS specifically states that local planning authorities should consider applications from all travellers (not just those

with local connections) and that adopted local policy and existing local provision should be taken into account.

- 6.1.18 Paragraph 11 of the PPTS (relating to plan making) states that, 'where there is no identified need that criteria based policies should be included to provide a basis for decisions in case applications ...come forward'. Core Strategy Policies CS5, CS12 (together with PPTS which is more up to date) provide the basis against which proposals for gypsy and traveller sites (including those in countryside) will be considered having regard to sustainable development and other material considerations.
- 6.1.19 Policy CS5 controls development in the countryside and in line with national policy in NPPF lists residential exceptions that may be permitted on appropriate sites in countryside, including accommodation to meet a local need in accordance with CS12.
- 6.1.20 Policy CS12 provides criteria for the consideration of situations where there may be no identified need requiring site allocation but where planning applications result. This includes detailed criteria applying to general proposals for sites (bullet 2) and for the consideration of rural exception sites (bullet point 3). Whilst the applicants' agent indicates that the applicants reside and have established connections with the Shropshire area it has been stated that the application is not for a rural exception site as set out Paragraph 15 of PPTS. The proposal therefore would need to be considered under bullet point 2 of Core Strategy Policy CS12, with reference to PPTS and NPPF.
- 6.1.21 National policy (PPTS) requires that sites are sustainable and highlights the following as relevant matters, in addition to general development management considerations, when considering proposals:
- Whether effective use is made of previously used/derelict/untidy land;
 - Whether a scheme makes a contribution to enhancement of the environment and increase of openness;
 - Promotion of healthy lifestyles e.g. recreational opportunities;
 - Where landscaping is required, that it is appropriate and attractive and in particular hard landscaping does not give the appearance of creating an isolationist barrier;
 - The appropriateness of the scale of any rural site relative to nearest settled community and capacity of local infrastructure;
 - Need to avoid areas of high flood risk'
 - Whether planning conditions or obligations can be used to mitigate impacts and overcome planning concerns;
 - Need to protect green belt from inappropriate development;
 - Any heritage or natural environment designations.
- 6.1.22 It is also recognised that additional pitches may support social sustainability by making provision for growth within family units (as is indicated is the case with this application) and maintenance of family support networks and that settled sites can improve health and social outcomes. There is also an opportunity to reduce potential environmental damage through unauthorised encampment. Additionally permanent accommodation can improve access to employment opportunities.

Need for gypsy and traveller sites (GTAA)

6.1.23 The previous assessment of the need for gypsy and traveller sites in the Gypsy and Traveller Accommodation Assessment (GTAA) carried out in 2014/15 has recently been updated to support the current partial review of the Shropshire Local Plan. This review will 'roll' forward the Plan period to 2036, with an update of housing requirements including provision for gypsies and travellers. The GTAA 2017 also considers the 5 year supply picture (2016/17 to 2020/21).

6.1.24 The 2017 GTAA compares its findings to those of the previous study and identifies ongoing turnover of pitches which it is expected would continue to provide a supply of pitches to address 5 year and Plan period need requirements.*

* Paragraphs 7.31 & 7.32 and Table 7.6 of the GTAA 2017 reconcile the identified 5 year cultural need of 17 pitches with turnover of 5.5 pitches p.a. The report indicates that, 'this level of turnover would equate to 27.5 pitches over 5 years – significantly exceeding the identified need'. It should be noted that cultural needs refers to that of all gypsies and travellers (but not travelling showpeople).

6.1.25 The GTAA 2017 also concludes that whilst the Local Plan review should acknowledge longer term pitch need to 2036*, turnover on local authority pitches is expected to address this need, and there is no current requirement for site allocations or the identification of sites for longer term provision.

*34 pitches based on the PPTS 2015 definition with an underlying cultural need of 90 pitches

6.1.26 However it is also highlighted in the GTAA that although there is no overall shortfall in pitches once turnover is considered, the Council should continue to consider planning applications for appropriate small sites to address any arising needs of Gypsy and Traveller families should they be forthcoming over the Plan period. (This is in line with the Government aspiration to promote more private traveller site provision set out in PPTS 2015).

6.1.27 The 2017 GTAA has been published but this evidence has not been tested at Examination like the previous GTAA. However it should be noted, notwithstanding Government policy changes, that it is based on similar methodology to the 2015 GTAA, the methodology and conclusions of which were validated (as set out in my previous comments) by the SAMDev Plan Inspector.

Policy Considerations

6.1.28 The current application was under consideration at the time of GTAA preparation and the site was not included in the GTAA, thus the proposal will need to be considered on its merits. Core Strategy Policy CS12 is the relevant criteria based policy. Where a proposal does not relate to an exception site, CS12 states that an application to meet the accommodation needs of the gypsy and traveller community will be supported if it is a suitable proposal located close to Shrewsbury, the Market Towns, key centres and community hubs and clusters. Such a site may be in countryside. However the PPTS (paragraph 25) sets out a requirement that 'Local Planning Authorities 'should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan'. Consequently new traveller sites should be appropriately controlled in open countryside locations and siting close to settlements (bullet 2, CS12) is required.

6.1.29 There is however no specific requirement in PPTS that gypsy sites should be close to

facilities. Although, paragraph 13 does require that policies ensure that sites are economically, socially and environmentally sustainable, avoid undue pressure on local infrastructure and ensure that access to health services and attendance at school is facilitated. It is a local policy requirement (bullet point 5, CS12) that sites are ‘reasonably accessible to services and facilities and suitably accessed, designed and screened’.

- 6.1.30 In respect of sustainability issues it is worth noting that the Inspector at the Adbo Farm, Rosehill appeal (2014) (APP/L3245/A/13/2196615) commented as follows:

21. Local residents raise concerns in relation to the accessibility of the site’s location. The nearest primary school lies nearly two kilometres away on Rosehill Road. There is a small convenience store located around two and a half kilometres along the A41 to the north west. Other facilities are located in Market Drayton, Hodnet and Hinstock. There is a limited bus service which runs to Market Drayton and some of the surrounding villages. The bus stop is within walking distance of the site, on Rosehill Road. A footpath links the site with the bus stop.

22. The site cannot be said to be in a highly accessible location and I consider it likely that the occupiers of the site would be reliant on private vehicles for most of their day to day needs. Nevertheless, the site is not in an isolated countryside location and there is at least some prospect that alternative modes of transport could be used for some journeys.

23. The Framework sets out, as one of its core principles, that patterns of growth should be managed to make fullest possible use of public transport, walking and cycling. However, there is no requirement in PPTS that gypsy sites should be close to facilities.’

- 6.1.31 Core Strategy Policy CS6 also states that all development should protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character. It also requires that development should safeguard residential amenity. These are all general development management considerations that would need to be assessed on site. Similarly consideration needs to be given as to how planning objections could be addressed by planning conditions or obligations, e.g. restricting business use etc. as identified in paragraph 28 of the PPTS. I would also highlight, that case law, in particular the implications of the Human Rights Act and Equality Act 2010, are also significant considerations in determination of an application.

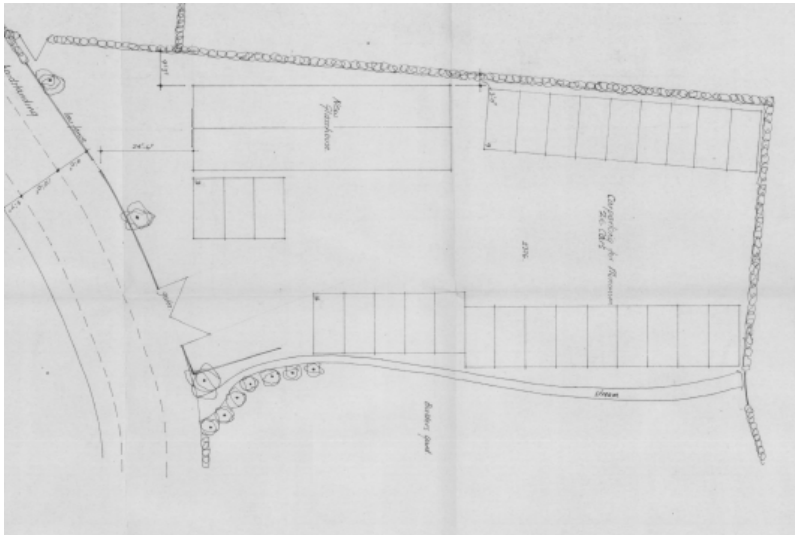
Conclusion

- 6.1.31 The site is located in countryside. Whilst PPTS paragraph 25 states that new traveller sites in open countryside away from settlements should be very strictly limited provision is made for appropriate sites in rural areas.
- 6.1.32 As with other types of development it is necessary to make an assessment of whether the proposed development can be considered sustainable in the context of NPPF & PPTS. A judgment also needs to be made as to whether the site is close to Shrewsbury, any of the Market Towns and Key Centres, and Community Hubs and Community Clusters and whether the scale is appropriate in its context. Since the location is very close to site of the 2015 approval for a single pitch (15/01036/FUL) the locational considerations would be very similar, although the scale differs in that this is a scheme for 3 pitches. This proposal also needs to be considered in the context of PPTS 2015, which was published after the 2015 approval.

6.1.33 Local Policy and evidence, including supply of sites, is a significant material consideration. The published evidence (GTAA 2017) indicates that there is no remaining requirement for the allocation of additional pitches over the Plan period (to 2036) if turnover is taken into account. However PPTS (para 11) is also clear that irrespective of identified need it is expected that applications which come forward will be assessed on their merits against local policy criteria (in CS12) which facilitate the traditional way of life of travellers. There is also a need to establish the availability of alternative accommodation (para 24 PPTS). The Council has a broader housing responsibility, manages its own gypsy and traveller sites and deals with unauthorised encampments and other relevant issues. The confirmation from the gypsy liaison officer of pitch overcrowding and lack of current pitch availability and alternative accommodation for residents at this site is therefore a relevant consideration for this application. Similarly other personal circumstances, such as the best interests of the child, are planning and legal considerations (para 24 PPTS).'

