



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

Date: Tuesday, 22 August 2017

**Committee:
Central Planning Committee**

Date: Thursday, 31 August 2017

Time: 2.00 pm

Venue: Shrewsbury 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

Dean Carroll
Ted Clarke (Chairman)
Nat Green (Vice Chairman)
Nick Hignett
Pamela Moseley
Tony Parsons
Alexander Phillips
Ed Potter
Kevin Pardy
Keith Roberts
David Vasmer

Substitute Members of the Committee

Peter Adams
Roger Evans
Hannah Fraser
Ioan Jones
Jane MacKenzie
Alan Mosley
Harry Taylor
Dan Morris
Lezley Picton
Claire Wild

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 257718

Email: shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the Central Planning Committee held on 27th July 2017.

Contact Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 4 p.m. on Friday 25th August 2017.

4 Disclosable Pecuniary Interests

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

5 Shrewsbury College Of Arts And Technology, Radbrook Road, Shrewsbury, Shropshire, SY3 9BL (17/00823/COU) (Pages 7 - 28)

Change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath.

6 Land At 117/125 Wenlock Road, Shrewsbury, Shropshire (16/04590/FUL) (Pages 29 - 72)

Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description).

7 Former HMP Prison, The Dana, Shrewsbury, Shropshire (17/02809/OUT) (Pages 73 - 138)

Outline application for the redevelopment of the Dana into a mixed use development including converting the existing prison buildings (defined as use class C2a) into student accommodation (sui generis), residential dwellings (C3), A1/A3, B1/D1, D2 use along with significant landscaping works across the site (all matters reserved).

8 Former Copthorne Barracks, Copthorne Road, Shrewsbury, SY3 8LZ (16/04228/OUT) - TO FOLLOW

Outline application (including access) for residential development and associated open space for up to 228 dwellings (C3 use) (including up to 45 apartments for retirement living and the conversion of the Armoury (the 'Keep') to provide up to 9 residential apartments) with landscaping, layout, scale and appearance reserved for later approval.

9 Radbrook Hall Court, Radbrook Road, Shrewsbury, Shropshire (16/04883/FUL)
(Pages 139 - 160)

Erection of ten (1 block of 4 and 2 blocks of 3) dwellings; formation of estate road and parking areas (modification to approved scheme SA/06/0333/F) (Amended Description).

10 Sunderton Farm, Uffington, Shrewsbury, Shropshire, SY4 4RR (17/02522/VAR)
(Pages 161 - 172)

Variation of condition number 2 (approved plans) attached to planning application reference 16/04518/EIA dated 07/03/2017 to allow alterations to the layout of sheds 1 and 2 (amended description).

11 Walnut Cottage, Nealors Lane, Shrewsbury, SY3 8NF (17/02950/VAR) (Pages 173 - 182)

Variation of Condition No. 2 (approved plans) pursuant to 14/01324/FUL to allow for an increase in height of approved extension.

12 East Of Terrace Farm, Cruckton, Shrewsbury, Shropshire (17/02233/FUL) (Pages 183 - 194)

Erection of an affordable dwelling, associated garage and installation of septic tank.

13 Schedule of Appeals and Appeal Decisions (Pages 195 - 196)

14 Date of the Next Meeting

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 28th September 2017 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

31st August 2017

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 27 July 2017

2.00 - 4.45 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

Present

Councillor Ted Clarke (Chairman)

Councillors Dean Carroll, Nat Green (Vice Chairman), Nick Hignett, Pamela Moseley, Tony Parsons, Alexander Phillips, Ed Potter, Kevin Pardy and David Vasmer

27 Apologies for absence

An apology for absence was received from Councillor Keith Roberts.

28 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 22nd June 2017 be approved as a correct record and signed by the Chairman.

29 Public Question Time

There were no public questions or petitions received.

30 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.

31 Shrewsbury College of Arts and Technology, Radbrook Centre, Radbrook Road, Shrewsbury - 17/00821/REM

The Planning Services Manager introduced the application for approval of reserved matters (siting, design, appearance, landscaping) pursuant to 15/00491/OUT for mixed residential development of 104 residential units including affordable housing and conversion of college building into 16 apartments; highway works; formation of estate roads; landscaping works including felling of trees; formation of open space; discharge of conditions 10(European Protected Species), 11(Construction Method Statement) and 12(Badger Mitigation Plan) attached to 15/00491/OUT (amended description) and confirmed that the Committee had undertaken a site visit that

morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Councillor David Vasmer joined the meeting at this point.

The Planning Services Manager advised that during discussions with the developer it had been confirmed that connection to fibre broadband would be provided, however, if Members were minded to approve the application an additional condition for the provision of electric vehicle charging points should be added to any permission granted.

Mr Selby Martin, Local Resident and CPRE Vice-President spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

The Planning Services Manager advised Members that if they were minded to approve the application authority should be delegated to officers to not issue the decision until the Section 106 legal agreement to secure a £60,000 contribution to develop the existing infant and junior play areas in the Radbrook ward which was linked to the application being considered under reference number 17/00823/COU had been concluded.

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

RESOLVED:

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

- The conditions set out in Appendix 1;
- An additional condition for the developer to provide electric vehicle charging points; and
- The completion of the Section 106 legal agreement to secure a sum of £60,000 to contribute to the development of the existing infant and junior play areas in the Radbrook ward as detailed in Planning Application 17/00823/COU.

32 Shrewsbury College of Arts and Technology, Radbrook Campus, Radbrook Road, Shrewsbury - 17/00822/REM

The Planning Services Manager introduced the application for the approval of reserved matters (siting, design, appearance, landscaping) pursuant to 15/00490/OUT for mixed residential development of 22 units including conversion of Walker House; highway works; formation of estate roads; landscaping works including felling of trees; formation of wetland area; discharge of condition 10(Construction Method Statement) attached to 15/00490/OUT and confirmed that

the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

The Planning Services Manager advised Members that if they were minded to approve the application authority should be delegated to officers to not issue the decision until the Section 106 legal agreement to secure a £60,000 contribution to develop the existing infant and junior play areas in the Radbrook ward which was linked to the application being considered under reference number 17/00823/COU had been concluded and the inclusion of an additional condition for the provision of electric vehicle charging points.

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

RESOLVED:

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

- The conditions set out in Appendix 1;
- An additional condition for the developer to provide electric vehicle charging points; and
- The completion of the Section 106 legal agreement to secure a sum of £60,000 to contribute to the development of the existing infant and junior play areas in the Radbrook ward as detailed in Planning Application 17/00823/COU.

33 Shrewsbury College of Arts and Technology, Radbrook Road, Shrewsbury - 17/00823/COU

The Planning Services Manager introduced the application for the change of use of the land to form domestic curtilage land and formal public open space including the construction of a footpath 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.

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

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

In response to concerns raised by Members regarding the lack of a play area on site, the Planning Services Manager advised that Shropshire Council Parks and Recreation were satisfied with the open space proposed and explained that there were other play areas in the Radbrook area within walking distance of the site which

would be enhanced using the £60,000 to be secured by a section 106 legal agreement.

Having considered the submitted plans for the proposal the majority of Members agreed to defer the application to allow the developer the opportunity to explore the possibility of providing a play area or areas on site.

RESOLVED:

That consideration of the application be deferred to ask the developer to provide a play area or areas.

34 Proposed Residential Development Opposite The Crescent, Nesscliffe, Shrewsbury - 16/03413/REM

The Area Planning Manager introduced the application for reserved matters pursuant to outline planning application 13/04757/OUT (landscaping, scale, appearance and layout) for residential development of 30 dwellings and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

The Area Planning Manager explained that the access included in the outline application had been moved northwards by approximately 3 metres and therefore access should have been included on proposal description. He added that the proposal description should also be amended to refer to 24 dwellings instead of 30 and advised that if Members were minded to approve the application additional conditions were recommended in relation to: the pedestrian refuge crossing point; the provision of electric vehicle charging points; the final elevation details in regard to the property near the highway; and the public open space shortfall.

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

- He was pleased to see that a pedestrian refuge crossing point had been included;
- The density of the site should be reduced to 15 dwellings;
- The layout of the development was cramped and there was a lack of public open space; and
- The comments of the Parish Council had been ignored.

Ms Amy Henson, Agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate Members raised concerns in relation to the amount development in Nesscliffe, the density of site and the shortfall of public open space.

Having considered the submitted plans for the proposal the majority of Members agreed to defer the application to allow the developer the opportunity to reduce the number of dwellings and increase the amount of public open space.

RESOLVED:

That consideration of the application be deferred to ask the developer to reduce the number of dwellings and increase the amount of public open space.

35 Land At 117/125 Wenlock Road, Shrewsbury - 16/04590/FUL

(Councillor, Ted Clarke as local member vacated the Chair. Councillor Nat Green as Vice-Chairman presided as Chairman for this item).

The Area Planning Manager introduced the application for the erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Area Planning Manager advised that if Members were minded to approve the application he suggested that additional conditions to restrict the occupancy of the apartments to people over the age of 55 and to provide electric vehicle charging points be added to any permission granted.

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

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

- He was not opposed to development on this site or the type of development proposed;
- There was inadequate parking for residents, visitors and carers; and
- He did not consider it acceptable to grant officers delegated powers to agree the affordable housing provision and the application should be deferred until the affordable housing provision was known.

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

During the ensuing debate Members raised concerns in relation to the lack of car parking proposed and requested that the final detail in regard to the affordable housing provision be brought back to this Committee for approval.

Members were advised that Highways had not objected to application and evidence had been provided by the developer in relation to the amount of on-site parking provision this type of development required.

Councillor Tony Parsons left the meeting at this point.

Having considered the submitted plans for the proposal the majority of Members expressed their support for the Officer’s recommendation.

RESOLVED:

That planning permission be granted in accordance with the officer’s recommendation, subject to:

- The conditions set out in Appendix 1;
- The final detail of the Section 106 legal agreement in relation to affordable housing being brought back to this Committee for approval
- An additional condition for the developer to provide electric vehicle charging points; and
- An additional condition to restrict occupancy of the apartments to people over the age of 55.

36 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 27th July 2017 be noted.

37 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 31st August 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:



Committee and date
 Central Planning Committee
 31 August 2017

Item
5
 Public

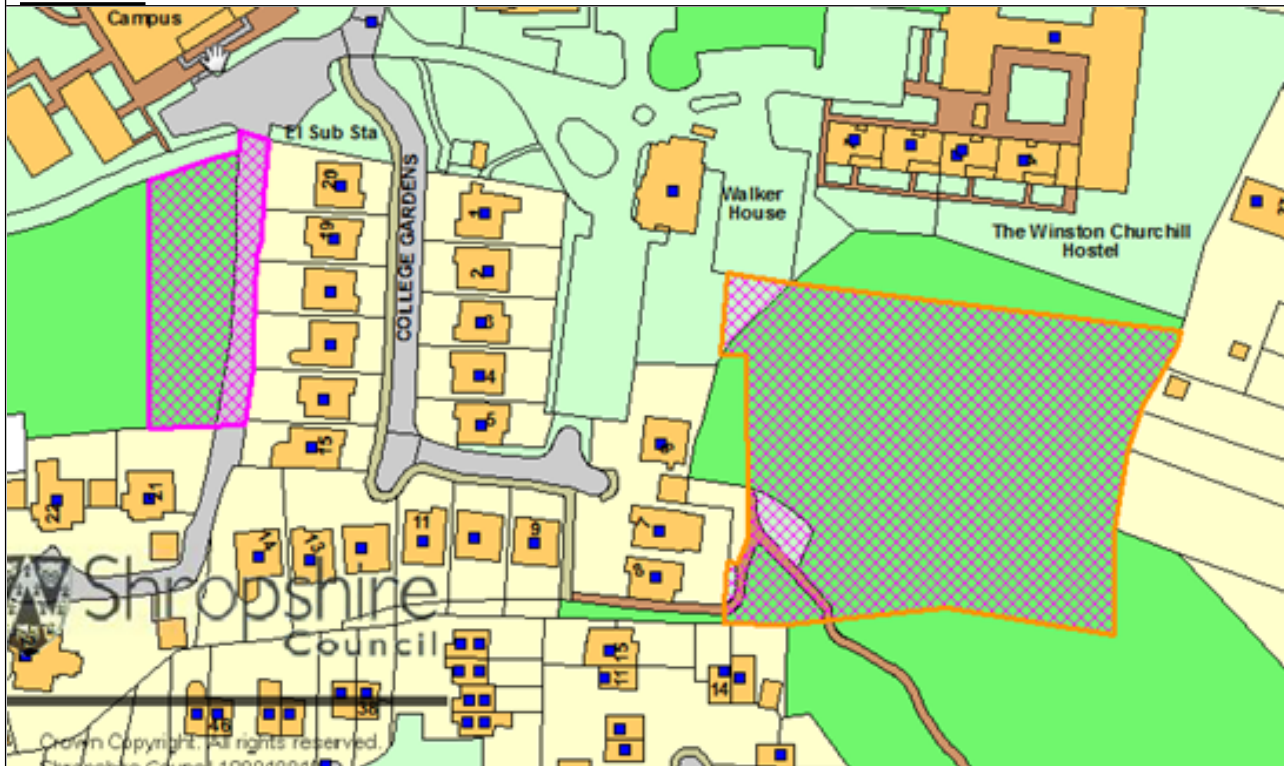
Development Management Report

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

Summary of Application

<u>Application Number:</u> 17/00823/COU	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath		
<u>Site Address:</u> Shrewsbury College Of Arts And Technology Radbrook Road Shrewsbury Shropshire SY3 9BL		
<u>Applicant:</u> Floreat Living Ltd		
<u>Case Officer:</u> Jane Raymond		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 347389 - 311794



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure a sum of £60,000 to contribute to the development of the existing infant and junior play areas in the Radbrook ward.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath which will become a public right of way.
- 1.2 The application has been submitted concurrently with Reserved Matters application 17/00821/REM and 17/00823/REM to provide 126 homes on the former Radbrook College site.
- 1.3 The committee report of 27th July 2017 in respect of 17/00823/COU is attached as Appendix 2

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site relates to two separate pieces of land. The largest part is a privately owned piece of scrub land to the East of the Radbrook College site and West of Torrin Drive. The smaller strip is to the West of College Gardens and includes the existing private drive that is to be relocated further West.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At the meeting of 27th July 2017 Members resolved to approve the associated applications for Reserved Matters for the redevelopment of the former college site and granted delegated authority to officers not to issue the decision until the s106 agreement in respect of item 17/00823/COU to secure a contribution of £60,000 to improve off site play areas is completed.
- 3.2 This change of use application was deferred following consideration by members to request that the applicant to consider the provision of a play area or areas on site rather than an off-site contribution.

4.0 THE MAIN ISSUES

The provision of on-site play facilities as opposed to a financial contribution to facilitate enhanced play equipment provision within the Radbrook ward.

5.0 OFFICER APPRAISAL

- 5.1 The applicant has been asked to consider the provision of on-site play equipment as part of this residential development. Members have already resolved to approve the substantive scheme for redevelopment of the Radbrook campus and the application subject to the deferral specifically relates to the change of use of two

parcels of land to provide open space for the new development and domestic residential curtilage to serve the development.

- 5.2 As a point of clarification the provision of equipped play areas is now usually delivered through the Community Infrastructure Levy (CIL) which was intended to provide greater clarity for developers as to how infrastructure contributions are met.
- 5.3 At the meeting of 27th July, the public speaker raised comments about the United Nations Convention on Rights of the Child. Article 31 says:
article 31 (leisure, play and culture)

“Every child has the right to relax, play and take part in a wide range of cultural and artistic activities”.

This does not mean that every new development should have an equipped area of play. Space to play imaginatively and explore nature is just as important, and the existing areas of open space within the site, including the enhanced nature area will provide that. Importantly this development is in easy reach of open space, playing fields and equipped areas of play such that there is no conflict whatsoever with the UN Convention.