6.2 Planning history

- 6.2.1 Objectors have referred to the fact that the site has some planning history which is not acknowledged by the agent, including refusals which weigh against the current proposals. Other objectors refer to the land as derelict or agricultural - bearing in mind the former use as a nursery is horticultural – and as such does not fall within the definition of previously developed land. Therefore, details of the recorded planning history are given below.
- 6.2.2 N/81/574/WR/446
Erection of Glasshouse (approximately 140 sq.m) for the growing and retail sale of surplus produce and garden sundries, etc. on land adjacent to Mayfields (in accordance with amended plans submitted 16.07.1981) - Granted 11th August 1981.
- 6.2.3 The above planning permission was obviously implemented as the glasshouse exists on the site today. The description of development included for retail sales in addition growing. The approved layout of the site also included the provision of parking for 26 vehicles and the parking was conditionally required to be surfaced with tarmac or other approved dust free material within 3 months.
- 6.2.4 Objectors to this current application are concerned about the amount of hard surfacing and the fact that this has already been undertaken recently and as such is unauthorised. This historic consent demonstrates that the hard surfacing of a large extent of the site has been authorised in the past.
- 6.2.5 A copy of the site plan approved in connection with N/81/574/WR/446 is given here for illustrative purposes:



- 6.2.6 N/81/848/WR/75
Change of use of land from use as scrap yard to use as car park in conjunction with horticultural business on land near Mayfields (in accordance with amended plans submitted 07.12.1981) – Granted 16th December 1981.
- 6.2.7 The above planning permission related not to the current application site, but to the land on the opposite side of the road. Objectors are concerned that this parcel of land is within the same ownership of the current applicants' and will be subject to pressure for further development in association with the gypsy pitch proposals.
- 6.2.8 N/96/128/WR/446
Continued use of site as nursery with storage & hire of contracting equipment, erection of 1.8m high fences, sale of produce, temporary stationing of mobile buildings for office/residential use & siting of oil tank – The Nursery, Barkers Green, Wem – Refused 3rd April 1996.
- 6.2.9 The application was refused for reasons of (i) sporadic development to detriment of highway safety; (ii) contrary to housing policy without sufficient justification; (iii) detrimental to visual amenities; (iv) precedent and (v) contrary to North Shropshire Local Plan housing and employment policies.
- 6.2.10 20th April 1998 - Enforcement Notice served to remove from the land an unauthorised mobile home and cease the use of the land for residential purposes. Notice complied with.
- 6.2.11 N/00/15/WR/446
Erection of a building for commercial storage purposes and change of use of premises from horticultural use to use for commercial purposes – Refused 24th May 2000.
- 6.2.12 The building would have measured 18.288 m x 12.192 m x 4.267 m to the eaves and 5.618 m to the apex.
- 6.2.13 The application was refused for reasons surrounding i) undesirable sporadic commercial development contrary to strategy; (ii) detrimental to visual amenity due to size, design and materials and (iii) heavy traffic potential.

- 6.2.14 The above refusal was the subject of an appeal. The appeal was dismissed on 29th January 2001. In making his decision the Inspector noted that the change of use had already taken place and treated the appeal ‘... *as one for the continued use of the premises for commercial purposes and for the erection of the said building.*’
- 6.2.15 Enforcement issues pertaining to the unauthorised use of the site for commercial storage (empty plastic drums) were investigated in 2001/ 2002 and resolved in 2003 with the cessation of the unauthorised storage.
- 6.2.16 There is no further recorded planning history until the submission of this current application.
- 6.2.17 Notwithstanding the site planning history, the current proposal must be weighed against current planning policy and housing needs all as discussed in Section 6.1 above.

6.3 Gypsy and traveller status

- 6.3.1 Gypsy status – Annex 1 of the PPTS states: ‘For the purposes of this planning policy “gypsies and travellers” means:
Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own 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 showpeople or circus people travelling together as such.’
- 6.3.2 Information of the gypsy status of the applicants’ is provided in the submitted Planning Statement that accompanies the application and as per the following extract:

‘The Council has previously accepted the Gypsy status of the family when they were accepted on the Prees site. The family still travel for work although less so now for Mr Roberts Snr. But he is a dependent of his sons who still travel for work and intend to continue doing so. They continue to meet the planning definition in Annex 1 PPTS’
- 6.3.3 The gypsy status of the applicant is acknowledged and accepted, as confirmed by the comments of the Council’s Gypsy Liaison Officer given in section 4.1.1 above.
- 6.3.4 Furthermore, in accordance with accepted practice any planning permission issued for the site would be the subject of a restrictive occupancy condition to ensure that 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.
- 6.3.5 Local connections – Where an application is not seeking to provide affordable housing then the guidance in PPTS does not require an applicant to demonstrate strong local connections. Paragraph 24(e) of PPTS states that Councils should determine applications for sites from any travellers and not just those with local connections. This position has been endorsed in the favourable appeal decision for a gypsy site at Adbo Farm, Rosehill and the further appeal decision for gypsy pitch allowed a Shawbury Heath on 26th September 2014.
- 6.3.6 In connection with the gypsy and traveller status a further matter is brought to the fore. Within the introduction of the Council’s Housing SPD at 6.1 it is stated that: ‘*Gypsy and Travellers have a recognisable culture, protected by law. In Gypsies and Traveller*

culture, the extended family is extremely important, ... The SPD goes on to explain that *'There is also legal recognition that the rights of gypsies/travellers includes the right to live in a caravan rather than in bricks-and-mortar housing.'* It is not for the Local Planning Authority to interfere with the exercising of these rights.

- 6.3.7 These rights are highlighted as some objectors have identified that one of the sons of Mr Roberts has a property at the old station yard, Prees where under reference 16/04826/PSDPA, a decision has been issued in January 2017 that prior approval is not required for the following development: *'Prior Notification under Part 3 Class P of the Town and Country (General Permitted Development) Order 2015 for the change of use from (B8) Storage/Distribution building and land to (C3) residential dwelling to include works'*. The proposed conversion is of a brick and tile building to a 2 bed unit with an internal floor area of 72 msq and an adjacent yard – the total site are of which is 293 msq. That site would not fulfil the extended family needs nor would it fulfil the right of the applicants' to live in a caravan rather than in bricks-and-mortar housing. Furthermore, even if Mr Roberts' son chose to live in the converted station yard building at Prees, three pitches at Barkers Green would still be required to fulfil the long-term housing needs of the extended family, in that Mr Roberts has three sons, two of adult age in their 20's and the third approaching adult age.

6.4 Sustainable location

- 6.4.1 Local plan policy, the NPPF and the PPTS all strive towards development that is sustainable socially, economically and environmentally. In terms of location this generally means concentrating growth in areas where residents will have reasonable access to facilities, services, infrastructure and sustainable transport options to reduce reliance on the car.
- 6.4.2 Objectors are concerned about the location of the site relative to nearby facilities and question the sustainability of the site in this context.
- 6.4.3 In paragraph 25 the PPTS advises that *'Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.'*
- 6.4.4 Although located within the hamlet of Barkers Green, the site has a countryside status for planning purposes and lies outside the development boundary of the market town of Wem. Barkers Green has no acknowledged facilities and is served by rural roads with no pavements. It is likely therefore that occupiers would rely on the car to access facilities and services. That said it is accepted that the town centre of Wem is only a short car journey away and in this respect the site is not unreasonable isolated from the services and facilities on offer in the town; including shops, medical facilities and a primary and a secondary school. Whilst objectors are further concerned the proposal will increase pressure on local services and facilities, no substantive evidence has been provided of any capacity issues associated with the infrastructure as facilities to accommodate the potential needs of site occupiers from this small scale development.
- 6.4.5 Some assessment of sustainable and accessibility is also given in the Senior Policy Officers comments, within section 6.1 above, including the Inspectors broad view of site

sustainability in respect of Adbo Farm appeal decision. Likewise, in respect of the Shawbury Heath appeal and the nearby 8 Barkers Green site (ie a single pitch gypsy site granted permission in August 2015 under reference 15/01036/FUL), the application site is considered no less sustainable relative to nearby facilities and services. Furthermore, within the Council's own Housing SPD on the matter of 'reasonably accessible to facilities and services' the guidance explains that gypsy/traveller sites may be '*further outside settlements than would normally be allowed for other developments*' due to difficulty of obtaining such sites within towns and villages and to continue to make special provision whilst '*prejudice and antagonisms towards Gypsies and Travellers*' still exists.

6.4.6 Critical Infrastructure provision - On a further note of clarification, policy CS12 sets out that all sites must comply with policy CS9 where appropriate in relation to critical infrastructure provision. The application of this policy requirement of CS9 is not considered appropriate in this case – given that essential infrastructure already exists which will serve the site and the development is small in scale and so will put no undue pressure on this infrastructure.

6.5 Impact on character and appearance of area

6.5.1 To create sustainable places the NPPF, together with Core Strategy policies CS6 and CS17 and SAMDev Plan policy MD2 seek to achieve an inclusive and accessible environment and to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character.

6.5.2 With reference to scale and density, objectors consider the proposals constitutes overdevelopment of the site. Members will note that neither the Gypsy Liaison Officer nor the Public Protection Officer has raised no concerns in this regard. Indeed, it is acknowledged that the applicant's plan to move to this site to overcome issues of overcrowding and that the site has been designed and laid out to meet their extended family needs, including on-site provision of parking and amenity space. Further they will need to apply for a caravan site licence and meet any associated space and amenity provision requirements of that relevant legislation.

6.5.3 Objectors are further of the opinion that the development will dominate the settled community. However, taking into consideration the context, setting and spatial arrangement of Barkers Green, which is largely strung out along the rural road, it is not considered that a plot of this size (which is defined by existing boundaries) and in this position is inconsistent with or domineering of the spatial pattern locally. Further, in terms of numbers, officers do not consider that three new gypsy pitches in addition to the single gypsy pitch already permitted at Barkers Green will dominate the local settled community. By way of comparative reference, the Council's policy CS12 defines development proposals for small exception sites as under 5 pitches.

6.5.4 As regards any concern that in the future the site could be developed as a travelling site for more gypsy caravans, then this matter can be addressed by imposing suitable conditions, limiting the use of the site to three pitches and restricting the number of caravans and their positioning in accordance with the submitted plans.

6.5.5 Objectors are also concerned that the proposed development will spoil the look of the locality and be visually damaging to countryside. It is acknowledged that the development of the land as proposed has the potential to change the character and

appearance of the site itself and the outlook over the land from nearby properties; the highway and nearby public rights of way. However, the issue is whether that change will be so harmful as outweigh the specific housing benefits of the proposal and paying due regard to the existing screening available which is to be retained and improvements to that screening that could reasonable be secured in the form of supplementary landscaping.

- 6.5.6 To expand, the site sits within the hamlet of Barkers Green and is described as a former nursery. The synopsis given in 6.2 above confirms the planning history of the site. The site is understood to have become overgrown and has recently been cleared internally by the applicant. The site has road frontage with an existing access and is contained by established boundaries. The external boundaries, which comprise established hedging/trees and fencing, are to be retained. Whilst no new landscaping is proposed as part of the submission, the provision of some additional landscaping is considered necessary as discussed further elsewhere within this report.
- 6.5.7 In more detail, following on from the intended demolition of the existing glasshouse, the proposed layout of the site is such that three mobile homes and five parking spaces will be positioned alongside the south western boundary. Two of the mobile homes will run parallel with the boundary and the third will be perpendicular to it. The five parking spaces will be allocated in a group of three and pair of two in between the mobile homes. The sixth parking space will be positioned alongside the opposite boundary to the north east and to the south east of the proposed siting of the three touring caravans and the single shared utility block. As previously described the utility block building will have a footprint of 6 m x 5 m with a pitched roof of 4 m high to the ridge. It will provide bathroom, laundry and kitchen/dining facilities and will be constructed of brick and tiles to be agreed. The central area of the site identified as hardstanding and the southern, northern and eastern corners of the site reserved for amenity space.
- 6.5.8 Objectors have raised further particular concerns in relation to the visual appearance of mobile homes/caravans and associated paraphernalia being conspicuous and inappropriate in this rural context. As previously mentioned there is a legal right for gypsies/travellers to live in a caravan. Therefore, and as recognised in the Council's Housing SPD, some flexibility is necessary in applying design policy to gypsy and traveller sites. Hence, and in accordance with the governments Planning Policy for Traveller Sites, a greater emphasis is given to landscaping to mitigate against any potential harm. Whilst the site sits within the countryside for planning policy purposes, it is confirmed there are no special landscape designations in this location and the land is not within greenbelt. Furthermore, the site is already enclosed and relatively well screened by established hedges and trees to the boundaries which are to be retained. Nonetheless, as is discussed in section 6.7 below, there is scope and need for additional landscaping for biodiversity reasons and which can serve to enhance the level of screening. Additional landscaping mitigation measures coupled with the single storey scale of the units on the site will therefore help reduce any visual intrusion and associated harm.
- 6.5.9 Objectors are further aggrieved that work already appears to have been undertaken on site in order to facilitate the application proposals, whereby the site has been cleared of greenery and laid with hardstanding and a roadside boundary fence erected and gates installed which exceed 1 m in height.

- 6.5.10 The clearing of the site in itself is not development which requires the consent of the LPA. The formation of a hardstanding is and forms part of the application, being shown on the submitted plans as existing. Taking into consideration the planning history of the site it would not be unreasonable to assume that underneath the cleared vegetation some hard surfacing did already exist, albeit it probably to a lesser extent. Notwithstanding this, the final detail of the hard surfacing and any associated drainage requirements thereof can be dealt with by imposing appropriate conditions as part of the current application.
- 6.5.11 In relation to the roadside boundary fence, a timber boarded fence has existed to the site frontage for some time and whilst the security gates installed exceed 1 m in height they are not shown as to be retained as part of the proposed layout plan.
- 6.5.12 Overall, therefore whilst it is acknowledged that some perceived harm has been identified that has the potential to impact on the character and appearance of the area, with recommended planning conditions in place and additional landscaping secured, it is not considered that the impact of the development on the character and appearance of the area will be so materially harmful as to significantly and demonstrably outweigh the housing benefits in this particular case.

6.6 Residential amenity

- 6.6.1 Policy CS6 indicates that development should safeguard residential and local amenity, whilst policy CS12, the Housing SPD and the PPTS refer to the need for suitable screening.
- 6.6.2 Impact on neighbouring residential amenity – The proposal is of a small scale, involves no business use, is sited a sufficient distance away from the nearest neighbouring dwellings and can be adequately screened such that it will not lead to overlooking and overshadowing or otherwise unacceptably affect the residential amenities of neighbouring properties, including any unacceptable noise disturbance solely associated with a residential use. No high level lighting is proposed and external lighting can be controlled by condition.
- 6.6.3 Likewise, to safeguard against concerns over future business use, conditions can be imposed preventing commercial activities and storage of materials, scrap or waste.
- 6.6.4 It is also suggested by the agent that it would be appropriate to impose a condition that no vehicles over 7.5 tonnes are kept on the site. As no business use is intended, nor any on-site storage of commercial materials and as no parking provision is identified for lorries, then it has not be justified or explained why it would be necessary to store vehicles up to 7.5 tonnes on the site. This has been raised as a cause for concern amongst objectors. In the absence of any explanation or justification, rather it is therefore considered appropriate to impose a condition limiting the size of any vehicles kept on site to no more than 3.5 tonnes. This would be consistent with the condition imposed on the nearby site at 8 Barkers Green.
- 6.6.5 Implications for occupier residential amenity – The site itself it of a sufficient size to accommodate the manoeuvring of caravans and parking for users and private amenity space for family. Otherwise, the Public Protection Officer has identified a need for an acoustic fence to afford the occupants of the site protection from the neighbouring builders yard. This can be secured by imposing a suitably worded condition. Whilst the

agent has a preference for the provision of such a fence to be the applicant's choice the Public Protection Officer has advised that it is not appropriate to leave the decision to put up an acoustic fence to the applicant/residents moving to the site. It is for the local planning authority to ensure that a site is suitable for the end use. Therefore, to ensure the site is suitable; does not compromise any future operations at the builders merchants and to ensure complaints are unlikely regarding noise in future, the Public Protection Officer reiterates his recommendation that the provision for an acoustic fence is secured by condition.

6.6.6 Accordingly, and with the recommended conditions in place it is considered that the proposal is capable of complying with policies in relation to safeguarding the residential amenity of neighbours and site occupiers.

6.7 Natural Environment

6.7.1 The NPPF alongside policies CS6 and CS17 of the Shropshire Core Strategy and MD12 of the SAMDev Plan also require consideration to be given to the impact of the proposed development on the natural environment.

6.7.2 Trees – The Council's Tree Officer has commented that the site has no protected or important trees.

6.7.3 Ecology – Objections have been lodged on ecological grounds. The Council's Biodiversity Officer considered the application as originally submitted and advised of the requirement for an ecology assessment to support the application. In the absence of such an assessment to demonstrate otherwise, the Biodiversity Officer was unable to support the application as it was considered that insufficient information had been submitted to enable a full and proper assessment of the potential impacts of the development on the natural environment and any protected species that may be present. In the circumstances the Local Planning Authority was not in a position to conclude that the proposal would not cause unacceptable harm to the natural environment and comply with local and national planning policy in this regard.

6.7.4 The need for such an assessment has been an ongoing issue for some time and served to delay progress with the consideration of the application. The agent was of the opinion that as most of the site is laid to hard standing the ecological interest is restricted to the boundary hedgerow/trees, none of which would be removed. Therefore disturbance to existing wildlife would be minimal and would have no/minimal adverse ecological impact. However, like objectors, the Council's Biodiversity was concerned about the loss of ecological potential that had occurred with the hard surfacing work carried out and still required an ecological assessment to be carried out to determine whether the site still provides any potential terrestrial habitat for herptiles and whether further surveys were required or whether a reasonable avoidance measures method statement is sufficient. The Biodiversity Officer also advised that the report should set out ecological enhancements to compensate for any loss of habitat.

6.7.5 Therefore, in response to the ecology concerns, an ecological assessment has now been provided and updated to the satisfaction of the Council's Biodiversity Officer. Consequently, the Biodiversity Officer is now able to make a positive recommendation, subject to the imposition of certain conditions. The recommended conditions include for i) an appropriately qualified and experienced Ecological Clerk of Works (ECW) to provide a report to the Local Planning Authority demonstrating implementation of the

Great Crested Newts Reasonable Avoidance Measures Method Statement as set out in Appendix 2 of the Ecological Assessment; ii) compensatory landscaping, alongside bat and bird box provision to provide compensatory biodiversity enhancements and iii) the prior approval of any external lighting to minimise disturbance to bats.

6.7.6 With the recommended conditions in place the application is now considered capable of compliance with policies CS6, CS17, MD12 and the NPPF in relation to ecology, wildlife and the natural environment.

6.8 Highways

6.8.1 Concerns have been raised by local residents regarding the access provision, traffic generation and highway safety issues.

6.8.2 The Council's Highway advisor has been consulted on the application and raised no highway objection in respect of either the capacity of the local highway to accommodate the likely type and number of traffic movements generated to/from the site or the measure of visibility available from the site. These comments are based on the understanding that the application is to site 3 residential static homes and 3 touring caravans with no business use. It is the considered opinion of the Highway Officer that the likely traffic associated with the proposed development will not have a material effect on the adjoining highway to justify a highways objection.

6.8.3 On two matters of detail the Highway officer does note that i) the existing gate into the site is set close to the carriageway edge, whereby drivers would need to park on the highway and alight from their vehicle to open/close the gate and ii) the access crossing is composed of loose material.

6.8.4 Therefore, in connection with the development it is recommend that i) the gate be set back a minimum 6 metres from the adjoining carriageway edge and ii) the verge crossing and surface of the access between the carriageway edge and site gate should be improved and hard surfaced in accordance with the Council's specification. Conditions are recommended for imposition accordingly.

6.8.5 Taking into consideration the views of the Highway Officer, it is considered therefore that the proposals are acceptable on highway grounds and that there are no grounds to refuse permission on this basis.