- 5.4 Further discussions have taken place with the applicant following the deferral of this application with respect to the provision of onsite play equipment. The smaller of the two sites will in practice function as a landscape buffer to existing residential development in College Gardens who had raised concerns about potential disturbance and loss of privacy in any event when a woodland walk was originally proposed to the rear of their properties. This was subsequently amended through negotiation so that the footpath was adjacent to the road and further away from the College Gardens properties. It is not therefore considered to be a suitable site for play equipment.
- 5.5 In respect of the larger site, this has been conceived as an area of higher ecological value to promote wildlife with an established woodland around a pond. The proposal includes the management of existing trees including the thinning of canopies, coppicing, selective tree removal and vegetation clearance to improve the aesthetic and general health of trees. The tree officer is satisfied that the change of use will not be detrimental to the current amenity of this area and would enhance and improve its value in the longer-term subject to the recommended conditions. In addition to the management of the trees the proposed landscape and habitat improvements to this part of the site include the removal of garden and household (fly-tipped) rubbish, clearance of the existing depression area and excavation of a permanent pond with surrounding wetland / marsh area and planting of a pond with wild-life friendly plants. The landscape improvements include clearance of common nettle dominated areas and planting of these areas and other areas of bare ground with a mixture of woodland shade-tolerant herb plant species and the planting of wide Ilex aquifolium hedge to the western boundary. Habitat enhancements include the creation of habitat piles with brush and cord-wood removed from trees, and cleared vegetation stacked in a haphazard fashion, the creation of a single chamber artificial badger sett within a non-flooding / water logged area, and the installation of two 'Schwegler Hedgehog Domes', two

'Hogitat Hedgehog Homes', eight purpose made bird boxes and eight bat boxes. The provision of paths within the site will improve accessibility allowing for more interaction with this natural asset and provide a useful amenity area for residents, both young and old. Given its character and ecological potential it is not considered to be an appropriate location for play equipment. It is also not appropriate to position play equipment in this location because the lack of surveillance from adjacent housing could pose a safety issue for children who will use this area for play without parent supervision.

- 5.6 Members deferred the Change of Use application only for consideration having already resolved to approve the reserved matters applications in respect of the substantive site. It is not therefore within scope for Committee to reconsider the provision of play equipment on other parts of the Radbrook site. Notwithstanding this the only potential location for play equipment is adjacent to the southern boundary of the site and part of application 17/00821/REM where there had been community objections against public access to a landscaped buffer strip. It is the applicant's view (shared by Shrewsbury Town Council and a number of local residents) that in respect of play equipment/provision, off site enhancement is a more appropriate solution than on site provision for this site. It is not reluctance on behalf of the applicant to consider provision of play equipment on site per se but more a shared view in consultation with the community and key consultees that off-site provision would be more appropriate for this site. In support of this strategy the applicant has produced a further plan to show this site in context with existing play areas in the locality all a short walk away having regard also to the fact that the intended users are infants, likely to be supervised by adults.
- 5.7 Developers are also encouraged to liaise with the local parish or town council over the provision of play space to ensure that this is delivered effectively and strategically rather than piecemeal across specific sites. Following the committee deferral of this application further discussions have taken also taken place with Shrewsbury Town Council which has confirmed that it has been working with Shropshire Council and the applicant from an early stage to develop an appropriate strategy for open space and play in the locality. This strategy is based on providing enhanced and sustainable provision that is accessible to the local community in terms of its location and of an appropriate type and design for the intended users, in this case infants. In this the Town Council specifically requested that consideration be given to making a financial contribution to develop existing play facilities in the area rather than provision on site. The Town Council has further confirmed that it was consulted and involved with the design of the open spaces and discussions over play provision requirements from an early stage and had also involved the local Councillor. There are two existing play facilities at Torrin Drive and Rad Valley Road within a 10 minute walk of the site and the Town Council confirms that both facilities will benefit from upgrades of new metal play equipment and the developers contribution of £60,000 towards off site play provision will solely be used to upgrade these existing facilities. The Town Council's approach is to provide fewer play facilities but enhance existing locations with better quality and more challenging play equipment and safety surfacing and also confirmed that it is negotiating the transfer of the open space on the site for it to manage and maintain in the future.

5.8 In addition to this, local residents have also expressed concerns about the siting of play equipment on site and agreed with the Town Council that the developers should contribute to the development of the existing infant and junior play areas in the Radbrook ward, which would benefit the community as a whole. It is for this reason that the sum of £60,000 has been requested for transfer to the Town Council. The developer has also confirmed, following deferral of this application, that they are prepared to make the payment in full on completion of the legal agreement, rather than at a later stage in the implementation of the scheme so as to bring forward the opportunity to enhance exiting play facilities in the Radbrook area.

6.0 CONCLUSION

6.1 Further to the deferral of this application there has been further consideration with the applicant to the provision of play equipment on site. The applicant does not consider in this case that on-site provision is suitable or desirable and this is a view supported by the Town Council. The proposed open space, landscaping and ecological enhancements can be secured for both existing and future residents, improving their environment, and will also benefit wildlife. A sum of £60,000 to contribute to the development of the existing infant and junior play areas in the Radbrook ward, can be secured by a S106. Officers therefore recommend approval subject to a S106 and the conditions within Appendix 1.

7.0 Risk Assessment and Opportunities Appraisal

7.1 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.

7.2 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.

7.3 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.

8.0 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.

9. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy Policies: CS2

10. Additional Information

List of Background Papers: File 17/00823/COU
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Keith Roberts
Appendices APPENDIX 1 - Conditions APPENDIX 2 - The committee report of 27th July 2017 in respect of 17/00823/COU

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

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan ref: 691-AHR-DR-L-ZZ-90-026 P13 & Arboricultural Method Statement ref: AMS-AIA-IC-050717-V7 have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

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

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

4. All hard and soft landscape works (including wildlife habitat and features) shall be carried out in accordance with the approved plans. The landscape works shall be carried out prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM (or in accordance with a time table to be submitted to and approved by the LPA). Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

5. Prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM (or in accordance with a time table to be submitted to and approved by the LPA), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority for approval demonstrating implementation of the Risk Avoidance Measures (RAMs) for Great Crested Newts (22nd May 2017), and completion of habitat management as agreed by the 'Soft Landscape Mitigation Strategy', drawing number 691-AHR-DR-L-ZZ-90-018 REV P8, prepared by AHR Architects Ltd.

Reason: To demonstrate compliance with the Great Crested Newt, Bat RAMS and ecological enhancements.

6. Prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM a habitat management plan for the lifetime of the development must be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- 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) Monitoring and remedial/contingencies measures triggered by monitoring;
- i) The financial and legal means through which the plan will be implemented.

The future maintenance, management and monitoring of the site shall be implemented in accordance with the approved details in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

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

7. If non permeable surfacing is used on the domestic curtilage land and formal public open space including the construction of a footpath, the applicant should submit for approval a surface water drainage system. The surface water drainage shall be implemented as approved.

Reason: To ensure that, for the disposal of surface water drainage is undertaken in a sustainable manner.

APPENDIX 2: The committee report of 27th July 2017 in respect of 17/00823/COU

Committee and date

27 July 2017

Item

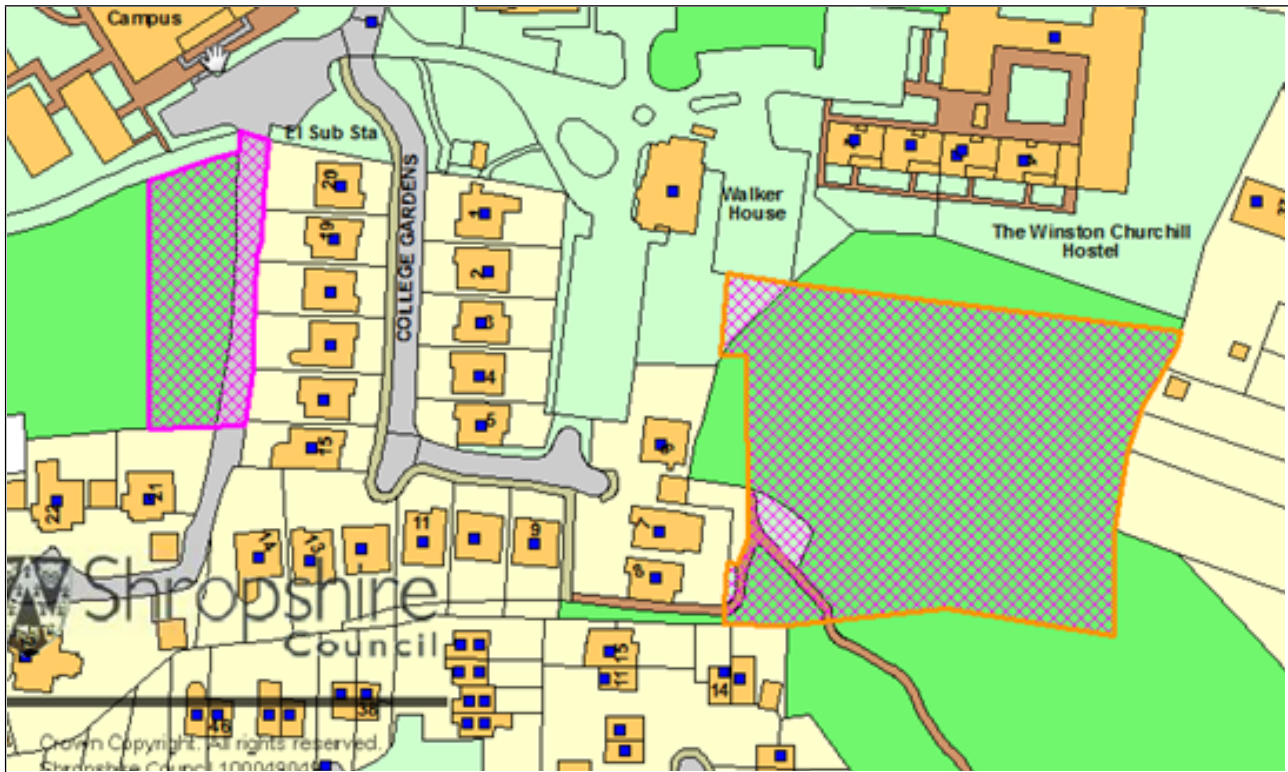
Public

Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619**Summary of Application**

<u>Application Number:</u> 17/00823/COU	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath		
<u>Site Address:</u> Shrewsbury College Of Arts And Technology Radbrook Road Shrewsbury Shropshire SY3 9BL		
<u>Applicant:</u> Floreat Living Ltd		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	
<u>Grid Ref:</u> 347389 - 311794		



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure a sum of £60,000 to contribute to the development of the existing infant and junior play areas in the Radbrook ward.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the change of use of land to form domestic curtilage land and formal public open space including the construction of a footpath which will be a public right of way.
- 1.2 The application has been submitted concurrently with Reserved matters application 17/00821/REM and 17/00823/REM to provide 126 homes on the former Radbrook College site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site relates to two separate pieces of land. The largest part is a privately owned piece of scrub land to the East of the Radbrook College site and West of Torrin Drive. The smaller strip is to the West of College Gardens and includes the existing private drive that is to be relocated further West.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The associated applications for Reserved Matters are to be determined at committee as members approved the outline applications subject to any subsequent application for reserved matters being considered by Committee. The Area Planning Manager in consultation with the Committee Chairman agrees that this application should be determined by committee as it is considered that it should be determined at the same time as the related reserved Matters applications are being determined.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Ecology:

Habitat Management Plan

The Soft Landscape Mitigation Strategy which has been submitted in support of this proposal indicates that habitat management within the COU site boundary will include;

- Proactive management of existing trees with thinning of canopies, coppicing, selective tree removal and vegetation clearance to improve the aesthetic and general health of trees.
- Clearance of depression area to create an area of permanent open water supported by appropriate planting to increase the site habitat network
- Removal of garden and household (fly-tipped) rubbish
- Removal of scrub and trees along the eastern boundary. Planting of wide Ilex aquifolium hedge to the western boundary. Hedge to be maintained at 2.5m minimum height
- Coppice all Salix caprea trees. Selective coppicing and pollarding of Salix fragilis trees
- Removal of trees within the 'natural' depression
- Create habitat piles with brush and cord-wood removed from trees and cleared vegetation stacked in a haphazard fashion
- Removal of trees within the 'natural' depression. Excavation of permanent pond with surrounding wetland / marsh area. Removal of trees from the south shore / margin and selective removal of trees that will cast a shadow over the surface of the pond. Planting of pond with wild-life friendly plants
- Creation of a single chamber artificial badger sett within a non-flooding / water logged area
- Clearance of existing plants including Cornus sanguinea and plant additional understorey planting of: Ribes uva-crispa, Viburnum opulus, Ribes robrum, Corylus avellana, Ilex aquifolium and Lonicera periclymenum
- Clearance of common nettle dominated areas. Planting of these areas and areas of bare ground with a mixture of woodland shade-tolerant herb plant species
- Installation of two 'Schwegler Hedgehog Domes' and two 'Hogitat Hedgehog Homes'

Badgers

The development site has been surveyed for evidence of badgers on a number of occasions between March 2016 and 25th April 2017. No evidence of badger was found on the application site or within 30m of the surveyor accessible land surrounding the application site.

Great Crested Newts

eDNA analysis of 3 ponds within close proximity of the site has been undertaken. eDNA is an accepted survey technique by Natural England for determining presence/absence of great crested newts in a pond. The survey was conducted at the appropriate time of year (April 2017). The ponds recorded absence of great crested newts.

SC Ecology has made a site visit to inspect the proposed development site and has concluded that due to the lack of water the wet areas present would not be suitable for breeding great crested newts. The habitat enhancements as part of this planning application will ensure that a suitable breeding pond is available for amphibians in the future. This will therefore enhance the area for biodiversity. As there has been a great crested newt recorded in the surrounding area an Ecological Clerk of Works will be provided to oversee site clearance work, including the removal of vegetation. If a great crested newt is found at any stage of the development, works must halt and the ecologist and Natural England contacted for advice. The developer is aware of this.

Trees

Trees were inspected for bats and the Radbrook Village Site does not provide potential roosting habitat and trees are not (likely to be) used by bats for roosting purposes.

8 purpose made bird boxes and 8 bat boxes will be installed on mature trees within the application site. SC Ecology requests that the location of these boxes are clearly displayed on a site plan, this can be provided once they are installed, this is so that the condition is enforceable for the lifetime of the development.

Nesting Birds

Additional bird nesting opportunities will be provided as indicated on the Landscape Plan prepared by AHR Architects.

Star Ecology has concluded that the change of use proposal will result in a structurally improved and native species diverse semi-natural woodland with a restored pond.

On completion of the approved landscaping, a landscaping, habitat and open space management plan shall be submitted to and approved in writing by the LPA. The plan shall include full details of the future maintenance, management and monitoring of all landscaped areas and open space (other than privately owned, domestic gardens) including a 5 year project register, annual work plan and the means by which the plan will be rolled forward annually and details of who shall take responsibility for implementation of the plan. The future maintenance, management and monitoring of the site shall be implemented in accordance with

the approved details in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

4.1.2 **SC Trees:** No objection to this application subject to conditions.

The area forms part of the proposed landscaping across the wider site. I am satisfied that the change of use will not be detrimental to the current amenity of this area and would enhance and improve its value in the longer-term subject to the conditions recommended below. The provision of paths within the site will improve accessibility and allow for more interaction with this natural asset. I consider that the proposed change of use is compliant with policy CS6 of Shropshire Council Core Strategy, policies MD2 & MD12 of the adopted SAMDev scheme and the general principles of sustainable development described in the NPPF.

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

4.1.4 **SC Parks and Recreation:** Officers are aware of complaints made about a locked gate on one of the urban footways that leads from College Gardens onto the area in question. We note that there is a proposed footpath through the wooded area, which would allow access through the site providing a needed link in the urban footways network. The majority of these urban footways through Radbrook are on the Council's Highways map as maintainable footways and we would like to see the new routes through the development placed on the Highways map as such routes; this will protect the routes in the future.

4.2 - **Public Comments**

4.2.1 **Shrewsbury Town Council:** The Town Council has no objection to this parcel of land being incorporated within the development site to facilitate the provision of open space provided that the necessary landscaping conditions and s106 agreement for future maintenance. In relation to open space we believe that the provision of infant and junior play provision cannot be accommodated on site and meet the 25m/50m buffer zones between play and the nearest property. We would like to see that play space is removed in lieu of improvements to neighbouring infant and junior space for which a sum of £60k for provision being conditioned.

4.2.2 **Shropshire Wildlife trust:** (Comment received in relation to application as first submitted).

The development will result in the loss of a significant area of habitat from the site and from the documents provided we are unable to agree with the claim that the remaining area of green space will in fact provide a greater wildlife or amenity value.

Given our experience of habitat management plans for other developments we would ask that a clearer but more detailed document is produced. The current plan does not contain sufficient detail to ensure that biodiversity gains will be delivered and that this could be demonstrated for the life of the development. It also makes reference to numerous other documents and so generates confusion.

For example:

- We can find no details of swift nesting features, bird nesting features, bat roosting features. What are the specifications? Where are the locations?
- No details of pond excavation methods.
- Inclusion of inappropriate species in planting plans, e.g. *Cotoneaster simonsii* (a non-native invasive listed in Schedule 9 Part 2 of the Wildlife & Countryside Act 1981 and advised against by Plantlife and RHS).
- No details of grass/wildflower seed mix or subsequent management.
- No details of management after 5 years from completion (condition 5 requires the plan shall be carried out for the lifetime of the development).

We have additionally been made aware of a recent sighting of a gravid female great crested newt within 75m of Pond 1 on the development site. It would therefore appear likely that despite the low HIS scores pond 1 still provides a breeding opportunity for great crested newts and this should be further investigated and measures and enhancements incorporated into an updated and improved habitat management plan.

4.2.4 Three responses have been received from the public that directly relate to this application site summarised as follows:

- ☐ Welcomes the reinstatement of the former pond adjoining Torrin Drive that will provide a wonderful wetland habitat.
- ☐ Pleased that local Radbrook Estate residents will still be able to use the footpath from Torrin Drive to the new estate which will provide an important route for local school children and residents to access the Radbrook Community shops and schools.
- ☐ Can some untidy areas be retained important for wildlife such as birdlife, frogs, slow worms, grass snakes and toads.
- ☐ Pleased to see that wildflower grassland is planned for the site.
- ☐ Concerned about the impact of the proposed pool and any effects on the marshy land adjacent to 21 Torrin Drive.
- ☐ Floreat Homes should not be allowed to add this piece of land to provide additional open space and ecology areas not being provided on the other sites that have outline planning permission.

4.2.5 Over 20 letters of objection have been received which do not directly relate to this site but refer to the development on the adjacent sites and are the same as those submitted in relation to the RM applications and summarised in the relevant reports. These have not been repeated here but are available to read on the file.

5.0 **THE MAIN ISSUES**

- ☐ Principle

- ☐ Landscaping and trees
- ☐ Ecology and protected species
- ☐ Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is situated within the urban development boundary for Shrewsbury where residential development of the site is supported by CS2 that identifies Shrewsbury as the focus for all new housing development. The application site is currently privately owned land that is not public open space. Its change of use to either residential use and/or public open space in association with the residential schemes on the adjacent site (or as a stand alone application for public open space for the benefit of existing residents) is considered acceptable in principle.

6.1.2 One resident has commented that this additional land should not be added to the overall development proposal for the former Radbrook College sites to compensate for the loss of green areas or lack of open space on those sites. However a single full application for all three sites for exactly the same layout and including this private land to provide public open space could have been submitted instead and that would have been considered acceptable. It is therefore considered acceptable that this piece of land can be included in the overall development of the Radbrook site and that the proposal can be dealt with as three separate applications.

6.1.3 The addition of this land to the overall proposed development has not resulted in an increased density of housing on the other two sites. The overall density and number of dwellings has actually reduced compared to that indicated on the illustrative plan submitted at the outline stage.

6.1.4 The inclusion of this land into the overall proposed housing development as well as providing open space to meet the needs of new residents will also benefit existing residents and will also provide a public footpath link from Torrin Drive through the Radbrook site and on to Radbrook Road. There is already a footpath further South that connects to College Gardens but the public are unable to use this as the College Gardens footpath is private and access to it by the public is barred by a locked gate.

6.2 Landscaping and trees

6.2.1 The proposal includes the management of existing trees including the thinning of canopies, coppicing, selective tree removal and vegetation clearance to improve the aesthetic and general health of trees. The tree officer is satisfied that the change of use will not be detrimental to the current amenity of this area and would enhance and improve its value in the longer-term subject to the recommended conditions. The provision of paths within the site will improve accessibility and allow for more interaction with this natural asset.

6.3 Ecology and protected species

- 6.3.1 In addition to the management of the trees the proposed landscape and habitat improvements to this part of the site include the removal of garden and household (fly-tipped) rubbish, clearance of the existing depression area and excavation of a permanent pond with surrounding wetland / marsh area and planting of pond with wild-life friendly plants. The landscape improvements include clearance of common nettle dominated areas and planting of these areas and other areas of bare ground with a mixture of woodland shade-tolerant herb plant species and the planting of wide Ilex aquifolium hedge to the western boundary. Habitat enhancements include the creation of habitat piles with brush and cord-wood removed from trees, and cleared vegetation stacked in a haphazard fashion, the creation of a single chamber artificial badger sett within a non-flooding / water logged area, and the installation of two 'Schwegler Hedgehog Domes', two 'Hogitat Hedgehog Homes', eight purpose made bird boxes and eight bat boxes.
- 6.3.2 The submitted ecological surveys and reports include a final bat mitigation strategy and badger mitigation plan. No evidence of badger was found on the application sites or within 30m of the surveyor accessible land surrounding the application sites. The bat survey has recorded no bats using the trees or buildings as a place of rest or shelter and there were no bat roost features on the buildings or the trees. Although a great crested newt (GCN) has been recorded in the area the ponds recorded the absence of GCN and the Councils Ecologist has made a site visit to inspect the proposed development site and has concluded that due to the lack of water the wet areas present would not be suitable for breeding GCN. The submitted surveys and reports also conclude that an EPS licence is not required.
- 6.3.3 Shropshire Wildlife Trust objected to all three proposals as first submitted but the revised landscaping details have addressed the issues that they raised. As mentioned above this includes the restoration of a pond, and ecological enhancement of this site. The planting has also been amended in accordance with the Councils tree officer and ecologists recommendations, the ecological connectivity will be retained and enhanced across all three sites and it is considered that the proposal will enhance the area for biodiversity. Star Ecology has concluded that the change of use proposal will result in a structurally improved and native species diverse semi-natural woodland with a restored pond and the Councils Ecologist has confirmed that the proposed landscaping of the site will provide significant ecological enhancement .
- 6.3.4 It is understood that Floreat Homes intend to transfer their responsibilities for maintaining and managing this proposed public open space to Shrewsbury Town Council. Although the developer will enter into a separate agreement with the Town Council to ensure the long term management and maintenance of these areas a condition will be imposed to ensure that this detail is approved.
- 6.4 **Developer contributions**
- 6.4.1 It is usual for a development of this size to include on site equipped children's play areas and this was originally included and would have been adopted (along with the open space) by Shrewsbury Town Council. However local residents agree with the Town Council that the developers should contribute to the development of the existing infant and junior play areas in the Radbrook ward, which would benefit the

community as a whole. The sum of £60,000 requested for this will be secured by a S106 attached to this planning application.

7.0 CONCLUSION

7.1 The proposed open space, landscaping and ecological enhancements can be secured for both existing and future residents, improving their environment, and will also benefit wildlife. A sum of £60, to contribute to the development of the existing infant and junior play areas in the Radbrook ward, can be secured by a S106. Officers recommend approval subject to a S106 and the conditions within Appendix 1.

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: NPPF

Core Strategy Policies: CS2

11. Additional Information

List of Background Papers: File 17/00823/COU
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member: Cllr Keith Roberts
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. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the last building for its permitted use.

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan ref: 691-AHR-DR-L-ZZ-90-026 P13 & Arboricultural Method Statement ref: AMS-AIA-IC-050717-V7 have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

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

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

4. All hard and soft landscape works (including wildlife habitat and features) shall be carried out in accordance with the approved plans. The landscape works shall be carried out prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM (or in accordance with a time table to be submitted to and approved by the LPA). Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

5. Prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM (or in accordance with a time table to be submitted to and approved by the LPA), an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority for approval demonstrating implementation of the Risk Avoidance Measures (RAMs) for Great Crested Newts (22nd May 2017), and completion of habitat management as agreed by the 'Soft Landscape Mitigation Strategy', drawing number 691-AHR-DR-L-ZZ-90-018 REV P8, prepared by AHR Architects Ltd.

Reason: To demonstrate compliance with the Great Crested Newt, Bat RAMS and ecological enhancements.

6. Prior to the occupation of the 50th unit of accommodation approved on the application site 17/00821/REM a habitat management plan for the lifetime of the development must be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- 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) Monitoring and remedial/contingencies measures triggered by monitoring;
- i) The financial and legal means through which the plan will be implemented.

The future maintenance, management and monitoring of the site shall be implemented in accordance with the approved details in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

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

7. If non permeable surfacing is used on the domestic curtilage land and formal public open space including the construction of a footpath, the applicant should submit for approval a surface water drainage system. The surface water drainage shall be implemented as approved.

Reason: To ensure that, for the disposal of surface water drainage is undertaken in a sustainable manner.



<u>Committee and date</u>
Central Planning Committee
31 August 2017

<u>Item</u>
6
Public

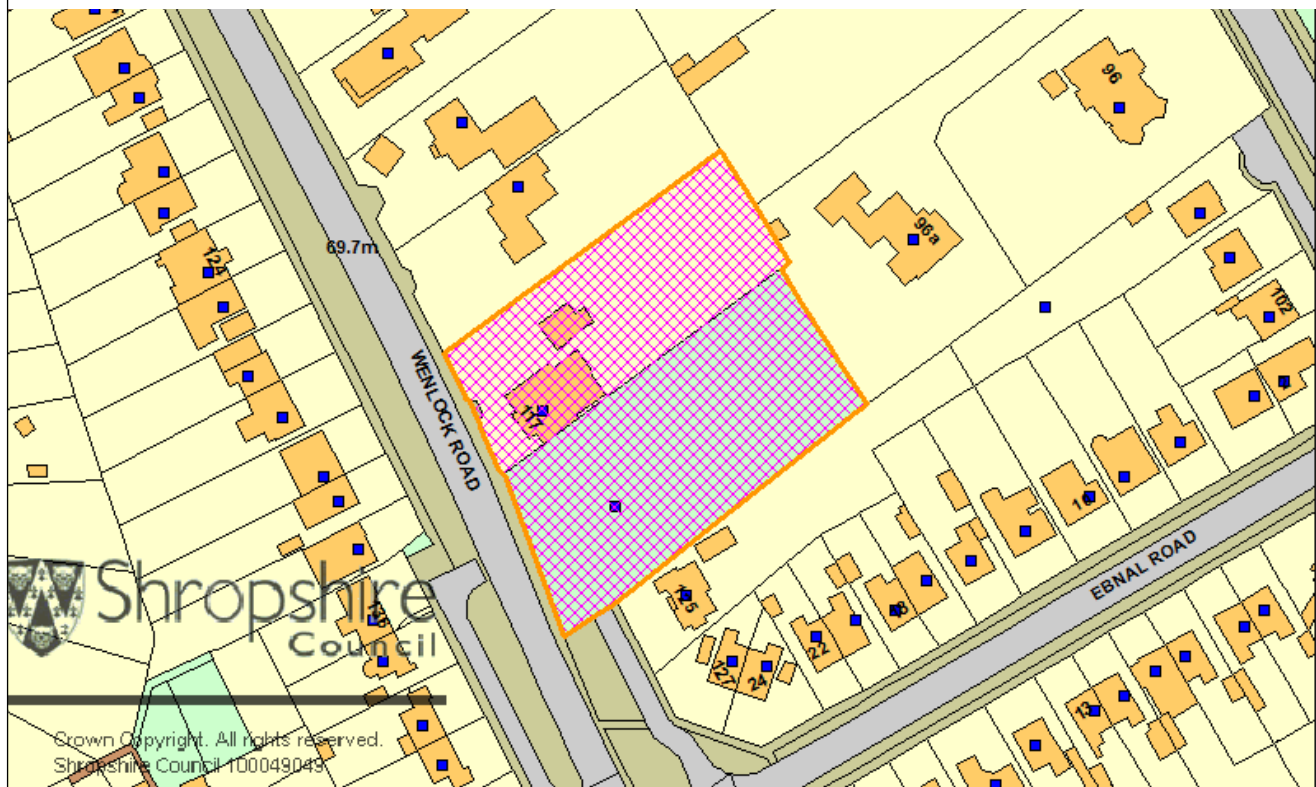
Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/04590/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description)		
<u>Site Address:</u> Land At 117/125 Wenlock Road Shrewsbury Shropshire		
<u>Applicant:</u> McCarthy & Stone Retirement Lifestyles Ltd		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 350957 - 311340



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the agreed financial AHC of £110,000 and a financial highways contribution of £7,500.00 for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road, or any adjacent streets, should any overspill car parking take place.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of 32 retirement living apartments including communal facilities, vehicular access, landscaping, car parking and mobility scooter parking following demolition of existing building.
- 1.2 The committee report of 27th July 2017 in respect of 16/04590/FUL is attached as Appendix 3

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises the house and garden of 117 Wenlock Road and the vacant field/paddock adjacent to 117 that is proposed to be demolished.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At the meeting of 27th July 2017 Members resolved to approve the application in accordance with the officer's recommendation, subject to:
- The conditions set out in Appendix 1;
 - The final detail of the Section 106 legal agreement in relation to affordable housing being brought back to this Committee for approval
 - An additional condition for the developer to provide electric vehicle charging points; and
 - An additional condition to restrict occupancy of the apartments to people over the age of 55.

4.0 THE MAIN ISSUES

- 4.1 Agreement to the amount of financial AHC to be secured by a S106 in lieu of on-site provision of affordable housing.

5.0 OFFICER APPRAISAL

- 5.1 Core Strategy CS11 (Type and affordability of housing) seeks to ensure that all new open market housing development makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index and the viability of developments taking into account Policy CS9 in respect of infrastructure contributions.

- 5.2 The Type and Affordability of Housing Supplementary Planning Document (SPD) provides detailed guidance to assist in implementing Core Strategy CS11. To provide a balance between flexibility and certainty, the current prevailing target rate for affordable housing is set for a period of twelve months at a time reassessed annually in December each year, for the following financial year. The current prevailing target rate for this area is 20% and for a development of 32 homes this would provide 6 affordable houses on site with the balance as a financial contribution of £25,500.
- 5.3 The SPD advises that affordable housing should normally be provided on site unless there are unusual and exceptional circumstances where it is agreed with the Housing Enabling Officers that provision may be made off-site. In these circumstances the calculation of the off-site financial contribution is based on the full cost of provision of affordable housing elsewhere including land acquisition and the SPD provides a formula. Using this formula and for a development of 32 homes with an average floor area of approximately 70 sqm and build costs of £1,155 per square metre the off-site contribution would be approximately £515,000.
- 5.4 The SPD also outlines circumstances where due to viability a reduced amount of AHC may be negotiated and states the following:

Where a development can demonstrate to the satisfaction of the Housing Enabling Officer that it is not viable at the level of contribution required, negotiations will determine what would be a viable contribution. An open book accounting approach will be used to assess the financial aspects of the development including land acquisition costs, finance costs, 'abnormal' development costs, professional fees, prevailing market conditions and level of risk.

The open book accounting approach will expect land prices to reflect current market conditions, current alternative land use value and current policy requirements.

- 5.5 The applicant (McCarthy and Stone) submitted a viability assessment (that was still being assessed by the Housing Enabling team at the time of the July committee) and this indicated that the scheme was not viable with either on site provision or the full financial AHC in lieu of off-site provision and indicated an AHC of £49,447. McCarthy and Stone have recently made the following statement regarding the financial AHC they are willing to offer:

McCarthy & Stone are willing to offer a financial contribution to go forward for the planning committee on 31st August of £110,000 towards off-site affordable housing. This offer is made on a without prejudice basis for commercial expediency. This figure is obviously in excess of the £49,447 detailed in the Alder King viability appraisal.

- 5.6 The main reason why the McCarthy & Stone viability appraisal demonstrates that a surplus of only £49,447 is viable as a financial AHC (in addition to a CIL payment of £125,647) compared to the policy compliant 6 affordable houses on site (or the equivalent financial AHC of £515,000) is the value of the existing land:

- The first property (No. 117 Wenlock Road) comprises a detached house on a site of 0.28 acres and has an existing value of £600,000.
- The second property (land between 117 and 125 Wenlock Road) is a residential development site 0.6 acres and has a value of £460,000.