6.9 Drainage

6.9.1 Foul drainage is to be disposed of to an existing septic tank. Surface water is to be disposed of to soakaways.

6.9.2 Objectors have pointed out the existence of a (culverted) watercourse that runs along the north eastern boundary of the site and raised concerns in relation to potential flooding. The Councils' Flood and Water Management Team have been consulted on the application. The Drainage Engineer has consequently provided comments and whilst being aware that the site is identified as being at risk of groundwater flooding, is satisfied that providing conditions are imposed to secure the prior approval of the final foul and surface water drainage disposal arrangements the development should not increase the risk of flooding.

Having regard to the view of the Drainage Officer that suitable conditions can be

imposed to secure the prior approval of the final drainage arrangements, it is considered that with such conditions in place the site can be developed in compliance with policy CS18 and the NPPF in drainage terms. On this basis, there is no technical reason to withhold planning permission on drainage grounds.

6.10 Other

6.10.1 Some local residents have expressed objections on the grounds of security. This objection is based on fear rather than evidence. Through the PPTS and the NPPF the government recognises the need to integrate communities to promote understanding and engender a sense of social cohesion over time. The provision of this site within a settled community will lend to that overall objective.

6.10.2 An objection has also been lodged that the land may be contaminated. However, no substantive evidence has provided in support of this objection to demonstrate that the land is contaminated. Furthermore, the application has been subjected to consultation the Council's Public Protection Officer and he has raised no concerns in this regard.

7.0 CONCLUSION

7.1 The Gypsy and Traveller Accommodation Assessment (GTAA) 2017 concludes that there is no current requirement for site allocations, taking into consideration turnover on local authority pitches. However, the GTAA has yet to be subjected to Examination as part of the Local Plan review process and, as such, is open to challenge.

7.2 The comments of the Council's Gypsy Liaison Officer do not appear to endorse the conclusions of the GTAA in that the Council's owned and managed Gypsy/Traveller sites are currently full; there is a waiting list of roughly 35 applicants and the turnover of plots on the Manor House Lane site is low, all meaning the applicant's housing needs would struggle to be accommodated in the foreseeable future.

7.3 The applicants' ability to self-provide would assist plot turnover on the local authority site.

7.4 When it comes to decision making the governments Planning Policy for Traveller Sites (PPTS) 2015 makes it clear at H.24 a) and b) that the following are material considerations:

(a) *'The existing level of local provision and need for sites*

(b) *'The availability (or lack) of alternative accommodation for the applicants'*

In accordance with the comments of the Gypsy Liaison Officer the applicants' are in need and there is a lack of available alternative provision.

7.5 Notwithstanding the conclusions of the GTAA 2017, there is policy support for windfall sites within the governments Planning Policy for Traveller Sites (PPTS) 2015 and Shropshire Core Strategy policy CS12. With reference to plan-making, at para. B.11 the PPTS states: *'Where there is no identified need, criteria-based policies should be included to provide a basis for decision in case applications nevertheless come forward.'* The Council has a criteria based policy in Core Strategy policy CS12. Bullet point 2 of CS12 sets out support for the suitable development of gypsy and traveller sites close to close to Shrewsbury, the Market Towns and Key Centres, and Community Hubs and Community Clusters. In this case, and with particular reference to appeal decisions and guidance on gypsy/traveller site assessment in terms of location, the site is considered close to the market town of Wem. With reference to decision-taking, at para. H.24 d)

the PPTS states that '*... the locally specific criteria ... 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.*'

- 7.6 The site is considered to occupy a relatively sustainable location and in the assessment of this case officers are satisfied that there is no significant and demonstrable harm that outweigh the housing benefits of the proposal. Any potential harm that has been identified can be adequately addressed through mitigation measures and the imposition of planning conditions, particularly in relation to matters of character and appearance, residential amenity and the natural environment.
- 7.7 In relation to access and drainage issues these are technical matters upon which the Councils' professional drainage and highway advisers have raised no objection and recommend conditions.
- 7.8 Accordingly, approval is recommended, subject to conditions.
- 7.9 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

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

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

8.2 Human Rights

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

interests of the Community.

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
Planning Policy for traveller sites

Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS12 - Gypsies and Traveller Provision
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside
MD12 - Natural Environment
Settlement: S17 - Wem
SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

NS/81/00574/FUL Erection of Glasshouse (approximately 140 sq.m) for the growing and retail sale of surplus produce and garden sundries, etc. on land adjacent to Mayfields (in accordance with amended plans submitted 16.07.1981). GRANT 11th August 1981

NS/81/00848/FUL Change of use of land from use as scrap yard to use as car park in conjunction with horticultural business - land near Mayfields (in accordance with amended plans submitted 07.12.1981). GRANT 1st October 1981

NS/00/00092/FUL Erection of a building for commercial storage purposes and change of use of premises from horticultural use to use for commercial purposes REFUSE 24th May 2000

Appeal

NS/00/00010/REF Erection of a building for commercial storage purposes and change of use of premises from horticultural use to use for commercial purposes DISWOC 29th January 2001

11. Additional Information

[View details online:](#)

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

Cllr Pauline Dee Cllr Chris Mellings

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements;
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved.

Reason: This is a pre-commencement condition to ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

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

4. An acoustic barrier shall be erected along the boundary of the site where it borders the adjacent commercial site. Prior to installation the design, position and specification of the barrier shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barrier shall be installed in accordance with the approved details before the development is first occupied and retained as such thereafter.

Reason: To safeguard residential amenities.

5. No work shall commence on the construction of the external walls and roof of the utility building until full details and/or samples of the external materials have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

6. Notwithstanding the work that has already been carried out on site, no further work shall undertaken in respect of the area of hardstanding until full details of the construction and surfacing materials of the hardstanding area have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.

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

7. The development shall not be occupied until full details of the foul drainage, including the location and sizing of the existing septic tank and the drainage fields and any previously carried out percolation tests have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the foul water drainage system is satisfactory and can cater for the new development.

8. Full details, calculations, dimensions and a location plan of the percolation tests and the proposed soakaways shall be submitted for the prior approval of the Local Planning Authority.

Percolation tests and soakaways should be designed in accordance with BRE Digest 365.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

The site is identified as being at risk of groundwater flooding. The level of water table should be determined if the use of infiltration techniques are being proposed.

Should soakaways not prove feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should alternatively be submitted for the prior approval of the Local Planning Authority. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year +25% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

The development shall be carried out in accordance with the approved surface water drainage details prior to occupation.

Reason: To ensure that the proposed surface water drainage systems for the site are satisfactory and are of robust design.

9. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slope towards the highway, the applicant shall submit for the prior approval of the Local Planning Authority a surface water drainage system to intercept water prior to flowing on to the public highway. The development shall be carried out in accordance

with the approved details prior to the development first being brought into use and maintained as such thereafter.

Reason: To ensure that no surface water runoff from the new access/ driveway run onto the highway.

10. Details on how the surface water runoff will be managed and to ensure that any finished floor level is set above any known flood level or at least 150mm above the ground level shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details and prior to the development first being brought into use.

Reason: To minimise the risk of surface water flooding, as on the Surface Water Flood Map, the site is at risk of surface water flooding.

11. The access apron between the entrance gate and adjoining carriageway edge shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 80 mm thickness of 20 mm aggregate binder course, 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

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

12. The development hereby permitted shall not be brought into use until the areas shown on the approved plan 2: proposed site layout for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

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

13. Prior to first occupation / use of the building [or each phase of the buildings], an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the GCN RAMMS, as set out in Appendix 2 of the Ecological Assessment (Churton Ecology, December 2017).

Reason: To demonstrate compliance with the GCN RAMMS to ensure the protection of great crested newts, which are European Protected Species, and other wildlife.

14. Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting.

The boxes shall thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 118 of the NPPF.

15. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: In the interests of amenity and to minimise disturbance to bats, which are European Protected Species.

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

16. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites Department for Communities and Local Government March 2015.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community within the Local Planning Authority's area at the date of the permission hereby granted.

17. The development hereby permitted is limited to three pitches. No more than three static caravans and three touring caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed on the site at any time and no caravans shall be stationed other than in accordance with the approved layout. Any caravans positioned on the site shall also be capable of being lawfully moved on the public highway.

Reason: To safeguard the amenities of the locality.

18. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To safeguard the amenities of the locality.

19. No commercial activities shall take place on the land, including the storage of materials.

Reason: To protect the residential and visual amenities of the area.

20. There shall be no scrap or any other transfer of waste on the site.

Reason: To protect the residential and visual amenities of the area.

21. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 6.0 metres of the adjoining highway carriageway edge.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

Informatives

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

2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

4. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

5. The applicant is advised that a caravan licence must be obtained from the Council's Licencing Officer. For further information visit Shropshire Council's website at www.shropshire.gov.uk

6. Mud on highway

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

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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

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

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

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

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<u>Committee and Date</u>
North Planning Committee
6 th March 2018

<u>Item</u>
7
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 6TH MARCH 2018

Appeals Lodged

LPA reference	17/01649/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs White – C/O The Planning Group
Proposal	Outline planning application for the erection of 1 No dwelling (all matters reserved)
Location	Land Adjacent To Rose Cottage Primrose Lane Prees
Date of appeal	26.01.18
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	17/02765/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Singh
Proposal	Erection of single storey retail units, extension to existing cafe building and provision of new childrens play area with associated landscaping and parking area
Location	Enigma Shotatton Ruyton Xi Towns
Date of appeal	22.11.2017
Appeal method	Written Reps
Date site visit	22.01.2018
Date of appeal decision	25.01.2018
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/00760/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr E J Jackson
Proposal	Outline application (all matters reserved) for the erection of a residential dwelling and detached garage
Location	Land to the rear of the Greyhound Inn, Street Dinas, St. Martins
Date of appeal	23.11.2017
Appeal method	Witten Reps
Date site visit	
Date of appeal decision	30.01.2018
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/04218/FUL
Appeal against	Refusal of Planning Permission
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Edwards – C/O G Chesters
Proposal	Conversion and extension to outbuilding to form self-contained ancillary accommodation to existing dwelling
Location	Hayes Barn, Coton, Whitchurch, Shropshire
Date of appeal	20.12.17
Appeal method	Fast Track Appeal
Date site visit	
Date of appeal decision	06.02.18
Costs awarded	
Appeal decision	DISMISSED