To help in understanding why this land value is the main reason that the viability assessment demonstrates that a full policy compliant AHC is not viable the following explanation has been provided by Alder King:

Shropshire Council produced a 'Shropshire Viability Study Final Report – May 2013' which viability tested their proposed affordable housing policy. Within Area A (in which the property sits) the recommended target for Affordable Housing is 20%. In arriving at that figure, the report reviewed a number of different 'benchmark' or 'threshold' land values – simply put, the price that would be necessary to incentivise a landowner to sell their land for redevelopment. Agricultural land values were considered as were development site values in high value areas. A 'threshold land value' of £525,000 per acre has been determined by Shropshire Council as being the level at which a landowner would release their land for redevelopment and at which a 20% affordable housing provision would be viable.

A threshold land value of £525,000 per acre would equate to the following:

- *No. 117 Wenlock Road – 0.28 acres = £147,000 (i.e. £453,000 less than market value)*
- *Land between 117 and 125 Wenlock Road – 0.6 acres = £315,000 (i.e. £145,000 less than market value)*

The 'Shropshire Viability Study Final Report' did not consider the situation we have at Wenlock Road whereby McCarthy & Stone are buying an existing dwelling house. The market value of £600,000 for No. 117 Wenlock Road equates to in excess of £2million per acre (although existing residential houses are rarely analysed in this way). For Shropshire Council's Affordable Housing policy to work, the owner should only expect to receive £147,000 for their property. Clearly it is wholly unrealistic for any homeowner to dispose of their property for significantly less than market value in order for the Council to gain their full Section 106 demands.

A homeowner would not be incentivised to sell their house for £147,000 to a developer, when they could sell their house for £600,000 to another homeowner. Thus, immediately there is a shortfall of £453,000 between the level at which Shropshire Council's affordable housing policy is viable and the level that McCarthy and Stone have to pay in order to secure the site.

Secondly, in Land between 117 and 125 Wenlock Road, McCarthy & Stone are purchasing a small site that is unencumbered by the Shropshire Council Affordable Housing Policy. The land has consent for 4 detached open market houses and is valued at £460,000. This equates to £766,666 per acre based on the site area (0.6 acres). Again, that is higher than the £525,000 per acre at which Shropshire

Council's Affordable Housing policy should be viable, but that is to be expected from a small exclusive development site which does not factor in affordable provision.

Thus the land value is the key factor in this particular instance that results in Shropshire Council's affordable housing targets not being met. The landowners are entitled to a 'competitive return' and this is enshrined within the NPPF. They are not required to release their land at less than market value and indeed are entitled to be sufficiently incentivised. Cases where existing residential houses are purchased for redevelopment are not the norm, and the viability testing that has been done by Shropshire Council to try to ensure their policy is viable, has not considered this scenario.

- 5.7 Officers have reviewed this statement and consider that McCarthy and Stone have satisfactorily justified why the difference between the actual value of 117 Wenlock Road) £600,000 and its threshold land value of £147,000 leaves a shortfall of £453,000. It is the value of the existing detached 7 bedroomed home that results in this scheme not being viable if the policy compliant affordable housing is expected to be provided on site or an off-site contribution of £515,000 is accepted in lieu of this.
- 5.8 McCarthy and Stone have made an offer (on a without prejudice basis for commercial expediency) of a financial contribution of £110,000 towards off-site affordable housing. This figure is more than double the £49,447 detailed in the Alder King viability appraisal. McCarthy and Stone have advised that if this application is refused because the offer of £110,00 is considered to be unacceptable they would revert to the fully evidenced figure of £49,447 for any subsequent appeal.
- 5.9 The Housing Enabling team have reviewed the viability assessment that indicates that the Gross Development Value (GDV) of the scheme, minus Gross Development Costs (GDC) that includes site purchases, and profit (20% of the GDV), leaves only £49,477 towards affordable housing. They have provided the following advice regarding how GDV, GDC and profit are calculated.

Gross Development Value (GDV)

The GDV of the site is predicated upon anticipated sale values of all the 32 apartments and has assumed that all the apt's are for open market sale. The values used in the appraisal are considered by the Council to be reasonable and are in fact slightly higher than those provided by 2 local agent's.

Gross Development Costs (GDC)

These are the total scheme costs and include the land purchase, all construction costs, professional fees and finance costs. The construction costs are based upon nationally compiled figures by the Royal Institute of Chartered Surveyors (RICS) for this type of development. Although the Council would prefer to see the level of construction costs McC&S actually achieves on the 44 new developed schemes they aim to build this financial year, the use of the RICS generated figures is a recognised source for viability appraisals.

Developers of this type of housing claim that there are significant extra marketing and sales costs attributable to the particular demographics of their customers and the particular product they offer. This level of marketing (6% of GDV) has been accepted on 2 Appeal decisions as appropriate, and means that up to £555,000.00 could be offset to sell these 32 apartments. The marketing of these homes is through McC&S's own internal marketing business. McC&S have agreed to lower their marketing rate to £470,800.00. (5.5%), to reflect local circumstances.

Profit

A 20% profit on the GDV is widely accepted as a current industry norm and a necessary return for national/regional house builders in order to satisfy their lenders and level of borrowing. This level of profit has again been accepted on Appeal and is also a policy complaint figure used when an overage clause is used by the Council when varying a s106 affordable housing contribution.

- 5.10 The SPD outlines that where a developer demonstrates (to the satisfaction of the Council) that a scheme is not viable at the affordable housing target rate and the Council agrees a reduced contribution rate, the section 106 agreement may include an overage or claw-back clause to enable a further assessment based on achieved development values and actual development costs. This allows for a full “open book” appraisal of the completed schemes finances to assess whether the developer actually achieved in excess of a 20% profit on the GDV. If the development has, the Council seeks to reclaim the excess up to the level of the original policy compliant amount. The applicant has confirmed that they would not accept a S106 agreement with an overage clause as this would be contrary to the guidance contained within the PPG regarding single phase development and would not accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the NPPF. They have submitted numerous appeal decisions that support their view that an overage clause should not be included in the S106 for a single-phase development. In light of this evidence Officers agree that it would not be defensible to refuse the application due to the applicant not being willing to include an overage clause in the S106 agreement.
- 5.11 Members queried at the July committee why the affordable housing was not being provided on site. However that report outlined that it is unlikely that the amount of affordable contribution would be sufficient to provide on-site provision. Now that the offer has been increased to £110,000 this has the potential to provide one unit on site instead of using the sum for off-site provision.
- 5.12 The applicant as part of the original submission provided information and justification for the contribution being off site in lieu of on-site provision. This was not reported to members as the McCarthy & Stone viability appraisal demonstrated that a surplus of only £49,447 is viable as a financial AHC and this would not be sufficient to provide a whole affordable unit on site.
- 5.13 The applicant provided the following justification to why on site provision of any amount of affordable housing would not be appropriate within this development:

Off-Site Provision of Affordable Housing

There are very real and fundamental difficulties in accommodating affordable housing on-site with private sheltered housing of the type detailed within this application. Although government advocates the encouragement of mixed communities, it does not state that this should be accommodated on each and every site. Paragraph 50 of the NPPF states that "...where it can be robustly justified, off-site provision or a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted as long as the agreed approach contributes to the creation of mixed and balanced communities in the local authority area." (my emphasis).

My Client would argue that the provision of Category II Sheltered accommodation on small urban sustainable sites such as this itself contributes to mixed communities.

McCarthy & Stone assert that the provision of on-site affordable housing units within specialised housing for the elderly is both problematic and unviable and that an off-site contribution would be more suitable in this instance. However, in order to clearly understand the difficulties that will arise from trying to mix affordable housing alongside private sheltered housing, it is important to understand what sheltered housing is and how it operates.

The specialised communal living environment provided by private Category II Sheltered Housing results in the payment of a service charge by the residents, which covers the upkeep and maintenance of all internal communal areas, the external building fabric and the external grounds, including the gardens and car-parking. In addition, the service charge also covers the salary and accommodation costs of the resident house-manager. Following completion of construction the overall management of the development is passed on to a specialist management company and a further resident's association is generally set up by the residents to facilitate liaison with the management company.

When mixing low-cost / heavily subsidised sheltered housing with open market sheltered housing, one must bear in mind the significant use of the shared communal facilities within private sheltered housing. The level of services provided to the residents of private sheltered housing result in the level of service charge being a significantly larger proportion of total living costs than would apply to other forms of accommodation. It would be very difficult to set the service charge at a level that would cover the costs of the type of management that private purchasers expect, yet still be affordable to residents of affordable housing. It would also be difficult for the affordable housing provider to guarantee payment of a service charge in perpetuity that would be liable to change on an annual basis.

Another consequence of trying to mix private sheltered housing with low cost/ subsidised housing would be the significant potential for friction and animosity between those residents who pay a significant annual service charge for premium services after purchasing a property and those who would occupy low cost or heavily subsidised apartments, but have use of the same services. It is not unreasonable to assume that some residents would resent the fact that their neighbours are enjoying the same level of services for a fraction of the cost, or that

they may perceive themselves to be subsidising others. This situation would only serve to exacerbate management problems and disputes between neighbours and would ultimately undermine the success of the housing development.

If attempts are made to try to overcome management, maintenance and service charge issues by splitting the site to have separate blocks for the sheltered and affordable accommodation, this introduces further issues. The proposed development site is relatively small at 0.39 hectares and its physical constraints are such that a separate block of affordable housing, with the necessary access, parking and amenity space, would reduce the size of the sheltered block by such a degree to make it unviable and inefficient. A further loss of units would derive from the separation of the blocks and provision of sufficient amenity area. The significant reduction in sheltered units would mean that fewer elderly purchasers would have to share the fixed cost of the necessary communal facilities associated with sheltered housing and make the market sheltered scheme unviable. The commuted sum for the provision of off-site affordable housing would lead to more appropriate and acceptable housing layouts for both the sheltered and affordable provision.

Thus an attempt to shoehorn affordable housing within the same site would result in a likely loss of private units leading to an unviable level of provision for both sheltered and affordable accommodation.

The inherent difficulties of attempting to integrate other forms of housing within private sheltered housing for the elderly that are detailed above are generally accepted and have been consistently accepted by Inspectors when this matter has been assessed at appeal.

As a result of the above it is clearly not feasible to meet the Council's affordable housing requirement on-site. The proposed development therefore clearly meets the "exceptional circumstances" requirement detailed in the Affordable Housing Supplementary Planning Guidance and that an off-site financial contribution is accordingly the most appropriate option in this instance.

- 5.1.4 The Housing Enabling team have considered the above and have confirmed that the Appeal decisions submitted by McCarthy and Stone support their view that it is not appropriate to include affordable housing units within their developments siting potential tensions between their open market customers and Registered Providers (RP's) and tenants, and also siting the physical and practical differences created by the schemes design and differing management regimes.
- 5.1.5 The Housing enabling team have also confirmed that whilst as a matter of policy the Council would oppose such segregation, there are several practical issues relating to design and management highlighted by Registered Providers when on site provision creates very small numbers of affordable housing (1 or 2 units). In those circumstances, the Council may consider an offsite contribution appropriate. It is considered that the provision of one affordable unit on this site would not be practical within this development and would be difficult to manage by a registered provider. A financial contribution for off-site provision of affordable housing in lieu of the on-site provision of one affordable dwelling is considered acceptable in this instance.

5.1.6 Officers therefore recommend that the application is approved subject to a S106 to secure the agreed financial AHC of £110,000 in lieu of onsite provision and a financial highways contribution of £7,500.00.

6.0 OTHER MATTERS

6.1 ECOLOGY

- 6.1.1 The previous report to members advised that the submitted ecological report indicated that it was likely that the loft space of the house (proposed to be demolished) was used by a single or small number of Pipistrellus sp. during summer 2015 and concluded that the roosting features identified are not currently in use. The Councils Ecologist advised that the existing bat roost cannot legitimately be regarded as no longer legally protected and that the works will need to take place under a European Protected Species licence from Natural England.
- 6.1.2 Since the committee the applicants Ecologist has had discussions with the Councils Ecologist regarding the need for a condition requiring an EPS licence being submitted before the work commences. The Councils Ecologist has now advised the following:

It is ultimately up to the ecologist and those involved to decide if their actions/the proposals would result in an infringement of the legislation and hence, whether a licence is required or not. Natural England do not provide 'precautionary' licences. Due to this, SC Ecology will not be recommending the EPS licence condition goes onto this planning decision notice.

- 6.1.3 The suggested condition is now not included within the list of suggested conditions within Appendix 1 to this report. However the 'three tests' must still be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful. Shropshire Council's role is to consider if an offence under the Habitats Regulations is likely, and if so, would a licence be obtainable from Natural England, by considering the 'three tests'. Failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 6.1.4 The completed EPS three tests matrix is attached as appendix 2 to this report and should be noted by members. This confirms that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the recommended conditions are imposed and complied with. It is for the developer (McCarthy and Stone) to decide whether the proposed development would result in an infringement of the legislation and whether a licence is required or not. If work is carried out which affects bats or roosts without a license the law will be broken and an offence is punishable by up to a £5000 fine per individual animal impacted and potentially up to 6 months in prison.

6.2 CONDITIONS

- 6.2.1 Members requested two additional conditions regarding the provision of electric vehicle charging points and a restriction of the occupancy of the apartments to people over the age of 55. These conditions are now included in the recommended conditions in appendix 1.

7.0 CONCLUSION

- 7.1 The submitted viability assessment, the enhanced offer of £110,0000 and the justification for why this should not be used to provide a single unit of affordable housing on-site has been assessed by officers and the housing enabling team and it is agreed that the offer should be accepted. It is considered that in light of the evidence submitted the refusal of this application, due to the applicant being unwilling to enter into an agreement to secure the full policy compliant on-site provision (or the full financial AHC in lieu of this) or their unwillingness to enter into a S106 agreement with an overage clause included would not be defensible at appeal.

- 7.2 Officers therefore recommend approval subject to a S106 and the conditions within Appendix 1.

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: NPPF

Core Strategy Policies: CS2, CS6, CS11 and CS17

SAMDev Policies: MD2 and MD13

RELEVANT PLANNING HISTORY:

16/03635/FUL Erection of 4 no. detached dwellings with 3 no. garage blocks GRANT 3rd November 2016

11. Additional Information

List of Background Papers: File 16/04590/FUL

Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member : Cllr Ted Clarke, Cllr Jane Mackenzie, Cllr Tony Parsons
Appendices APPENDIX 1 – Conditions APPENDIX 2 – EPS 3 Tests APPENDIX 3 – 27 July Committee report

APPENDIX 1: Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

4. No development shall take place (including demolition, ground works and vegetation clearance) until a Japanese Knotweed management plan has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out strictly in accordance with the approved management plan.

Reason: To ensure the safe eradication of Japanese Knotweed from the site and to ensure that it does not spread

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

5. All demolition, site clearance and development shall occur strictly in accordance with the Soft Strip Method Statement (Environmental Services, December 2016), unless an alternative Method Statement is submitted to and approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

6. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan Ian Keen Ltd drawing 9178/o2 and in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

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

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

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

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

9. Prior to first occupation / use of the building, details for the provision of 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 4 artificial nests suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design).

The boxes shall be sited in at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of building if possible) with a clear flight path, and thereafter retained for the lifetime of the development.

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

10. No above ground works shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

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

11. No above ground work shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

12. No above ground works shall take place until details of the measures to be taken to provide adequate access and facilities for disabled people have been submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.

Reason: To ensure adequate facilities for the disabled, in accordance with adopted policy

13. No above ground works shall take place until a scheme of surface water drainage (including a proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility for future maintenance) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use and maintained for the lifetime of the development.

Reason: To ensure satisfactory drainage of the site and to avoid flooding and to ensure that the drainage system remains in good working order throughout its lifetime.