LPA reference	17/00732/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	C Beasley
Proposal	Outline application for the erection of 5 no. dwellings to include means of access
Location	Proposed Residential Development Land West Of B5009 Babbinswood
Date of appeal	23.11.2017
Appeal method	Written Reps
Date site visit	23.01.2018
Date of appeal decision	08.02.2018
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/00744/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	C Beasley
Proposal	Outline application for the erection of 5No dwellings (to include access)
Location	Proposed Residential Development Land South West Of Tetchill Shropshire
Date of appeal	23.11.2018
Appeal method	Written reps
Date site visit	23.01.2018
Date of appeal decision	08.02.2018
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/02484/FUL
Appeal against	Refusal of Planning Permission
Committee or Del. Decision	Delegated
Appellant	Mr T Murray – C/O C Williams
Proposal	Erection of a detached dwelling and on site parking
Location	5 Old Dalelands, Market Drayton
Date of appeal	08.12.17
Appeal method	Written Representation
Date site visit	
Date of appeal decision	22.02.18
Costs awarded	
Appeal decision	DISMISSED

LPA reference	17/04372/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr T Murray – C/O C Williams
Proposal	Erection of 1No dwelling and on site parking (revised scheme)
Location	5 Old Dalelands, Market Drayton
Date of appeal	08.12.17
Appeal method	Written Representations
Date site visit	
Date of appeal decision	22.02.18
Costs awarded	
Appeal decision	DISMISSED

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Appeal Decision

Site visit made on 22 January 2018

by **Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th January 2018

Appeal Ref: APP/L3245/W/17/3187620

Cafe and Premises, A5(T) from Baschurch Junction B4397 to Long Oak Junction, Shotatton, Ruyton XI Towns, SY4 1JH

- 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 Sukhjinder Singh against the decision of Shropshire Council.
 - The application Ref 17/02765/FUL, dated 7 June 2017, was refused by notice dated 23 August 2017.
 - The development proposed is to provide new, sustainable premises to the site at Shotatton crossroads with an extension to the existing café building. All to include new landscaping and parking. Existing access to remain.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the need for the proposed development and its impact on the character and appearance of the area.

Reasons

3. The appeal site comprises a highly visible triangular shaped parcel of brownfield land that adjoins an existing bespoke kitchen manufacturer's showroom immediately to the east of the A5/B4397 Shotatton crossroads and in a countryside location. The existing access situated within a 40mph restricted speed area of the A5 serves the kitchen showroom, together with a rather ramshackle structure that houses a small café business and a large car parking area. The parties agree that the site may be classified as previously developed land. The existing kitchen showroom converted for such purposes under the permitted development regime would be unaffected by the proposed development.
4. The proposal would see the incorporation of the existing café structure within an extended built form consisting of a rectangular shaped mono-pitched green roofed and cedar clad structure providing some 210 sqM of floor space. The café would provide some 50 covers together with an additional 33 covers or so in an outdoor seating area, which would also include a small children's play area. In addition, two new buildings of similar design and located immediately to the east are also proposed. The proposed retail showrooms would be of similar design with use of identical external materials, each providing some 300 sqM of floor space.

5. The Council does not appear to be against the café element of the proposed development and I would agree that the refurbishment and extension would represent an overall improvement to the present structure and on-site arrangement. There is a lengthy planning history at the site, including the erection of a hotel. However, it is unclear whether this permission remains extant and whether it is a genuine fall-back position that I should take into account. I am mindful however of the brownfield nature of the appeal site and that it has been the subject of previous consents for a number of commercial uses.

Need for the retail development

6. The formal development plan includes the Shropshire Core Strategy (CS) adopted in February 2011 and the Site Allocations and Management of Development Document (SAMDev) adopted in December 2015. Policies CS1 and CS3 aim to support the revitalisation of Shropshire's market towns, including Oswestry and to develop their roles as key centres. Policy CS15 encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within identified town centre locations on the basis of a 'town centres first' approach while recognising the National Planning Policy Framework's (the 'Framework') policy that local planning authorities should apply a sequential approach to the consideration of planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date local plan.
7. There is little doubt that the proposal is not one that can reasonably be described as small scale rural development in the meaning set out in policy CS5 and to which the sequential test should not be applied. The sequential approach requires applications for main town centre uses to be located in town centres, then in edge of centre locations. Only if suitable sites are not available should out of centre sites be considered.
8. The appellant readily acknowledges that a sequential assessment has not been undertaken and had one been formalised, it is highly likely that sites suitable for the intended use would have been identified in the nearest market town of Oswestry, which is approximately 9km to the north west. Whilst I accept that the proposed development would complement the existing bespoke furniture and kitchen manufacturer's showroom at the adjoining premises, the site is not only out of centre, it is outside any recognised settlement and in any event, should not act as a precedent for further policy defiant developments. No assessment has been submitted to demonstrate that the proposal would satisfy the sequential test set down in the Framework.
9. Policy MD10b of SAMDev sets out a minimum threshold of 200 sqM of retail floor space beyond which an impact assessment would be necessary. In the absence of such assessment, it is difficult to establish the likely trade diversion patterns that would emerge as a consequence of the appeal development. Whilst the appellant has indicated his willingness to accept a planning condition that would limit the range of goods sold at the premises, I agree with the Council that such a condition would run counter with the advice contained within the Planning Practice Guidance in respect of the use of planning conditions. In any event, I am satisfied that the intended end users suggested by the appellant are essentially town centre uses that are unlikely to have connection with the immediate local rural area. I do not accept that the

presence of the existing kitchen manufacturer's showroom alongside in any way creates conditions for co-dependency that might support the appeal proposal.

10. The Framework specifies that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on existing higher order centres, that it should be refused. In this instance, the effect on the vitality and viability of the nearest town centre at Oswestry cannot be determined and this is a serious omission.
11. Consequently, in the absence of a sequential test, it cannot be demonstrated that there are no sequentially preferable sites available within the town centre, edge of centre or locations close to the town centre that would protect the vitality and viability of Oswestry. This is further compounded by the lack of an impact assessment. Therefore the proposal would conflict with CS policies CS3 and CS15 and with SAMDev policy MD10b and with paragraphs 24 to 27, inclusive of the Framework.

Character and appearance

12. Despite being in open countryside for planning purposes, the presence of dwellings, buildings, tracts of woodland and the busy road junction means that the open character in the immediate vicinity of the appeal site takes on the appearance of a small rural hamlet although no recognition of this is given in planning policy terms. The proposed buildings would be located on a slightly raised platform above the A5 opposite open fields but below the raised embankment that forms the south-western boundary of the site. Beyond the site to the north and west lies open countryside, which is characterised by arable farmland, hedges, small blocks of woodland and a scattering of agricultural dwellings and buildings. Whilst the site is open towards the north, views of the site are only readily discernible from the main roads when close up. Given the existing banking along the southern boundary and the cluster of buildings to the east, I do not consider that the proposed low lying buildings would be particularly prominent in the landscape. Nor would the development appear isolated and would not detract from the appearance and openness of the surrounding area of countryside to the north.
13. The buildings themselves would be of a simple contemporary style using materials that would be entirely appropriate in this setting. I have no reason to disagree with the appellant that the buildings would be of sustainable construction and the site effectively landscaped.
14. I am satisfied that the proposed development would be appropriate in terms of its design, scale, form, impact and siting. As such it would comply with CS policies CS5 and CS6, which in combination amongst other things, seek to ensure that new development in the countryside is designed to take account of local context and character, incorporates sustainable design principles and is appropriately landscaped.

Other considerations and planning balance

15. The upgrade of the existing café business is to be encouraged, particularly given its location on the strategic highway network and the lack of appropriate facilities for passers-by, including tourists visiting the area. I also agree that the development overall would be likely to result in a considerable

enhancement of the visual quality of the site and incorporate design features that are both in keeping with the rural location and which would be sustainable in nature. However, the speculative nature of the proposals coupled with the lack of a sequential test and impact assessment means that I am not persuaded that suitable sites or premises are not available for this type of business within the town centre. On the basis of the evidence I am not convinced that the appeal proposals would not undermine or harm the vitality or viability of the Oswestry town centre, which is a key consideration of development plan policies and the Framework.

Conclusion

16. For the reasons set out above and having regard to all other matters raised, I conclude that this appeal should be dismissed.

Gareth W Thomas

INSPECTOR



Appeal Decision

Site visit made on 22 January 2018

by **Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI**

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

Decision date: 30th January 2018

Appeal Ref: APP/L3245/W/17/3188512

Land to the rear of the Greyhound Inn, Street Dinas, St Martins, Oswestry SY11 3HD

- 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 E J Jackson against the decision of Shropshire Council.
 - The application Ref 17/00760/OUT, dated 16 February 2017, was refused by notice dated 4 May 2017.
 - The development proposed is for the erection of a residential dwelling (outline with all matters reserved) – Resubmission.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis.

Main Issue

3. The main issue in this appeal is whether the proposed development would be in a suitable location having regard to local and national planning policy.

Reasons

4. The appeal site is located close to the small settlement of Street Dinas about a mile to the north of St Martins and 5 miles to the west of Ellesmere. It consists of a corner of a field immediately to the south-east of the Greyhound Inn Public House and pub car park and to the south of a pony paddock. Access would be taken from the County unclassified highway that runs in a southerly direction from the B5069. Street Dinas is a dispersed rural settlement but which focusses on the B5069 and although containing the pub, it is largely comprised of scattered farmsteads and rural cottages.
5. Policy CS1 of the Shropshire Council Core Strategy (CS) adopted in March 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. CS policies CS4 and CS5 establishes the framework for the identification of Community Hubs and Community Clusters as well as the approach to development in the countryside. The Shropshire Council Site Allocations and Management of Development Plan

- (SAMDev) adopted December 2015 seeks to deliver the strategic objectives, including providing guidelines for sustainable development within the Community Hubs and Community Clusters set out in the CS. SAMDev policy S8.2(iii) identifies Street Dinas along with Dudleston as a Community Cluster.
6. Policy CS4 of the CS seeks to enable rural communities to become more sustainable. This would be achieved in part by ensuring that market housing development contributes to improving sustainability through a suitable mix of housing that caters for local needs and by delivering community benefits in the form of identified contributions, as well as ensuring that the scale and design is sympathetic to the local character and environment. Development would only be permitted within settlements or on land identified for housing; the countryside between settlements would not be deemed to form part of the Community Cluster.
 7. A housing guideline of 10 dwellings is anticipated for Street Dinas and Dudleston in SAMDev policy S8(iii) up to 2026, which would be provided through limited infilling and conversions rather than through specific allocations. Despite the absence of development boundaries for this Community Cluster, it seems to me that the main body of Street Dinas comprises the scattering of traditional farmstead buildings that front the B5069. The policy specifically refers to infilling and conversions rather than development that would extend along country lanes. I agree with the Council that the site would be surrounded on three sides by either a pony paddock or rolling countryside. Thus the nestling up against the rear of the public house and its play area rather than fronting the B5069 would mean that the site would fail to constitute acceptable infilling in the meaning of policy S8(iii). Therefore, for planning purposes, the site would occupy a countryside location as classified by Shropshire Core Strategy (CS) Policy CS5.
 8. Policy CS5 seeks to strictly control development in the countryside in accordance with national planning policy, and includes a list of development proposals permitted on the basis of maintaining and improving the sustainability of rural communities. SAMDev Policy MD7a also seeks to strictly control new market housing outside settlements such as Community Clusters, but does include some exceptions to this principle. However, the proposal would not meet any exception listed in the policies.
 9. SAMDev Policy MD3 is also relevant to the proposal and supports sustainable housing development on windfall sites within settlements and in the countryside; particularly when housing guidelines appear unlikely to be met. Whilst it is not clear on what progress has been made towards the Community Cluster's housing guideline of 10 dwellings, it would seem unlikely that the Council would not be able to meet the housing guideline by the end of the plan period.
 10. In addition, based on recent appeal decisions, which have not been disputed by the appellant, the Council can demonstrate a five year housing land supply. Consequently, policies relevant to the supply of housing are not considered out of date and therefore attract full weight. In addition, I find no inconsistency between the relevant policies of the CS and the Framework whilst the SAMDev has only recently been adopted and found to be in accordance with the Framework. As such, the fourth bullet point in paragraph 14 of the Framework is not engaged. Taking the above into account, the proposal would be contrary

to SAMDev Policies MD3, MD7a and S8.2(iii), and with CS Policies CS4 and CS5. It would also not accord with the housing supply objectives of the Framework.

Other matters

11. Reference is made to a Plan review that is currently being undertaken by the Council under the 'Preferred Scale and Distribution of Development Consultation'. The Consultation is at an early stage and there is no evidence before me that the Council is likely to dramatically alter its strategic settlement approach or substantially change the status of this Community Cluster. That said, the existing policies of the CS and SAMDev Plan will remain in force pending adoption of any replacement development plan policies.

Conclusion

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The statutory primacy of the development plan is reinforced in paragraphs 196 and 210 of the Framework and its first core principle is that planning should be genuinely plan-led."
13. The proposal would provide some economic benefit, including during construction and thereafter through supporting local businesses through patronage. Whilst there is a bus route operating from St Martins, this would require a walk of about a mile by the appellant's calculation. Given the distances involved and the lack of street lighting and footways leading to this village, it is likely that future occupants would be heavily reliant on the use of the private car to access services, facilities and employment opportunities. This would limit the appeal site's accessibility. Further, the draw of Ellesmere and indeed Oswestry would mean that the benefits arising from development in supporting services in a village nearby as suggested in paragraph 55 of the Framework would be unlikely to materialise in this case.
14. In conclusion, I find that the limited benefits of the scheme do not outweigh the harm it would have in respect of undermining the Council's housing strategy. The development plan is up-to-date and compliant with the Framework, including in respect of paragraph 14, which means that the presumption in favour of sustainable development does not apply and the primacy of the development plan prevails.
15. For the above reasons and having regard to all other matters raised, I conclude that this appeal should be dismissed.

Gareth W Thomas

INSPECTOR

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Appeal Decision

Site visit made on 16 January 2018

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 6th February 2018

Appeal Ref: APP/L3245/D/17/3189838
Hayes Barn, Coton, Whitchurch SY13 3LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Edwards against the decision of Shropshire Council.
 - The application Ref: 17/04218/FUL, dated 10 April 2017, was refused by notice dated 2 November 2017.
 - The development proposed is the conversion of an outbuilding into 'granny flat' ancillary accommodation in conjunction with the main house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area and the host building.

Reasons

3. The appeal building forms part of an irregularly-shaped courtyard in conjunction with an articulated main dwelling. It comprises a single storey, detached, rectangular outbuilding. Another outbuilding, of similar design, projects from one end of the main dwelling. The appeal building is in close proximity to the latter and flanks a narrow opening to the courtyard. The proposal would convert and extend the appeal building in order to provide accommodation for an elderly relative. Permission has already been granted (Ref: 17/01726/FUL) for the conversion of the building without a sun lounge extension. As such, the Council has accepted the principle of converting the outbuilding to provide ancillary accommodation for independent, day-to-day living.
4. I observe from the plans and my site visit that the proposal would lead to an overly suburbanised, domestic conversion of the outbuilding. This would arise from the extensive glazing in the extension to the southern gable end, most notably on its western and southern elevations. This would be at odds with the simple, vernacular, red brick appearance of the outbuilding and would significantly erode its agricultural character. As such, the extension would appear as an incongruent afterthought rather than part of an integrated design that respects the character of the original building. This harm would not be avoided through the use of an oak frame design. Whilst I appreciate that the extension is intended for use as an oil painting hobby space, I have no evidence before me to suggest that alternative solutions, based around a more

- sympathetic design, are not possible. In any event, this does not outweigh the harm that would be caused.
5. The appellants are of the opinion that the Council has approved similar schemes elsewhere and that this supports the design approach they have taken. Whilst I accept that there are some similarities, in terms of the sun lounge, I am not aware of the full circumstances of those permissions nor do I have exactly the same information before me that was available to the Council. In any event, each case must be determined on its individual merits and site specific circumstances. Consequently, I give this limited weight in the planning balance of this appeal.
 6. Turning to the size of the proposed accommodation, I note the Council's concerns regarding the increased footprint of the building and the greater potential for it to become a separate planning unit from the main dwelling. In relation to the first point, I accept that the established space standards¹ would be exceeded. However, this would also be the case for the extant permission and, in any event, these standards are relevant only in determining compliance with the minimum space standard for new dwellings and have no other statutory meaning or use. Consequently, they should not be used to limit the size of new dwellings which should, more appropriately, be controlled through development plan policies. As such the standards carry negligible weight in the planning balance of this appeal.
 7. In relation to the second point, the Planning Practice Guidance 2014 (as amended) clearly states that conditions can enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. In this particular instance I am satisfied that a suitably worded condition would prevent the creation of a separate planning unit and that this would be capable of satisfying the necessary tests, as set out in paragraph 206 of the National Planning Policy Framework 2012 (the Framework).
 8. Given the above, I conclude that the proposal would cause significant harm to the character and appearance of the area and the host building contrary to policies CS5 and CS6 of the *Shropshire LDF Core Strategy 2011* and policy MD2 of the *Site Allocations and Management of Development Plan 2015*. They seek, among other things, to ensure that proposals reflect locally characteristic architectural design, respect local distinctiveness and make a positive contribution converted rural buildings. As a result the proposal would not be in accordance with the development plan.

Conclusion

9. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR

¹ Technical Housing Standards – Nationally Described Space Standard. March 2015. Ministry of Housing, Communities & Local Government.



Appeal Decision

Site visit made on 23 January 2018

by **B Bowker Mplan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th February 2018

Appeal Ref: APP/L3245/W/17/3184916

Land west of the B5009, Babbinswood, Whittington, Oswestry SY11 4PQ

- 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 C Beasley against the decision of Shropshire Council.
 - The application Ref 17/00732/OUT, dated 14 February 2017, was refused by notice dated 6 April 2017.
 - The development proposed is outline application for the erection of 5 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan submitted with the planning application has been taken into account for indicative purposes.
3. An amended plan (Drawing ref SA25505 Rev A) was submitted by the appellant during the appeal process and relates to an alteration to the proposed access. As the amendment proposed is minor in scale, I do not believe that any party would be unfairly prejudiced by determining the appeal with regard to the amended plan and I have done so on this basis.

Main Issue

4. Based on the evidence before me, the main issue is whether the proposal would provide a suitable site for housing, having regard to the settlement strategy for the area, its effect on the character and appearance of the surrounding area, and its access to facilities and services.

Reasons

5. Policy CS4 of the Core Strategy (CS) states that in rural areas, communities will become more sustainable by focussing investment into settlements designated as Community Hubs and Community Clusters. The appeal site comprises part of a relatively flat field, with the built form of Babbinswood to the east and further to the north. Babbinswood is classified as a Community Cluster by Site Allocations and Management of Development Plan (SAMDev) Policy MD1. However, although the appeal site is located opposite dwellings to the east, it is located outside of the development boundary of Babbinswood.

Consequently, for planning purposes the site occupies a countryside location as defined by Shropshire CS Policy CS5 and SAMDev Policy MD7a.