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

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

15. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery (including the glazed walkway) shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

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

16. Vehicle charging condition

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

17. Any gates provided to close the proposed access shall be set a minimum distance of 5.5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

18. No further windows or other openings shall be formed above ground floor level in the North East facing elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

19. The occupation of the development hereby approved shall be limited to persons who (a) have reached the age of 55 or over, or (b) have taken early retirement due to infirmity or incapacity, or (c) a widow or widower or partner of a person falling within (a) or (b), or (d) a dependant of a resident falling within (a), (b) or (c) residing with him/her.

Reason: The parking provision provided in the development does not make sufficient provision for general occupation.

APPENDIX 2: EPS 3 Tests matrix**EUROPEAN PROTECTED SPECIES – Consideration of the three tests****Application reference number, site name and description:**

16/04590/FUL
Land At 117/125 Wenlock Road Shrewsbury Shropshire
Erection of 32 retirement living apartments including communal facilities,
landscaping and car parking; formation of vehiucalar access following demolition
of existing property

Date:

30th January 2017

Officer:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Test 1:

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

The proposal will boost housing supply in a sustainable location providing 32 purpose built retirement homes that will meet the needs of a growing ageing population and subsequently release the supply of family homes to the market. Although not providing affordable housing on site the development will provide a financial contribution to affordable housing and will also achieve a far higher CIL levy compared to the previously approved scheme for 4 houses. The proposal will provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site (including eradication of Japanese Knotweed) with no adverse environmental impacts.

Test 2:

Is there '**no satisfactory alternative?**'

The alternative is not to develop the site or alternatively not demolish the house and implement the previously approved scheme on part of the site. However this would not provide the boost to housing supply numbers in Shropshire, would not make effective use of the land and would not provide an affordable housing contribution or CIL. This would therefore not provide the social and economic benefits of the proposal and the ecological enhancements of the site including the eradication of Japanese Knotweed to be secured by conditions attached to this planning permission.

Test 3:

Is the proposed activity '**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range'?

A bat survey between July and August 2016 identified a common pipistrelle roost in the building, used in 2015 by a single or small number of bats.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be demolished.

The Soft Strip Method Statement (Environmental Services, December 2016) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by

hand.

- 'Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.'
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be 'installed in to the fabric of the [new] building in groups of two.'
- 'All external lighting during construction to be angled downwards and away from any bat sensitive areas.'
- 'All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Jane Raymond (dated 30th January 2017) are included on the decision notice and are appropriately enforced. The conditions are:

- Working in accordance with protected species survey;
- European Protected Species Licence; and
- Lighting plan.

APPENDIX 3: 27 July Committee Report



Committee and date
27 July 2017

Item
Public

Development Management Report

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

Summary of Application

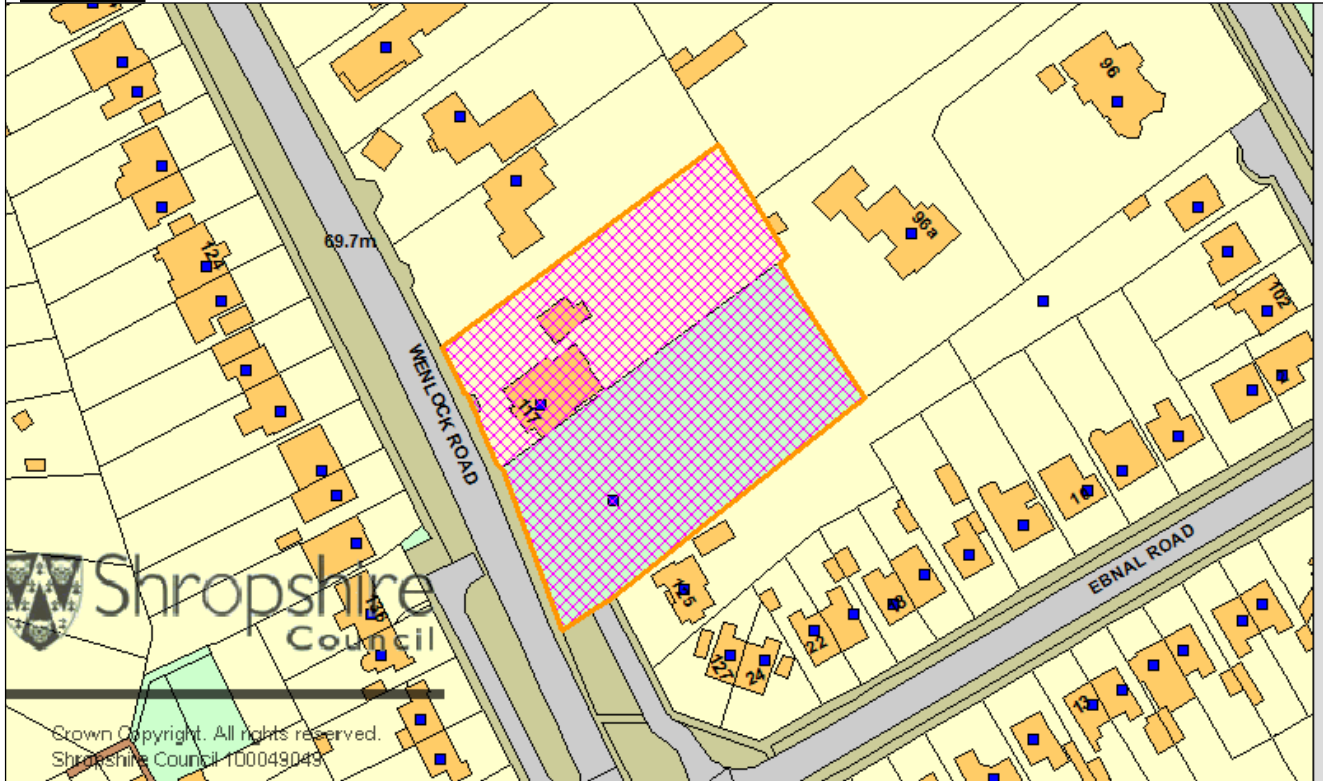
Application Number: 16/04590/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of 32 retirement living apartments including communal facilities, landscaping and car parking; formation of vehicular access following demolition of existing property (amended description)		
Site Address: Land At 117/125 Wenlock Road Shrewsbury Shropshire		

Applicant: McCarthy & Stone Retirement Lifestyles Ltd

Case Officer: Jane Raymond

email: planningdmc@shropshire.gov.uk

Grid Ref: 350957 - 311340



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Recommendation: That members resolve to approve the application but give officers delegated authority to agree the amount of Affordable Housing Contribution (AHC) and issue the decision notice subject to a S106 to secure the agreed AHC and a financial highways contribution of £7,500.00 for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road, or any adjacent streets, should any overspill car parking take place.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the erection of 32 retirement living apartments including communal facilities, vehicular access, landscaping, car parking and mobility scooter parking following demolition of existing building.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site comprises the house and garden of 117 Wenlock Road and the vacant field/paddock adjacent to 117 which is proposed to be demolished.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Conservation (comments following receipt of amended plans):

Background

We had previously noted at the formal planning application stage that the proposal would need to demonstrate that a development would be of a required standard to justify the loss of 117 Wenlock Road, deemed to be a non-designated heritage asset. A heritage assessment was subsequently submitted and revised plans prepared.

Assessment

The main dwelling currently on the site, albeit not present at the time of the first edition OS mapping, is felt to be representative of the period of early 20th century development on the site and in the vicinity, and has a strong connection with the large Edwardian property known as Woodville, which faces London Road. The boundary walls and garden features are believed to be contemporary with the building of Woodville, and should be protected and restored as part of the scheme. Whilst it is believed that the dwelling itself is worthy of recording prior to any demolition, it has been extended significantly and its historic form has been largely subsumed by modern extensions.

It has been emphasised that the design of the development should minimize any harmful impact on the character and appearance of the area and the street scene in particular, making a positive contribution to ensure compliance with policies on design and the protection of the historic environment.

The amendments to the plans in terms of scale, design, stepping back the footprint of the central atrium, and varying gables and chimneys to enhance traditional design and detailing, generally reflect the context and local vernacular of the area. In order to further enhance this, the scheme will be expected to deliver a high standard of construction, which should be addressed through a series of conditions ensuring the selection of materials and finishes are appropriate to its context. With regard to this, there are some refinements and clarifications on materials and finishes, which would be welcomed; these are largely in terms of the surface finish, detail and materials of rainwater goods to the linking blocks, and window details including materials and depth of reveals to these elements – these should be the subject of pre-commencement conditions as detailed below and not on the basis of current plans.

Recommendation:

Generally no objection on conservation or design grounds as on balance the scheme is considered to accord with the relevant policies, guidance and legislation noted above, subject to the inclusion of the following conditions: CC1 (External Materials), JJ20 (Joinery – with revised Reasons), pre demolition recording of the main house and retention of any garden features, plus conditions to agree hard and soft surfaces for the driveway access, parking and amenity areas, as well as any boundary walling or enclosure features.

4.1.2 **SC Highways** (final comments on proposal as amended):Recommendation

No Objection - Subject to the development being carried out in accordance with the approved details and the following conditions/informatives

Observations/Comments:

It is considered that the currently submitted details supporting the revised development proposals have been robustly presented and justified. However, given the site location, 'retirement living' occupancy type and the precedent set by the similar McCarthy & Stone development on Copthorne Road, Shrewsbury. An absolute minimum allocation of one parking space per apartment should be provided to support this development proposal.

In the circumstances, if a minimum of 32 car parking spaces can be incorporated within the application site, then it is considered that this development could be acceptable from a highway & transport perspective.

Notwithstanding the above, should the developer choose not to improve the car parking ratio within the site, it is recommended that the Developer enters into a Section 106 Agreement with the Council. For the purposes of securing a financial contribution of £7,500.00, to be held for 5 years following the full occupation of the development. This contribution could then be used, by the Council, for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders, on Wenlock Road (or any adjacent streets), should any overspill car parking take place, associated with the development, which is considered to be contrary to the interests of highway safety.

Would also support an appropriately worded condition that restricts the age of the occupants, this will seek to reduce the level of car ownership and associated demand on parking. Mouchel have recommended that a condition is placed upon any permission granted that requires details of access to be submitted, and would welcome this condition as the details of the current access do not show the viability splays and swept paths.

On receipt of additional information confirmed that the proposed layout of the access is sufficient to accommodate two-way car movements, as requested. However, the details presented in the applicant's email dated 24thMay 2017, does not provide all the detail required to discharge the recommended conditions (i.e. no

construction specification or visibility splays shown.)

- 4.1.3 **SC Waste Management:** It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

I would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <http://new.shropshire.gov.uk/media/2280/shropshireplusrefuse-and-recycling-planning-guidancepluseptemberplus2015plusversionplusa.pdf>

We would prefer to see vehicle tracking of the refuse vehicle to ensure the vehicle can manoeuvre the roads of the development. Collection crews would need a code or fob to access the site as it is gated.

With regards to refuse vehicles Highways have confirmed that normal waste collection arrangements for existing residents along Wenlock Road is currently undertaken at kerbside, so this particular operation, if it is only once a week, is probably going to be acceptable.

- 4.1.4 **SC Trees:** Recommends a condition in order to protect the retained trees on site and adjacent important amenity trees.

- 4.1.5 **SC Ecology:**

Bats

A bat survey was carried out on this site between July and August 2016 by Environmental Services.

During an initial inspection, approximately 50 pipistrelle droppings 'were discovered in the loft space of the original structure', 'scattered below the central beam of the original building and at each gable end. The droppings were old suggesting the loft space has not been used by bats in 2016, and given the number found was used by a single or small number of individuals.'

A re-entry survey was carried out on 13th July and emergence surveys were carried out on 11th August and 22nd August. Static detectors were also used.

A 'possible emergence' was recorded during the first emergence survey 'from the Northwest facing elevation. As a result, the loft space was checked for a second time and an additional surveyor added to the third survey effort in order to specifically watch this area. No fresh droppings were discovered and no bat emergence was identified from the building. Therefore the 'possible' emergence is

highly likely to have been a bat flying over the building foraging between the gardens and the vacant plot of land.’

Common pipistrelles were recorded foraging around ‘the main property and over the vacant plot of land’ during the surveys. No roosting behaviour was identified.

Bats do not appear to be currently using the building but ‘the loft space was likely used by a single or small number of Pipistrellus sp. during summer 2015’. Therefore, the works will need to take place under a European Protected Species licence from Natural England.

Environmental Services have produced a Soft Strip Method Statement (December 2016) which sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by hand.
- ‘Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.’
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be ‘installed in to the fabric of the [new] building in groups of two.’
- ‘All external lighting during construction to be angled downwards and away from any bat sensitive areas.’
- ‘All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.’

A European Protected Species 3 tests matrix is provided and the planning officer needs to complete sections 1 and 2, ‘over riding public interest’ and ‘no satisfactory alternative.’ The EPS 3 tests matrix must be included in the planning officer’s report for the planning application and discussed/minuted at any committee at which the application is considered.

RammSanderson Ecology Ltd was commissioned to undertake a single nocturnal survey of this site to update the previous survey work. One bat survey was conducted following the negative result of roosting bats during the 2016 nocturnal surveys. RammSanderson Ecology has concluded that the roosting features identified are not currently in use.

SC Ecology considers that the existing bat roost cannot legitimately be regarded as no longer legally protected.

Natural England require a period of monitoring for a bat roost prior to its ‘de-designation’. If it can be demonstrated that a former bat roost had not been

occupied by bats for a period of five years or more, it might no longer constitute as a bat roost and therefore no longer fall under the legal protection of the Habitats Regulations, but to my knowledge, this timeframe has not yet been tested in Court, so one ought to be cautious.

Natural England advises on a timeframe of 'after a number of years'. A sufficient level of survey work would be needed to demonstrate long-term absence of bats. When applying for an EPS licence, it is often the case that an estimate of the number of bats using the roost during a typical calendar year is not known accurately, but the total(s) applied for must be strongly indicative and supported evidentially. The status of the roost is equally important. This evidence can be based on counts of bat droppings, their age, distribution, setting; looking at the potential bat features within a structure and all with the bat's ecology – typical sizes of roosts etc. all taken into account.

The Bat Survey Guidelines state (the main information relevant here is in Chapter 7):

Section 7.2.8 states:

Dusk and dawn surveys should be repeated until the information outlined in sect 5.1 is reliably collected, although appropriate methods and equipment should be used to minimise the number of survey visits required and effort should always be proportionate to impact. If presence has been confirmed by droppings found during a preliminary roost assessment but bats have not been detected during roost characterisation surveys, it may be necessary to carry out further surveys at alternative times of year.

Based on the points above the comments made by SC Ecology from Sophie Milburn, dated 30.01.2017, are still relevant to this planning application. As bats tend to re-use the same roost after periods of vacancy, legally a roost is protected whether a bat is present at that time or not. Due to the evidence of bat droppings Shropshire Council will complete the 'three tests'. The 'three tests' must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful. Shropshire Council's role is to consider if an offence under the Habitats Regulations is likely, and if so, would a licence be obtainable from Natural England, by considering the 'three tests'. Failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

If work is carried out which affects bats or roosts without a license the law will be broken. The applicant should be aware that an offence is punishable by up to a £5000 fine per individual animal impacted and potentially up to 6 months in prison.

Birds

Environmental Services do not record whether any evidence of birds was found on or in the building.

Vegetation removal should take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check should be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

Bird boxes should be erected on the site to enhance the nesting opportunities available for birds.

Other species

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.

The landscaping scheme should ideally contain more native species of local provenance and species of particular value to wildlife.

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

4.1.7 **SC Affordable Homes:** Awaiting final view on the viability assessment and agreement on the amount of financial affordable housing contribution.

4.2 - **Public Comments**

4.2.1 **Shrewsbury TC:** Objects: Initially concerned that the parking provision is inadequate for the number of residential units and disliked the massing of the building and considered that the demolition of 117 Wenlock Road would be a significant loss to the area. On receipt of the amended plans welcomed the amendments which have addressed the concerns regarding the level of massing. Members however do have a retained concern about the number of parking places and given that the local area has minimal on-street parking on this busy gateway into the town they would welcome a 1:1 ratio regarding car-parking.

4.2.2 **West Mercia Constabulary:** Provides advice on crime prevention through the environmental design advice within 'Secured By Design' to explore opportunities to design out crime and /or the fear of crime and to promote community safety.

4.2.3 31 letters of objection have been received and 12 letters of support to the scheme as first submitted and as amended summarised as follows (comments are available to view in full on the public file):

4.2.4 Support:

- The proposal is well designed and attractive and would suit the street scene.
- Although the proposal is wide, 113 and 115 are almost joined at their shared boundary and together offer quite a wide frontage which people are already accustomed to seeing.
- The height will be similar to 125 and less than the front portion of the Tower House.
- It will add to the wide variety of building ages and styles between Armoury Gardens and Ebnal Road.
- The development seems to be generally in keeping with and will blend in well with surrounding properties.
- No. 117 is a fine house but would not be missed if it were to go.
- The site has been an eyesore for too long and looking forward to this well needed development in an excellent location.
- The development would eradicate the Japanese Knotweed which should be welcomed and M & S have experience in dealing with brownfield sites such as this and can be depended on to clean up this land.
- It is relatively high density compared to the alternative approved four houses but it would mean less disturbance to the occupiers of nearby properties.
- Retired people have simpler more 'low key' lives than families. Four 4-bed houses could have up to a dozen children squealing and shouting in gardens, birthday parties, barbeques and barking dogs etc.
- Wenlock Road could easily accommodate the extra traffic and it's not a commercial development. Apart from a short period in the mornings and evenings the traffic density is not an issue.
- The alternative 4 houses would do nothing for affordable housing.
- Both central and local government are under huge pressure to increase housing supply but in particular for couples and those living alone.
- Provision of suitable housing for the older age group is limited in this part of Shrewsbury but figures show that this ward has a high number of residents over 65 years.
- There are enough 4 bedroom homes in this location.
- Having family in Shrewsbury and now living alone one of these apartments would be ideal and it will be a good area to retire to.

- Have lived in the area for over 30 years and want to stay but until now there has been nothing suitable to down size to.
- These apartments will free up family homes.
- This development is in an ideal residential location with a frequent bus service.
- There are local shops for essentials and two mini supermarkets only a few hundred yards away. The local shops including the butchers at Mereside would benefit from the extra business.
- St Giles Parish Church, and Parish Hall, Mereside Community Centre, Doctors surgery and chemist, dental practice, the facilities at SCAT (Hairdressers and restaurant) and local pubs are all nearby.
- This development with its communal areas will facilitate mutual support for the residents and alleviate isolation and loneliness which so often lead to the need for hospitalisation.
- The grouping of people of similar disposition can help make nursing care and the distribution of medication more efficient and cost effective.

4.2.5 Object:

- Residents have obtained 107 signatures from the local residents opposing the scheme, including those living on Wenlock Road, Armoury Gardens, Ebnal Road and London Road.
- The site is constrained and cannot accommodate over 30 dwellings and does not provide sufficient parking or the ability to deal with surface water without flooding nearby gardens.
- Little mention of any rainwater or 'grey' water recycling other than a few rainwater butts. The size of the proposal must lead to an increase in the volumes of water required and sewage generated. Recycling rainwater and grey water would reduce any increasing demand for water and help reduce run off.
- The dwelling to be demolished is one of the original dwellings on this highway route into town and should not be demolished and would result in demonstrable harm to the amenity of the area.
- Demolition of 117 Wenlock Road that contributes to the distinctiveness of the locality would be in conflict with LDF strategic objective 7 and the large replacement building does not 'respond to the local context.
- It is ironic that the trees and hedge should be preserved but a house allowed to be demolished.

- Reduction in the height of the hedge reduces nesting opportunities for the local small bird communities.
- The nature and form of development should match the surrounding development and three storey development is unacceptable.
- The development is over intensive and three storey development would be incongruous to the street scene.
- The apartment building is totally out of character with the mainly detached and semi-detached nature of development in the area.
- The proposed building is too high - overlooking neighbouring gardens resulting in a lack of privacy issues for residents.
- It might also appear intrusive and result in a loss of light.
- Whilst an attempt has been made to reduce the scale of the building it will still be massive with a large car park to the front and would be more appropriate on an industrial estate. It is till incongruent and not in keeping with the area.
- The front elevation has basically remained the same with a few aesthetic tweaks and adding a few chimneys to an already large building does not make it more sympathetic to its surroundings.
- The new glass connecting corridors and black timber facade do not “reflect the local character of the street scene”.
- This development is not two and a half storeys it is a three storey block of flats not three ‘pavillions’ or ‘villas’.
- The revised plan still represents a physical overdevelopment of the site when compared to other properties along Wenlock Road which present a varied and attractive range of private homes.
- Over 30 houses would result in a considerable increase in traffic movements compared to that of the four houses already approved.
- Wenlock Road is already busy and the impact of the development has to be considered on both the access onto the highway and the wider road network and junctions.
- There will be thousands of additional traffic movements due to the development on Oteley Road and Emstrey Business park causing more potential for highway danger and this proposal should be viewed in the context of that.

- Shropshire Council must accept that there is a highway safety issue due to the road closure and highway improvements including pedestrian crossings in recent years.
- The development will generate at least 90 traffic movements a day and this will be dangerous close to a complicated road junction and a pedestrian crossing.
- Insufficient parking is provided. Although the apartments are aimed at the over 55 age group there is nothing in planning law or land law to stop anyone buying and occupying one of the apartments from owning one or two cars.
- Developers anticipate the average age of occupants to be around 79 years which is based on previous developments. Statistics are fine as a basis for calculating
- unknowns but they are not facts and until the properties are all sold this will remain just speculation.
- The nature of occupation means that it is likely that there will be more visits from health visitors etc. and parking will be required. Residents and visitors will park on the road or on the grass and slip road opposite, causing congestion and highway dangers.
- There is no provision for disabled parking and the parking of larger vehicles such as emergency vehicles and deliveries.
- In sufficient parking on site will result in parking on Wenlock Road which will be a hazard and add to the congestion.
- There is no emergency assembly area indicated on the plans
- From experience of working in a M & S property a more accurate and true reflection of what to expect is that:
 - 1/ half of residents will have cars
 - 2/half of residents will come from outside the area (Shropshire)
 - 3/a very high turnover of residents
 - 4/ a high level of 'care ' traffic (ambulances, doctors, nurses and several types of care personnel)
- Good quality and frequently accessible public transport is not available in this area of Wenlock Road which has only a limited bus service and no service later in the evening.
- A pedestrian crossing should be installed at the Column end of Wenlock Road at the expense of the developer.
- The influx of up to 100 elderly residents will impose extra burden on: a) already overstretched doctors surgeries b) local post offices c) local bus

services, which are already overcrowded.

- Shrewsbury already has an excess of elderly residents and adding more places a
- further burden on the social and healthcare services already stretched to breaking point.
- There is no provision for parking during the construction phase causing congestion and impact on highway and public safety.
- Air pollution, dust and noise pollution will be increased during construction
- The proposal could impact on bats and owls in the area and a bat survey should be undertaken. There was standing water on the site and a newt survey should be carried out.
- The Japanese Knotweed needs to be fully investigated and dealt with.
- The proposal does not represent an appropriate use of available land as required by LDF strategic objective 4.
- It does not provide for a mix of good quality, sustainable housing development of the right size, type, tenure and affordability to meet the housing needs and aspirations of all sections of the community, including provision for specialist needs and the elderly as required by LDF objective 5.
- The prices they are marketed at are beyond the means of the vast majority of local residents in the target age range.
- The proposal fails to address the need for social housing provision and should include affordable housing and this should not be negotiable
- The development will not meet the housing needs of local elderly but is expected to attract more wealthy individuals from elsewhere, thereby reducing the availability of land and affordable properties for local residents.
- What will ensure that the apartments are only occupied by the elderly.
- Who will be responsible for the upkeep of the building and the communal areas.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale, design and appearance
Impact on residential amenity
Access and parking
Trees and Ecology
Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 This proposed development for open market retirement apartments falls within Use Class C3 (Dwelling Houses). The site is considered to be in a sustainable location reasonably close to the Town Centre and other services and facilities nearby. It is situated within the urban development boundary for Shrewsbury identified within SAMDev and the provision of housing within the urban area of Shrewsbury accords with policy CS2 that identifies Shrewsbury as the primary focus for housing development for Shropshire.

6.1.2 CS2 identifies that the ageing population is a particular issue in Shropshire, where 28.4% of the population is expected to be over the age of 65 by 2026. There is a requirement for all types and size of housing to meet the housing need but in particular there is a need for smaller accommodation to suit the elderly. Although not providing affordable accommodation this proposal will help meet that need and also release family homes to the market.

6.1.3 CS11 seeks to create mixed, balanced and inclusive communities, and ensure the provision of a mix of type, size, tenure and affordability. It states that high priority should be given to the provision of housing to meet the local needs and aspirations of all households, including the elderly. CS6 requires that the design of housing should be adaptable to changing needs (including the elderly) and this is one element of sustainable design. This proposal is designed to meet the needs of the elderly and will help to provide a shortfall in accommodation specifically for the elderly and retired.

6.2 Siting, scale, design and appearance

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. Policy CS17 and MD13 seeks to ensure that development does not have a significant adverse impact on Shropshire's environmental assets and protects and enhances the built and historic environment.

6.2.2 The proposal is for a three storey building to provide 32 apartments. The number of apartments and the height of the building have been reduced to that first submitted in order to reduce its overall scale and bulk. Although it is a three storey building the third floor of accommodation is in the roof and the new design has effectively broken the building up into three distinct blocks. This has resulted in a development which will front Wenlock Road and will appear as two pairs of semi-detached houses with a subservient element in between that links them together and is set back from the front elevation.

6.2.3 The proposal appears much more domestic in scale than previously and the

detailing and proportions are now more in keeping with other buildings in the locality. The front of the building is also set slightly further back than the existing building line which will help reduce its prominence in the street. The glazed second floor corridor that is obviously not a feature of other buildings in the locality will not be flush with the edge of the two storey link but is set back and will sit on top of the roof. It will therefore not be readily seen from ground level as it is set so far back on the flat roof. It is required to provide connectivity between the three different blocks and to provide access to the communal lounge and the ground and first floors by lift.

- 6.2.4 There is a mix of public opinion regarding the acceptability of the design and appearance of the proposal and it is acknowledged that there is a strong public objection to the development. However whilst some may consider that it will not be a positive addition to the location it is officers view that the proposed scale, design and appearance of the building would have no adverse impact on the character and appearance of the locality that would justify refusal.
- 6.2.5 With regard to the dwelling to be removed it is one of many examples of early 20th century housing in the area and it is not a particularly exemplary example of this period or type of architecture. The conservation officer has also confirmed that it has been extended and its historic form has been largely subsumed by modern extensions. Furthermore the removal of the dwelling is permitted development requiring only an application for prior approval for its method of demolition and the clearing of the site. It would therefore not be justifiable to refuse this application due to the loss of this building.

6.3 **Impact on residential amenity**

- 6.3.1 SAMDev policy MD2 and Core Strategy Policy CS6 seeks to ensure that all development safeguards residential and local amenity.
- 6.3.2 The proposed building will be situated centrally within the site and although it is a three storey building the second floor of accommodation will be within the roof and the building will not be significantly higher than surrounding properties. The part of the building closest to any boundary is two storey and not three storey and is situated to the rear of the site and there are no first floor windows proposed for the rear North East facing elevation. A condition can be imposed to ensure that no additional windows are added. It is considered that due to the distance from the existing boundaries and the mature trees on the boundaries and within adjacent gardens, the proposal would not appear overbearing and obtrusive, would not result in a loss of light and will also not result in unacceptable levels of overlooking or a loss of privacy.

6.4 **Access and parking**

- 6.4.1 SAMDev policy MD2 requires development to be designed to provide adequate onsite car parking to ensure that cars do not overflow onto surrounding roads and therefore negatively impact on the local road network. There has been much public concern that the proposal provides insufficient parking for the number of units proposed, including lack of parking for visitors and service vehicles and that this will

inevitably lead to on street parking resulting in congestion in the surrounding streets and that this combined with the additional traffic generated would have highway safety and capacity implications.

- 6.4.2 The proposal now indicates 29 parking spaces for 32 units. Highways have confirmed that they would prefer to see 1:1 parking provision and would not object to the proposal if this were provided. However notwithstanding this, Highways have not objected to the proposal and have suggested that if the applicant is unable to provide more parking spaces then they should enter into a Section 106 Agreement with the Council for the purposes of securing a financial contribution of £7,500 to be held for 5 years following the full occupation of the development. This contribution could then be used by the Council for the purposes of introducing any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road (or any adjacent streets) should any overspill car parking associated with the development take place.
- 6.4.3 The applicant has confirmed that they are willing to enter into such agreement. However it is considered unlikely that overspill parking will take place as M & C have confirmed that the average age of home owners upon purchase is 79 and that residents often choose to give up running their own cars upon residency. One of the objectors to the proposal whose family has experience of working in a M & C development confirms that only half the residents usually have cars and that there is usually a high turnover of residents. The dwellings are designed as retirement apartments and the majority of future residents will normally be giving up driving as part of their life style choice to move into this type of accommodation. Future occupiers will be aware that they will not be purchasing or being provided with a parking space when they buy an apartment so they would presumably not purchase such a home if they intended to retain the use of a car. As less than half the spaces will be allocated to residents it is considered that sufficient parking for visitors and service vehicles will be available.
- 6.4.4 Although contractors and cleaners will visit the site to maintain the communal area, the exterior of the building and the garden the proposal is not a care facility and there is no on site care or medical staff or restaurant facilities. The only communal facility is a home-owners lounge. It is considered that the car parking provision is adequate and that residents and any visitors will have sufficient on site parking and the proposal will not create a demand for on street parking. Although the S106 will be entered into it is unlikely that parking restrictions will be required to deter on street parking but is required in case a problem should arise. A condition will also be imposed to restrict occupancy to the over 55's. This will ensure that accommodation designed specifically for an ageing population (that have chosen this lifestyle choice to give up the responsibility of the up keep of a family home and garden and the use of a car) remains available in the future. A condition that restricts the age of the occupants will also ensure that the reduced level of car ownership and associated demand on parking is maintained.
- 6.4.5 With regards to increased traffic the provision of 32 apartments with age restricted occupancy should not result in a significant increase in the volume of traffic travelling up and down Wenlock Road. Highways have expressed no concern about the proposal having an impact on congestion or the capacity of the roads and

nearby junctions to accommodate the traffic generated as a result of this proposal. In any case any vehicle movements generated are not likely to be concentrated or coincide with the existing peak traffic times as future occupiers are all likely to be retired. Highways have confirmed that the proposed layout of the access is sufficient to accommodate two-way car movements but that details of a construction specification and visibility splays for the access are still required and that the recommended condition regarding this should be imposed.

6.5 Trees and Ecology

- 6.5.1 A tree constraints plan and tree protection details have been submitted and this indicates that 4 trees in the centre of the site and 4 trees to the rear of the site (trees 13 – 20 inclusive on the tree protection plan) and a single tree (tree 9) in the North East corner are required to be removed. The tree officer has no objection to their removal and recommends a condition in order to protect the retained trees on the site and the adjacent important amenity trees. Although a landscape plan has been submitted a landscaping condition will also be imposed requiring full landscaping conditions to be submitted for approval as the Ecologist has recommended that it should ideally contain more native species of local provenance and species of particular value to wildlife.
- 6.5.2 The proposal involves the demolition of a building and therefore an ecological survey is required and a bat survey was undertaken in summer 2016. The initial inspection revealed pipistrelle droppings in the loft space but their age indicated that the loft space had not been used by bats in 2016. The emergence surveys of 2016 also revealed that bats did not appear to be currently using the building. A single nocturnal survey has recently been undertaken and the report concludes that the roosting feature identified is not currently in use. It is likely that the loft space was used by a single or small number of Pipistrellus sp. during summer 2015. Ecology have confirmed that Natural England consider that an identified roost is still protected regardless if bats have been recorded emerging/re-entering the bat roost feature and that it can not be 'de-designated' until sufficient survey information has been collected to confirm that it has not been occupied by bats for over 5 years. As 5 years has not lapsed the roost falls under the legal protection of the Habitats Regulations and therefore an EPS species licence is required for the development to proceed.
- 6.5.3 Ecology have completed the 3 tests matrix and have confirmed that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the recommended conditions are imposed and complied with. These conditions will ensure that the Method Statement which sets out mitigation, compensation and enhancement measures will be carried out including four bat tubes installed in to the fabric of the new building and three Schwegler bat boxes erected on mature trees on the site. As work will need to be conducted under licence from Natural England the completed EPS three tests matrix is attached as appendix 2 to this report and should be noted by members.
- 6.5.4 The recommended informative and condition regarding birds and the erection of bird boxes will enhance nesting opportunities for wild birds and a landscaping

condition will ensure appropriate landscaping of the site. The development of the site will also ensure that Japanese Knotweed is eradicated from the area.