6. Policy CS5 seeks to strictly control development in the countryside in accordance with national policy protecting the countryside, and includes a list of development proposals permitted on the basis of maintaining and improving the sustainability of rural communities. Similarly, SAMDev Policy MD7a seeks to strictly control new market housing outside of Community Hubs and Community Clusters and also includes some exceptions to this principle. As the proposal would not meet any of the exceptions listed within both policies it would be contrary to SAMDev Policy MD7a and CS Policy CS5.
7. SAMDev Policy MD3 states that in addition to supporting the development of allocated sites, permission will also be granted for other sustainable housing development having regard to Local Plan policies, which includes Policy CS5 and Policy MD7a. However, as set out above, the proposal would be contrary to both policies. Paragraphs 2 and 3 of Policy MD3 set out that the settlement housing guideline is a significant policy consideration and that where a settlement housing guideline appears unlikely to be met, additional sites outside settlement development boundaries that accord with the settlement policy may be acceptable subject to the considerations at paragraph 2.
8. The appellant cites two appeal decisions¹ to support the view that the Local Plan restricts but does not prohibit housing development in the countryside, provided it is sustainable. However, in my view, when read as a whole, the Local Plan, including SAMDev Policy MD3, is clear that sites outside the development boundary will only be considered when the housing guideline for the settlement would be unlikely to be met.
9. SAMDev Policy S14.2 (ix) states that the Community Cluster of Park Hall, Hindford, Babbinswood and Lower Frankton will provide for future housing growth of around 50 dwellings during the period to 2026. This includes via an allocated site for 20 dwellings at Park Hall. However Policy S14.2 (ix) outlines that no specific site allocations are proposed across the remaining settlements where only limited infill and conversions will be appropriate within the development boundary.
10. The appellant states that there have been no approvals for housing development within the development boundary of Babbinswood to date and that a limited number of market housing has been permitted within its vicinity. These matters are not disputed by the Council. However, as the SAMDev plan period runs until 2026, there remains opportunity for appropriate limited infill and conversions within the development boundary of Babbinswood. No substantive evidence is before me to demonstrate that Babbinswood offers no opportunity for infill development or conversions as asserted by the appellant. Moreover, the appellant's evidence² indicates that 25 completions and 66 permissions have been achieved across the Community Cluster. Consequently, based on the evidence before me, it seems highly likely that the Council will be able to meet the housing guideline by the end of the plan period. On this basis, the proposal would not accord with Policy MD3.

¹ APP/L3245/W/16/3143041 and APP/L3245/W/16/3149461

² Section 6.1 of the Planning Application Supporting Statement

11. During my site visit I saw that the prevailing pattern of development at Babbinswood is characterised by linear housing development along the eastern side of the B5009. The open rural character of the site and adjoining agricultural land give the site a strong visual association with the open countryside rather than with built form to the east and further north. As such the site contributes to the rural character of the area.
12. Whilst the proposal would not extend further north or south of existing built form, intervening agricultural land visually divorces the site from development to the north. In this respect the proposal would look disjointed and in contrast to the prevailing pattern of development. Furthermore the proposal would have a harmful effect on the rural character of the site and the wider area. The resultant harm would be particularly noticeable from vantage points along the immediate section of the B5009, including to the north and south. Owing to the prominence of the site, the retention of the roadside hedgerow and the submission of landscaping, layout and scale details at the reserved matters stage would not fully mitigate this harm.
13. Babbinswood lacks a range of facilities and services. However bus services are within a walkable distance of the site and offer regular connections to larger settlements in a north and south direction. This includes bus connections to Whittington where a range of facilities and services are located. Taking into account the intermittent lighting and speed of vehicles traversing this section of the B5009, future occupants would be unlikely to regularly walk to Whittington to access its facilities and services. However regular bus services available near the site would ensure non-private vehicular access to shops and services for future occupants.
14. In summary, based on my reasoning above, future occupants would have non-private vehicular means of access to facilities and services. However this matter would not outweigh or prevent the conflict of the proposal with the settlement strategy for the area or the harm identified to local character and appearance.
15. Therefore the proposal would not provide a suitable site for housing, having regard to the settlement strategy for the area and its effect on the character and appearance of the surrounding area. Consequently the proposal would be contrary to CS policies CS4, CS5, CS6, CS17 and SAMDev policies MD1, MD3 and MD7a which are of most relevance to this matter. Insofar as they relate to this matter, combined these policies seek to ensure that development is controlled in the countryside, focussed within existing settlements, and is appropriate taking into account local character and the pattern of development.

Overall Balance

16. Section 38 (6) of the Town Planning and Compulsory Purchase Act 2004 (TCPA) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Based on my reasoning above the proposal would conflict with CS policies CS4, CS5, CS6, CS17 and SAMDev policies MD1, MD3 and MD7a.

17. A number of material considerations are cited by the appellant in support of the proposal in the light of the three dimensions³ of sustainable development defined by the National Planning Policy Framework (the Framework).
18. The proposal would contribute towards housing supply and would adjoin Babbinswood which has been identified as a sustainable location for development with reference to its allocation as part of a Community Cluster. In this respect the proposal would enhance and maintain the vitality of rural communities, including services at nearby villages as anticipated by paragraph 55 of the Framework. The proposal would also support construction employment. These factors represent economic and social benefits associated with the proposal.
19. Environmental benefits are associated with biodiversity gains achievable at the reserved matters stage and the non-private vehicular access future occupants would have to facilities and services.
20. The appellant states that the west side of the highway is the only option for development without extending development to the outer edge of the settlement. In this light the appellant cites a housing development⁴ refused permission by the Council. However this factor does not justify the harm identified above.
21. Reference is also made to a housing development⁵ permitted to the north of the site. However I understand that this decision was made in the context of the Council being unable to demonstrate a five year supply of housing land and prior to the adoption of the SAMDev. Such circumstances do not apply to the proposal before me. Consequently this matter attracts limited weight. Moreover I must determine the appeal on its own individual merits.
22. With reference to the Council's partial review of the Local Plan, Babbinswood is intended to remain part of the Community Cluster and its development boundaries are proposed for removal. However the Local Plan partial review is at an early stage of preparation and no information is before me regarding the extent of unresolved objections. Thus, in the light of paragraph 216 of the Framework, I afford this matter limited weight.
23. Combined, the above identified factors and benefits attract some weight in favour of the appeal. However, based on the harm identified in relation to the character and appearance of the surrounding area, the proposal would be deficient in respect of the environmental dimension. Consequently the proposal would not represent sustainable development as defined and sought by the Framework.
24. Moreover the primacy of the development plan is established in Section 38 (6) of the TCPA and at paragraph 2 of the Framework. In addition, as the Council can demonstrate a five year supply of housing land (not disputed), local policies relevant to the supply of housing are not considered out of date and thus attract full weight.
25. Paragraph 12 of the Framework states that proposed development that conflicts with an up-to-date Local Plan should be refused unless material

³ Economic, social and environmental.

⁴ Council Ref 14/03540/OUT

⁵ Council Ref 13/01717/OUT

considerations indicate otherwise. In this case, the material considerations before me do not outweigh the considerable weight afforded to the conflict of the proposal with the development plan when taken as a whole and with the Framework's core planning principle that planning should be genuinely plan led.

Conclusion

26. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

B Bowker

INSPECTOR

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Appeal Decision

Site visit made on 23 January 2018

by **B Bowker Mplan MRTPI**

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

Decision date: 8th February 2018

Appeal Ref: APP/L3245/W/17/3185398

Land west of Hordley Road, Tetchill, Ellesmere SY12 9AZ

- 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 C Beasley against the decision of Shropshire Council.
 - The application Ref 17/00744/OUT, dated 14 February 2017, was refused by notice dated 4 May 2017.
 - The development proposed is outline application for the erection of 5 dwellings
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan submitted with the planning application has been taken into account for indicative purposes.
3. Drawing ref TC-AA-500 was submitted by the appellant during the appeal process and provides additional details regarding the proposed access and visibility splays. As the plan provides additional details and does not materially alter the proposal, I do not believe that any party would be unfairly prejudiced by determining the appeal with regard to the additional plan and I have done so on this basis.

Main Issues

4. The main issues are:
 - Whether the proposal would provide a suitable site for housing, having regard to the settlement strategy for the area; and,
 - The effect of the proposal on highway safety.

Reasons

Suitable Site

5. Policy CS4 of the Core Strategy (CS) states that in rural areas, development will be focussed into settlements designated as Community Hubs and Community Clusters. Tetchill is classified as a Community Cluster by Site Allocations and Management of Development Plan (SAMDev) Policy MD1.

However, although the appeal site is located adjacent to dwellings to the north, it is located outside the development boundary of Tetchill. Consequently, for planning purposes the site occupies a countryside location as defined by Shropshire CS Policy CS5 and SAMDev Policy MD7a.

6. Policy CS5 seeks to strictly control development in the countryside in accordance with national policy, and includes a list of development proposals permitted on the basis of maintaining and improving the sustainability of rural communities. Similarly, SAMDev Policy MD7a seeks to strictly control new market housing outside of Community Hubs and Community Clusters and also includes some exceptions to this principle. As the proposal would not meet any of the exceptions listed within both policies it would be contrary to SAMDev Policy MD7a and CS Policy CS5.
7. SAMDev Policy MD3 states that in addition to supporting the development of allocated sites, permission will also be granted for other sustainable housing development having regard to Local Plan policies, which includes Policy CS5 and Policy MD7a. However, as set out above, the proposal would be contrary to both policies. Paragraphs 2 and 3 of Policy MD3 set out that the settlement housing guideline is a significant policy consideration and that where a settlement housing guideline appears unlikely to be met, additional sites outside settlement development boundaries that accord with the settlement policy may be acceptable subject to the considerations at paragraph 2.
8. The appellant cites two appeal decisions¹ to support the view that the Local Plan restricts but does not prohibit housing development in the countryside, provided it is sustainable. The Council cite a number of appeal decisions² to support its view that the Local Plan provides some flexibility for housing development outside of development boundaries when the settlement housing guideline appears unlikely to be met over the plan period, subject to meeting the criteria listed at paragraph 2 of Policy MD3.
9. In my view, when read as a whole, the Local Plan, including SAMDev Policy MD3, is clear that sites outside of the development boundary will only be considered when the housing guideline for the settlement would be unlikely to be met. SAMDev Policy S8.2 (iv) sets out a housing guideline of around 20 dwellings for the Community Cluster comprising Tetchill, Lee and Whitemere. An allocated site for 10 dwellings is located to the immediate north east of the appeal site.
10. The evidence before me indicates that there are 14 commitments and 5 completions across this Community Cluster to date. However as the SAMDev plan period runs until 2026, it seems highly likely that the Council will be able to meet the housing guideline by the end of the plan period. On this basis, the proposal would not accord with Policy MD3.
11. In reaching this view I note that Whitemere and Lee are smaller settlements than Tetchill and that the proposal is of a modest scale. However these factors do not outweigh or prevent the conflict of the proposal with the above noted policies.
12. Therefore the proposal would not provide a suitable site for housing, having regard to the settlement strategy for the area. Consequently the proposal

¹ APP/L3245/W/16/3143041 and APP/L3245/W/16/3149461

² Within the Council's Statement of Case

would be contrary to CS policies CS4, CS5, and SAMDev policies MD1, MD3 and MD7a which are of most relevance to this matter. The requirements of these policies are set out above.