6.6 **Developer Contributions**

- 6.6.1 A viability appraisal has been submitted to determine the amount of affordable housing contribution and at the time of writing this has not yet been agreed with the housing enabling team. It is unlikely that the amount of affordable contribution would be sufficient to provide on site provision and officers request that if members are minded to approve this application (subject to a S106 to secure an affordable housing contribution) that they grant delegated authority to officers to agree the amount and issue the decision on completion of the S106. Members will be updated if an agreement is reached on the amount before the date of the committee.
- 6.6.2 The fall-back position is the retention of the existing house and the implementation of the planning permission for 4 houses on the adjacent land which does not include an affordable housing contribution. This proposal although not providing affordable housing on site will provide a financial contribution to affordable housing and will also achieve a fat higher CIL levy compared to the previously approved scheme for 4 houses.

7.0 **CONCLUSION**

- 7.1 Residential accommodation is acceptable in principle in this location and it is considered that the benefits of the scheme outweigh any perceived adverse impacts. It will provide 32 homes that will help boost housing supply whilst meeting the needs of the ageing population and releasing under-occupied family homes to the market. The proposal would not result in a significant increase in traffic and would not adversely impact on highway safety or result in significant congestion along Wenlock Road or at nearby roads and junctions. Given that over half of the residents will have made a decision to give up car ownership on purchasing one of the apartments it is considered that the parking provision is adequate. If the development results in on street parking the S106 will ensure that funds are secured to introduce any appropriate waiting restrictions or Traffic Regulation Orders on Wenlock Road and/or any adjacent streets. A S106 will also secure an affordable housing contribution with the exact amount yet to be agreed.
- 7.2 Officers consider that the proposed scale, design and appearance of the development is acceptable and would have no adverse impact on the character and appearance of the area or adversely impact on residential amenity. The building to be demolished is not considered to be a non designated heritage asset as it is one of many examples of early 20th century housing in the area. It is not a particularly exemplary example of this period or type of architecture and has been extended significantly and its historic form has been largely subsumed by modern extensions. Its removal is in any case permitted development. The proposal would also not result in the loss of any significant trees and will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range subject to compliance with conditions and requiring an EPS licence from Natural England.

7.2.3 The proposal is therefore considered to accord with local plan policies, CS2, CS6, CS11, CS17, MD2 and MD13 and approval is recommended subject to a S106 to secure an affordable housing contribution with the agreement of the exact amount being delegated to officers.

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: NPPF

Core Strategy Policies: CS2, CS6, CS11 and CS17

SAMDev Policies: MD2 and MD13

RELEVANT PLANNING HISTORY:

16/03635/FUL Erection of 4 no. detached dwellings with 3 no. garage blocks GRANT 3rd November 2016

11. Additional Information

List of Background Papers: File 16/04590/FUL
Cabinet Member (Portfolio Holder): Cllr R. Macey
Local Member : Cllr Ted Clarke, Cllr Jane Mackenzie, Cllr Tony Parsons
Appendices APPENDIX 1 – Conditions APPENDIX 2 – EPS £ Tests

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

4. No development shall take place (including demolition, ground works and vegetation clearance) until a Japanese Knotweed management plan has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out strictly in accordance with the approved management plan.

Reason: To ensure the safe eradication of Japanese Knotweed from the site and to ensure that it does not spread

5. No development shall take place (including demolition, ground works and vegetation clearance) until either:

- a) a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted to the Local Planning Authority; or
- b) a statement from an experienced ecologist has been submitted in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required.

Reason: To ensure the protection of bats, which are European Protected Species.

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

6. All demolition, site clearance and development shall occur strictly in accordance with the Soft Strip Method Statement (Environmental Services, December 2016), unless an alternative Method Statement is submitted to and approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

7. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan Ian Keen Ltd drawing 9178/o2 and in accordance with BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

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

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

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

9. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

10. Prior to first occupation / use of the building, details for the provision of 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 4 artificial nests suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design).

The boxes shall be sited in at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of building if possible) with a clear flight path, and thereafter retained for the lifetime of the development.

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

11. No above ground works shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

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

12. No above ground work shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

13. No above ground works shall take place until details of the measures to be taken to provide adequate access and facilities for disabled people have been submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.

Reason: To ensure adequate facilities for the disabled, in accordance with adopted policy

14. No above ground works shall take place until a scheme of surface water drainage (including a proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility for future maintenance) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use and maintained for the lifetime of the development.

Reason: To ensure satisfactory drainage of the site and to avoid flooding and to ensure that the drainage system remains in good working order throughout its lifetime.

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

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

16. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery (including the glazed walkway) shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

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

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

17. Any gates provided to close the proposed access shall be set a minimum distance of 5.5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

18. No further windows or other openings shall be formed above ground floor level in the North East facing elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

APPENDIX 2: EPS 3 Tests matrix**EUROPEAN PROTECTED SPECIES – Consideration of the three tests****Application reference number, site name and description:**

16/04590/FUL
 Land At 117/125 Wenlock Road Shrewsbury Shropshire
 Erection of 32 retirement living apartments including communal facilities,
 landscaping and car parking; formation of vehicular access following demolition
 of existing property

Date:

30th January 2017

Officer:

Sophie Milburn
 Assistant Biodiversity Officer
 sophie.milburn@shropshire.gov.uk
 Tel.: 01743 254765

Test 1:

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

The proposal will boost housing supply in a sustainable location providing 32 purpose built retirement homes that will meet the needs of a growing ageing population and subsequently release the supply of family homes to the market. Although not providing affordable housing on site the development will provide a financial contribution to affordable housing and will also achieve a far higher CIL levy compared to the previously approved scheme for 4 houses. The proposal will provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site (including eradication of Japanese Knotweed) with no adverse environmental impacts.

Test 2:

Is there **'no satisfactory alternative?'**

The alternative is not to develop the site or alternatively not demolish the house and implement the previously approved scheme on part of the site. However this would not provide the boost to housing supply numbers in Shropshire, would not make effective use of the land and would not provide an affordable housing

contribution or CIL. This would therefore not provide the social and economic benefits of the proposal and the ecological enhancements of the site including the eradication of Japanese Knotweed to be secured by conditions attached to this planning permission.

Test 3:

Is the proposed activity '**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range'?

A bat survey between July and August 2016 identified a common pipistrelle roost in the building, used in 2015 by a single or small number of bats.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be demolished.

The Soft Strip Method Statement (Environmental Services, December 2016) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 3 Schwegler bat boxes will be erected on a suitable mature tree on the site.
- Works will take place under the supervision of a licensed bat ecologist.
- The roof should be removed between December and March.
- Toolbox talks will be provided.
- A pre-commencement inspection will be carried out.
- Areas of the roof with potential roosting features will be soft stripped by hand.
- 'Once these parts of the roofs are stripped, the open loft areas will be left open to the elements overnight to let any bats present (if any) to disperse naturally. Once the soak period has passed a further inspection will take place and the complete demolition of the building can proceed immediately after this inspection.'
- Should a bat be discovered, it will be relocated by the licensed bat worker.
- 4 bat tubes will be 'installed in to the fabric of the [new] building in groups of two.'
- 'All external lighting during construction to be angled downwards and away from any bat sensitive areas.'
- 'All new lighting within areas of the gardens and on external walls to be kept as low as possible and on short PIR timers.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at a favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Jane Raymond (dated 30th January 2017) are included on the decision notice and are appropriately enforced. The conditions are:

- Working in accordance with protected species survey;

- European Protected Species Licence; and
- Lighting plan.

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Committee and date

Central Planning Committee

31 August 2017

Item

7

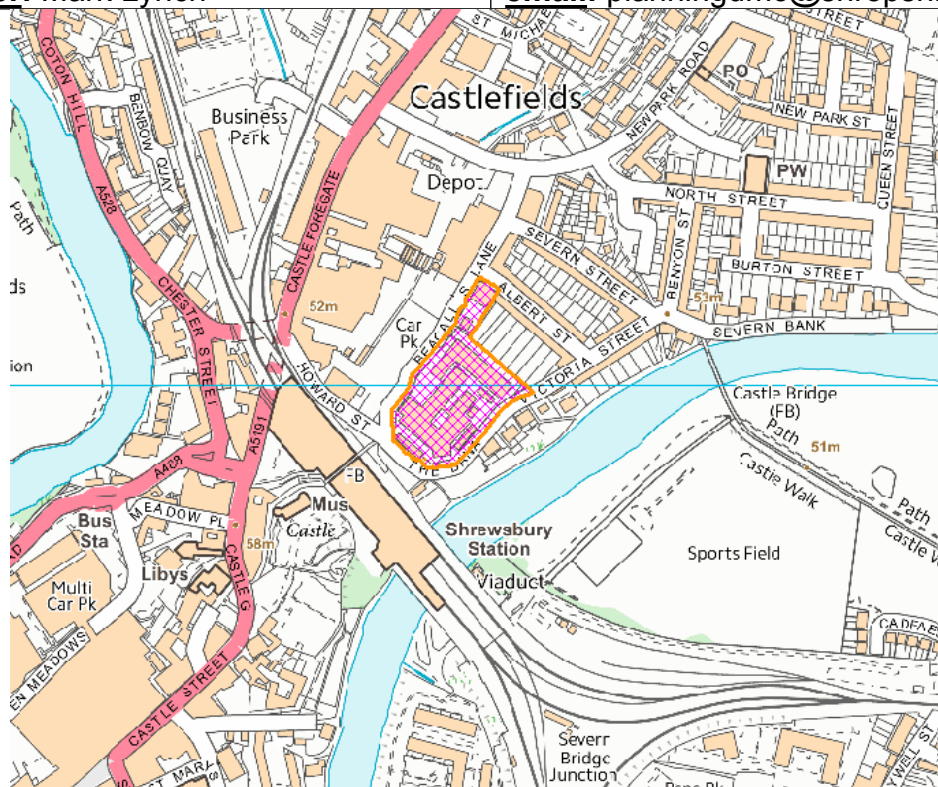
Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 17/02809/OUT	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Outline application for the redevelopment of the Dana into a mixed use development including converting the existing prison buildings (defined as use class C2a) into student accommodation (sui generis), residential dwellings (C3), A1/A3, B1/D1, D2 use along with significant landscaping works across the site (all matters reserved).		
<u>Site Address:</u> Former HMP Prison, The Dana, Shrewsbury, Shropshire		
<u>Applicant:</u> Mr Trevor Osborne		
<u>Case Officer:</u> Mark Lynch		<u>email:</u> planningdmc@shropshire.gov.uk



Recommendation: - Grant Outline Planning Permission subject to:**1. The conditions set out in Appendix 1.****REPORT****1 THE PROPOSAL**

- 1.1 This application is a resubmission of 15/05591/OUT, which was refused by Central Planning Committee on 22nd December 2016. The current application represents a revised proposal that has taken into consideration the views expressed by Committee Members. It is an outline planning application with all matters reserved but which contains a level of detail provided in the form of indicative plans and drawings to better illustrate what is being proposed.
- 1.2 As before, many of the buildings on the prison site will be retained and be converted to alternative uses, together with the removal of a series of modern additions and their replacement with new development. An illustrative master plan has been submitted indicating how the site could be developed. This is explained in more detail in the following paragraphs.
- 1.3 The prison is Grade II listed and contains a range of buildings dating from the 18th Century right through to the 20th Century. It is the intention of the applicant to preserve the more important heritage elements of the existing site with other less valuable elements, dating mainly the 20th Century, to be removed. Cleared areas will enable new buildings to be constructed. Parts of the site date from the Georgian Period when the prison was first established. The Gatehouse and the B and D Wings are the oldest part of the prison with the central block dating from 1787. The main cell wings, A and C, date from the 1880's. This group of buildings is a mixture of two, three and four storeys and offers an opportunity for sensitive re-use. The buildings proposed for retention and re-use are listed later in this part of the report.
- 1.4 The Lancasterian School building on the corner of Albert Street and Beacalls Lane is two and half storeys in height. It is not listed in its own right and is to be retained and converted into apartments. The existing two storey gymnasium building in the south western part of the site is to be retained and will be reused as a gymnasium accessible to members of the public as well as residents within the site.
- 1.5 The large, modern education and workshop buildings on the north western side of the site are to be demolished and the cleared site will be available for the erection of a new residential block with car parking underneath. The Design and Access Statement describes these buildings in detail. They were part of the redevelopment of the prison in the 1970's and are utilitarian steel structures clad in stretcher bond red brick with high-level strip windows, which have bars fixed to the interior. Internally they have generic suspended ceilings and carpeted or linoleum floors. The workshop building has the metal deck roof exposed internally, and all services are also exposed. When the education building was constructed, the internal levels were set incorrectly which means that there are changes in level via short ramps in

the communal corridors, which contribute to the reasoning for the removal of this building.

- 1.6 The remaining buildings proposed for removal are largely single storey, of recent vintage and of modern, functional appearance. There are also several metal storage containers on the site; some of which are stacked on top of each other, that will be removed. These structures are situated to the rear of the gymnasium and workshop buildings facing the northwest curtain wall to the prison and within the area around C Wing and the kitchen building. Their removal will reveal the more historic structures and allow them to have more of a sense of setting, according to the Design and Access Statement.
- 1.7 The reception building within the front courtyard is a single storey redbrick and slate building located behind the gatehouse. It is in poor condition and its removal will reveal the front elevation of the more impressive B Wing on entry to the site. The gatehouse itself will not be altered although the crude, flat roofed visitor entrance structure added to its side wall will be removed.
- 1.8 The application is in outline only but a set of indicative drawings and a masterplan accompanied by a set of written Urban Design Principles have been submitted demonstrating how the site could be developed. The proposed development and incorporated uses are listed as follows:
- The Gatehouse – to be converted and re-used as 3 residential units (Use Class C3)
 - A Wing – to be converted and re-used for student accommodation purposes. Maximum of 109 or minimum of 88 (this is dependent on kitchen location requirements to be determined during the development of the servicing and fire strategy)
 - B Wing and D Wing– (this is the combined front range) – to be converted and re-used as residential providing a maximum of 16 apartments.
 - C Wing – to be converted and re-used as residential apartments or student facilities (maximum 16 student rooms).
 - The Prison Kitchen – to be converted and re-used as either retail (Class A1) or a restaurant/cafe use (Class A3). Floor space for each use will be 198m².
 - The Education Block and Workshop Building – to be demolished and redeveloped for a new 4 storey residential block (New Building C on the block plan) comprising 30 units and a car parking level at ground floor
 - Gymnasium – to be retained, refurbished and used as a gym/fitness centre available for public use.
 - The Lancasterian School to be retained and converted into 11 apartments.
 - New Building A - to be office on ground with C3 residential above. (Office approx. 240 m² and 8 residential units) of three and a half storeys.
 - New Building B - to be three storeys in height comprising car parking at ground floor with two floors of C3 residential (7 units) above.
 - Extensive re-landscaping of the site.
 - Provision of 91 car parking spaces within the site, including on the ramp alongside Beacalls Lane, which will also form the exit for the proposed internal one way circulation route.