Highway Safety

13. The vehicular access to the site would be to the south of a 30mph speed limit located on the edge of Tetchill. The lane to the east boundary of the site serves as a through route between Ellesmere to the north and a number of villages to the south. I understand that agricultural vehicles and tractors also use this lane.
14. The Highway Authority state that a detailed survey of the road frontage should demonstrate visibility splays with a length of 35m to the north and 100m to the south. The additional plan demonstrates that via the removal and replanting of the roadside hedgerow within the ownership of the appellant, a visibility splay extending 43m to the north and 79m south to the site could be provided. The carriageway details (including verge widths and hedgerows) contained in the additional plan accord with my site visit observations.
15. The southern visibility splay would be below that required by the Highway Authority. In addition, concerns have been raised regarding the speed of vehicles traversing this section of highway. In this respect I observed that vehicles approaching Tetchill from the south travelled at a greater speed than those exiting the village. However no substantive evidence is before me to demonstrate that vehicles travel 60mph along this section of highway as asserted by third parties. The southern visibility splay proposed is based on guidance set out in Manual for Streets 2 for vehicles travelling 40 mph. Given the indirect route of the lane, the proximity of the 30mph speed limit, and with no substantive evidence to the contrary, the proposed access would ensure sufficient visibility for highway users.
16. Therefore the proposal would not have a harmful effect on highway safety. Consequently the proposal would meet the requirements of paragraphs 32 and 35 of National Planning Policy Framework (the Framework). Combined, these policies require development to achieve a safe and suitable site access for all people, and to create safe and secure layouts which minimise conflicts between highway users.

Overall Balance

17. Section 38 (6) of the Town Planning and Compulsory Purchase Act 2004 (TCPA) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Based on my reasoning above the proposal would conflict with CS policies CS4, CS5, and SAMDev policies MD1, MD3 and MD7a.
18. A number of benefits are cited in support of the proposal in the light of the three dimensions³ of sustainable development defined by the Framework.
19. The proposal would contribute towards housing supply and would adjoin Tetchill which has been identified as a sustainable location for development with reference to its allocation as part of a Community Cluster. In this respect

³ Economic, social and environmental.

the proposal would enhance and maintain the vitality of rural communities, including services at nearby villages as anticipated by paragraph 55 of the Framework.

20. The proposal would also support construction employment and could create biodiversity gains. In addition, based on my reasoning above, the proposal would not have a harmful effect on highway safety. Nor has any harm been identified by the Council in respect of local character and appearance. However an absence of harm can only be considered as a neutral factor in the overall balance. This aside, the above noted economic, social and environmental benefits attract some weight in favour of the proposal.
21. With reference to the Council's partial review of the Local Plan, Tetchill is intended to remain part of the Community Cluster and its development boundaries are proposed for removal. However the Local Plan partial review is at an early stage of preparation and no information is before me regarding the extent of unresolved objections. Thus, in the light of paragraph 216 of the Framework, I afford this matter limited weight.
22. Combined, the above identified factors and benefits attract some weight in favour of the appeal. However, the primacy of the development plan is established in Section 38 (6) of the TCPA and at paragraph 2 of the Framework. Furthermore as the Council can demonstrate a five year supply of housing land (not disputed), local policies relevant to the supply of housing are not considered out of date and thus attract full weight.
23. Paragraph 12 of the Framework states that proposed development that conflicts with an up-to-date Local Plan should be refused unless material considerations indicate otherwise. In this case, the material considerations before me do not outweigh the considerable weight afforded to the conflict of the proposal with the development plan when taken as a whole and with the Framework's core planning principle that planning should be genuinely plan led.

Conclusion

24. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

B Bowker

INSPECTOR



Appeal Decisions

Site visit made on 6 February 2018

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2018

Appeal A Ref: APP/L3245/W/17/3190589

5 Old Dalelands, Market Drayton, Shropshire, TF9 1DF.

- 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 T Murray against the decision of Shropshire Council.
 - The application Ref. 17/0248/FUL, dated 23 May 2017, was refused by notice dated 31 July 2017.
 - The development proposed is the erection of a detached 3 bedroom dwelling and on-site parking.
-

Appeal B Ref: APP/L3245/W/17/3190598

5 Old Dalelands, Market Drayton, Shropshire, TF9 1DF.

- 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 T Murray against the decision of Shropshire Council.
 - The application Ref. 17/04372/FUL, dated 7 September 2017, was refused by notice dated 22 November 2017.
 - The development proposed is the erection of a two bedroom dwelling and on-site parking.
-

Decisions

1. Both appeals are dismissed.

Main Issues

2. The main issues in the appeals are the effect of the development proposed on the character and appearance of the area, the effect on the living conditions of the existing dwellings in 'Old Dalelands', and in Appeal B there is a further issue on the effect on pedestrian safety.

Reasons

Background

3. The appeal site comprises part of the side garden and parking area of the appellant's property No.5 Old Dalelands, an end of terrace house, which lies towards the end of a short cul-de-sac in a generally residential area. The neighbouring property to the north-west (No.2 Old Dalelands) is a detached two storey house which is set back from the road frontage further than the terrace and there are conifer trees in the front garden.

4. The appeal schemes both involve the erection of a detached house although it is apparent that the latter scheme in Appeal B was submitted in an attempt to overcome the reason for refusal in the first scheme.

Policy Context

5. The development plan includes the Shropshire Core Strategy adopted in 2011 (CS) and the Site Allocations and Management of Development (SAMDev) Plan adopted in 2015. From the relevant policies in these plans it is clear that the Council does not object to the principle of a new house in this part of Market Drayton but to the nature of the appeal site itself and whether the new property would fit in with the character of the area and the relationship with adjacent properties.

Character and appearance

6. At my site visit I considered the effect of either houses proposed in the street scene. When viewed from the south-east around the head of the cul-de-sac the house proposed in appeal A would not be visible as views of it would be screened by the terrace of No's 5-8 which are sited close to the road frontage. In views from the north the proposed house would be screened by the existing conifer trees/hedge to the front of No.2 but the presence and screening effect of this natural feature cannot be relied on in the long term. Even so, the house proposed in both schemes would be most apparent when viewed in Old Dalelands opposite the site.
7. Regarding the scheme in Appeal A, the scheme seeks to be a transition between the siting of the adjacent properties front and back but I have concerns that the close proximity of the new house to the northern boundary of the site would make it appear squeezed into the gap. I recognise that the house of No. 2 appears to have already been extended at the side so as to be adjacent to the party boundary. However, as the proposal would largely replicate this siting the overall effect would be an almost continuous bulk of two storey building. There would also be little separation between the new house and No.5. The degree of building bulk across the site would also be accentuated by the scale and prominence of the parking spaces across the site frontage and adjacent to the remaining spaces at No. 5. Overall, I agree with the Council's view that the present gap makes a positive contribution to the street scene and that the new house proposed would appear cramped and would detract from the visual quality of the public realm along the street.
8. Turning to the scheme in Appeal B, the proposed house has been reduced in width and sited in a forward position where its face would align with No.5. Although this would widen the gap to No.5 and vary the perception of the gap to No.2, the scheme would result in other adverse effects concerning the living conditions and access which I will consider in subsequent issues.
9. Overall, in both schemes I conclude that either proposal would result in an undesirable over-intensive use of the land which would result in the loss of an important gap in the street frontage and the new house would appear cramped and squeezed onto the site and this would materially harm the character and appearance of the street scene. Such harm indicates that the proposal conflicts with the requirements of CS policy

CS6 and SAMDev policy MD2 as it would not conserve, enhance or respect the built environment of the area.

Effect on Living conditions and pedestrian safety

10. This issue is primarily concerned with the scheme in Appeal B. Dealing first with the relationship with the existing house at No.2, the close position of the proposed north-facing flank wall sited close to the boundary would project in front of No.2 to the extent that the building bulk would interfere with the aspect of the front facing windows in this property. This would harm the living conditions of this property as enjoyed by the occupiers.
11. Although the scheme would have a better relationship with No.5 with the increase in the gap between the existing and proposed houses providing an access to the rear, the introduction of parking spaces, and the necessary turning and manoeuvring space to enable vehicles to enter and leave the land in a forward gear, would deprive No.5 of much of its garden. There would also be little useable garden for the new house proposed. This would result in poor living conditions for the existing and new house. Further, while the issue of manoeuvring would be away from the public highway, on the basis of the details shown on drawing 1705-03A I do not consider that the scheme demonstrates how vehicles can manoeuvre within the rear of the site and the shared access in a way that ensures the safety of pedestrians in the residential environment.
12. These concerns about the effect on living conditions and vehicle access and manoeuvring on the overall site indicate that the proposal does not accord with CS policy CS6 in terms of safeguarding residential amenity.

Planning Balance

13. Bringing together my conclusions on the main issues, I have found that in both cases of the two appeal schemes the proposal would result in the loss of an existing gap between properties and the new house would appear cramped on the site and the intensive form of the development would be harmful to the street scene. The alternative proposal in Appeal B would also have further adverse effects in that the siting of the new house would impose on the outlook from existing windows in No.2. Moreover, it has not been demonstrated that the rear area of parking can function in a manner which would be safe for pedestrians and the parking and manoeuvring space would use up most of the garden and amenity space. Overall, for the reasons I have given I find that both proposals would conflict with the stated policies in the development plan.
14. These adverse effects have to be balanced with the benefits of development. I note that the appellant already has tenants in mind for the proposed house and the government seeks to boost significantly the supply of housing generally and deliver a wide choice of homes. Also I acknowledge that the site lies in a location with good accessibility and part of the development plan seeks to ensure an efficient use of land.
15. Nevertheless, I find that the specific adverse effects that I have identified are not outweighed by the benefits derived from the general factors

mentioned above. The conflict with the development plan is therefore not outweighed by other considerations.

Conclusions

16. For the reasons given above I conclude that both of the appeals should be dismissed.

David Murray

INSPECTOR