- 1.9 In respect of the Urban Design Principles that are to be applied, the Design and Access Statement lists them as follows:
- Improve pedestrian access around the site and creating several controlled entry points through the prison wall to make connections with the surrounding streets
 - Improve views into the prison by opening up the south corner by removing parts of the unlisted section of boundary wall
 - Provide an enhanced entrance into the prison site
 - Provide access to a range of unique buildings for the public
 - Bring sustainable uses to existing empty Victorian and Georgian buildings
 - Provide a mix of uses which encourages diversity within the area
 - Landscape the site where possible as the current prison site has zero vegetation.
 - Promote permeability, activity and wider regeneration throughout this area of the Town
- 1.10 Three new buildings are proposed referred to as Buildings A, B and C on the illustrative masterplan. Building A will be located adjacent to the gymnasium building and Building B will replace the existing detached garage at the rear of the Lancasterian School adjacent to the wall that forms the boundary with the dwellings on Albert Street. Building C will replace the education and workshop buildings to the north of the gymnasium.
- 1.11 Building A is proposed to be either office space or non-residential institutional use at ground floor level with residential above. It will be three and a half storeys in height. Building B will be two and a half storeys in height and will incorporate eight apartments. The office space is intended to provide administration facilities for the management of the site when developed.
- 1.12 Building C is the largest of the three new buildings and the new residential building is part of the enabling development for the site in order to support the cost of redeveloping the listed structures which are to be refurbished. This new building will consist of car parking at ground floor with three storeys of residential above. The clearance of the education block will also allow for some surface parking within the A-wing courtyard. This parking will be interspersed with planting and trees to form part of the overall landscape proposals.
- 1.13 Although no official elevations of these buildings have been submitted and their design and appearance remains a reserved matter, indicative drawings and floor plans have been submitted in respect of all three. These are considered later in this report.
- 1.14 The application proposes removal of a section of the wall to form a new access point and which will help to open up views of the site from the Dana.
- 1.15 The works to convert the retained historic buildings will be a matter for the next, reserved matters, stage in the application process. However, the applicant has emphasised the desire to affect as little as possible the character and appearance

of the buildings, including the interiors. The applicant is aware that a future reserved matters application will have to be accompanied by a Listed Building Consent application setting out in much more detail the alterations proposed to the listed buildings on the site.

1.16 The application is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Heritage Statement
- Transport Statement
- Car Parking Plan
- An Acoustic Consultancy Report
- Updated Noise Assessment
- Bat Survey Reports and Preliminary Roost Assessment
- A statement from the former Prison Maintenance Manager
- An Outline Student management Plan
- A Biodiversity Impacts Statement

1.17 Although the application is in outline with all matters reserved, members are being asked to agree a specific quantum of development and development parameters including the siting of new development, overall building heights and massing envelopes, floor space and car parking and service provision. The reserved matters will develop these themes further by adding precise detail to the various elements of the development.

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The site is the former HMP Shrewsbury, which was closed in 2012. It is a rectangular site enclosed by a tall brick wall with a Georgian gate house located on the south western side. The site of the prison is listed Grade II and is located within the Castlefields Conservation Area. The application site also includes another element containing the Lancasterian School building and its curtilage which projects as a limb to the northeast of the main walled prison site. It is largely self-contained within its own grounds. The site was originally developed as a prison in the 18th Century and was remodelled and extended over the following centuries to form the building that exists today. Little remains of its Georgian origins although some base levels of walls within the older parts of the prison appear to date from this period.

2.2 The site lies on the northern bank of the River Severn on elevated ground. There are streets of dense, traditional terraced dwellings immediately to the north east and east and a range of two storey semi-detached and detached dwellings to the south east on land that is at a lower level. To the west is the railway line and Shrewsbury Station with Shrewsbury Castle located just beyond. To the north across Beacalls Lane is the Network Rail car park with the Royal Mail sorting office beyond it. All of these surrounding developments are on land that is at a lower level

to that of the prison.

- 2.3 The site of the prison is encircled by a tall red brick wall with the gatehouse forming the focal point on approach from the west. The walls have been increased in height over the years and there is a distinct line along the wall that denotes the original height of the wall dating from Georgian and Victorian periods. The gatehouse dates from the 18th Century and contains the main access to and egress from the site. The majority of the buildings that are to be retained are constructed from traditional red brick with slate roofs, although several of the more recent buildings are rendered and have flat roofs. There are also elements of ashlar stone within the site, most notably on the gatehouse building.
- 2.4 The main prison blocks A, B, C and D are three and four storeys in height. The cell windows are relatively small and have multiple lights. The fenestration arrangements on the buildings create a distinct vertical emphasis contrary to the horizontal mass of the buildings. A Wing is the tallest and most substantial building on the site. It contains a number of distinctive ornate chimneys which dominate views across the site and these are to be retained. The roof also supports three lantern lights that run along the length of the ridge between the chimney stacks, which allow light to pass via light wells into the structure down to the ground floor. The building contains a substantial number of cells and these are arranged around the central atrium. This is dominated by prison stairwells, walkways and balconies. The gallery around each well has original iron brackets which support the walkways.
- 2.5 The uniform cells of the interior have narrow doorways and vaulted ceilings. On all except the ground floor a number of original cell doors remain. The original doors are timber with a metal panel fixed to the inside, unlike later doors which are steel.
- 2.6 The intention is to refurbish the building by utilising the cells as study bedrooms for students. Each group of three cells is proposed to be subdivided into two study bedrooms by converting the central cell into a pair of en-suite shower rooms. The high level prison windows will be retained as they are and some of the bars may be removed, subject to further consideration at the reserved matters and listed building consent stages. The shower room will be accessed from within each corresponding study bedroom by breaching the internal wall to create a doorway. Each floor will be subdivided into four 'cluster' flats consisting of 6 to 8 bedrooms, a communal kitchen and dining area and an access staircase. The staircases will be inserted within existing cells and involve breaking through the floor to the levels below. The galleries on each floor will incorporate several communal seating areas.
- 2.7 B and D Wings form part of the same range of three storey red brick buildings to the rear of the gatehouse. They date from 1787 and were extended between 1885 and 1888 and include the former Governor's House. The interior of the building was subject to radical alteration during the 20th Century and very little of the original interiors remain.
- 2.8 The area surrounding the prison site is a mixture of residential and commercial. The area to the north east of the site is predominantly residential in nature

comprising narrow closely knit Victorian streets. The River Severn flows along to the south east of the site at the base of a steep bank. To the west is the Shrewsbury Railway Station and the main line runs immediately to the south west of the proposed car park on the Dana. Beyond the line on elevated ground and overlooking the station car park sits Shrewsbury Castle. To the north west on the opposite side of Beacalls Lane, a one-way street is the station car park.

2.9 The former prison car park is located across the Dana to the south west of the prison itself, adjacent to the railway line. This facility is to be retained to provide car parking to serve the needs of the proposed development.

3.0 **REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION**

3.1 The application is considered to raise complex planning issues and is considered by the Planning Services Manager in consultation with the Chairman that it should be determined by Planning Committee.

3.2 In addition, as the previous application on the site was considered and refused by the Central Planning Committee, it is considered appropriate that Members should be aware of the changes now proposed so that an informed decision may be taken.

4.0 **COMMUNITY REPRESENTATIONS**

- Consultee Comments – comment.

4.1.1 **Town Council** – Neither supports nor objects:

By way of background Councillor Mosley reported on the previous application which was refused on overdevelopment, resident impact, traffic and building impact in the vicinity. This revised application allays many of the concerns of residents with significantly more on-site parking, retained walled garden and recreational open space, demolition of all buildings other than those listed and the modern gymnasium.

Members discussed the development of 120 student accommodation units and the need ultimately to ensure that there was a Student Management Plan prohibiting students bringing a car.

The Town Council welcomes the amendments to the application for this site and would wish to reserve their comments until full details are made available.

4.1.2 **SC Drainage** - comment:

No objection. The following drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted:

The site is classed as brownfield, therefore a 50% betterment to the current surface water flows should be provided in accordance with Shropshire Council requirements. On the Design and Access Statement, it states that hard surfaces

will be replaced with grass and planted courtyards, with gravel edging and permeable paving. A plan showing 50% betterment of replacing hard surfaces with soft landscaping and permeable surfaces should be submitted for approval.

4.1.3 **SC Ecology** – comments:

Recommendation:

I have provided a European Protected Species 3 tests matrix for bat species, which confirms that the Favourable Conservation Status of bat species on site can be maintained, providing the conditions suggested are attached to any planning permission. The planning officer is required to consider and complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.'

The conditions and informatives detailed below should be attached to the planning permission if granted.

Bats

Cellars are present under cell blocks A and C and a hibernation survey was carried out. Temperatures were found to be too high in the cellars (13-15.3 degrees centigrade) for bat hibernation, with low humidity, and static bat detectors showed no signs of bat activity between February and April (while temperatures periodically reached below zero through into April outside). No droppings or other physical signs of bats were found. It is highly unlikely bats use the cellars for hibernation.

The day time preliminary roost assessment identified a range of possible bat entry points and potential roosting sites throughout the building complex but no direct evidence of bats was found except small numbers of old droppings in the roof spaces of D Wing, C Wing, the Kitchen and the Lancastrian School.

Summer activity surveys were carried out to determine use of the site outside of the hibernation period. The amount of bat activity increased through the summer season with second emergence surveys showing there was a constant amount of bat activity of pipistrelle species concentrated in the C wing courtyard and A wing sports pitch every survey and most nights according to the externally mounted static detectors. Some bats commute in from the river direction whilst others roost on site. Most nights revealed occasional passes of Noctule Bats either commuting or foraging across the site, but the majority of bats recorded were Common and Soprano Pipistrelle Bats. The externally placed detectors recorded a Brown Long-eared Bat on the 29th June. The data showed that the sports pitch and courtyard are used extensively for foraging during the first one to two hours after sunset and sporadically thereafter until dawn or one hour before.

The report concludes that B wing roof coverings are presently used as a summer day roost for two to four pipistrelle bats. Judging by the lack of fresh droppings or any recordings on internally placed monitoring detectors, it is concluded that bats did not use the roof spaces during the survey period. Given the habit of bats to change their roost sites, it is likely that the prison is being used in conjunction with other roosts in the local area. There was no evidence to suggest the presence of a

maternity roost, where females gather to give birth and raise their young, in the building.

The report states that given the size, nature and complexity of the site, is perhaps surprising that so few roosts exist but there are various factors that may deter bats from occupying this site. These include the former intensive use of the buildings, the use of close-fitting composite tiles, general good state of repair of the structures and high levels of security lighting.

The bat populations roosting in and foraging around the site will be adversely affected by the development and mitigation will be required. Likely impacts during demolition, construction and long-term occupation of the development include:

- Disturbance from noise, vibration and alteration to light levels;
- Destruction of roosts, particularly through roof repairs and blocking of access points with scaffolding;
- Risk of killing or injury of individual bats when lifting slates, ridge tiles etc.;
- Human disturbance.

In view of these likely impacts, a European Protected Species Mitigation Licence for bat species will be required from Natural England before works on the buildings, including erection of scaffolding or changes to lighting commence. The three tests under the Conservation of Habitats and Species Regulations 2010 must be considered before a planning decision is made. A European Protected Species 3 tests matrix has been submitted with this consultation response, which provides an assessment of the 'maintaining a Favourable Conservation Status test'. The planning officer is required to complete sections 1 and 2, 'overriding public interest' and 'no satisfactory alternative'. Please note, the conclusions I have reached under the Favourable Conservation Status test are only valid if any stated conditions are added to the planning permission if granted. If problems arise with the conditions, please contact me.

The bat survey report (reference 1 above) suggests the installation of two Schwegler 1FQ woodcrete bat boxes on the north-west gable of B wing and the raising of one or two ridge tiles in the approximate location of where bats were seen to be exiting during the activity surveys. It also suggests maintaining the dark commuting route from the Dana buildings to the river. These measures would be the minimum required to maintain the favourable conservation status of the summer day roost for 2 to 4 pipistrelle bats that was identified on the roof of B wing.

The following **conditions** should be attached to any planning permission:

1. Modification, demolition, changes to lighting or scaffolding of the Gate House, Wings A, B, C, D, the Kitchen block and the Lancasterian School as identified in the Existing Site Layout Plan Drawing Number P/002 Rev. A shall not in any circumstances commence unless the local planning authority has been provided with either:
 - a) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the

- specified activity/development to go ahead; or
- b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.
- Reason:** To ensure the protection of bats, which are European Protected Species.

2. Prior to commencement of development, a lighting design strategy and plan shall be submitted to the local planning authority for its written approval. The strategy and plan shall:
- a) identify those areas/features on site that are particularly sensitive for bats and nesting birds, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging;
 - b) clearly show on the plan the proposed dark commuting routes for bats providing a connection to the river corridor and
 - c) show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy before the development is first occupied, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. The submitted scheme shall be designed to take into account the latest best practice guidance on lighting and maintenance of bat populations.

Reason: To minimise disturbance to bats, nesting birds and other nocturnal wildlife.

Lighting informative

The latest Bat Conservation Trust guidance on bats and lighting is currently available at http://www.bats.org.uk/pages/bats_and_lighting.html. Useful information for householders can be found in Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (Bat Conservation Trust, 2014).

Although mitigation has been proposed for the roost that was identified during the activity surveys, the site appears to be used for foraging by four species of bat and a few bat droppings were found in the roof spaces of four buildings on site, showing

previous access. On such a complicated site, no bat survey can guarantee to find all bat roosts, especially for one or two crevice dwelling species. The LPA, through its Biodiversity Duty under the NERC Act 2006 and under the National Planning Policy Framework (see paragraphs 109, 117 and 118) must seek opportunities to enhance and restore biodiversity, including aiding the recovery of priority species populations. The Dana Prison also lies immediately adjacent to, and in the buffer zone, of the Shropshire Environmental Network which is covered by the Shropshire Core strategy policy 'CS17 Environmental networks'. This policy also seeks enhancement of the network, in this case the river Severn, which acts as a corridor for commuting and foraging bats.

In this application, the buildings with large roof spaces are to remain and opportunities should be sought to provide at least one bat loft suitable for species requiring space to fly (such as Brown Long-eared Bats) before leaving the roost. The Bat Mitigation Guidelines (English Nature) section 8.4.1 states that a void of dimensions of more than 2m high (floor to ridge board) and a floor area of over 5X5m would be necessary for species that fly in roof voids. In addition, due to the scale of the development and evidence of previous use by bats, additional bat boxes, bat bricks or bat tiles etc. should be provided on the prison buildings and the school. A few bat droppings were found in the roof of the Lancastrian School, and although well-lit at night, there may be potential to use the side of the building facing the back gardens and towards the river. The following **conditions** would be required:

3. The first submission of reserved matters shall include an updated and detailed Bat Mitigation and Enhancement Scheme and Method Statement, and these works shall be carried out as approved for the lifetime of the development. The submitted scheme shall include:
 - a) the recommendations in the 'Bat Survey Report, The Dana Prison, Activity Surveys, Shrewsbury, SJ495129 VC40', 16th May – 18th July 2016, by Treetec;
 - b) at least one bat loft of appropriate design and dimensions;
 - c) additional features such as raised tiles, bat tiles, bat bricks, bat boxes etc.;
 - d) provision for monitoring after construction;
 - e) provision for continued maintenance when the development is occupied;
 - f) a plan indicating the location of bat roost features and the dimensions of the bat loft.

Reason: To ensure the protection of bats, which are European Protected Species.

4. Prior to commencement of the development, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that the Bat Mitigation and Enhancement Strategy and Method Statement and other ecological mitigation and enhancement measures are adhered to. The ECW shall provide a report to the Local Planning Authority demonstrating implementation of these measures. This shall include

photographs of installed features such as bat and bird boxes once in place, details and dates of wildlife protection and mitigation measures in place, and findings of all pre-commencement checks undertaken for the protection of wildlife, and provision of replacement habitat and enhancements. The ecological clerk of works shall also provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place, as they progress.

Reason: To demonstrate compliance with ecological mitigation and enhancement proposals.

Birds

Two active nests for Swifts were observed at the Dana with two more unused, all situated on B Wing. Potential nesting sites appear to have been blocked and it is probable that more Swifts nested on the buildings in the past. Swift numbers are declining rapidly and they are an amber-listed species on the list of Birds of Conservation Concern. The Bat Survey Report (document 1 above) recommends that two Schwegler No 17A swift boxes are installed in the absence of suitable holes in the buildings at height. It is possible that at least 4 swift nesting sites will be lost through repair works on Wing B and this level of mitigation is not enough. In addition, we would be seeking enhancements for this species. It may be that 'swift bricks' would be more acceptable as they would blend into the brickwork better than swift boxes and some of the buildings are listed. A full range of artificial nests can be found at :<http://www.swift-conservation.org/index.htm>

The following **condition** should be attached to any planning permission:

5. As part of the Reserved Matters details for the provision of nesting opportunities for swifts shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the buildings.

Reason: To ensure the provision of nesting opportunities for swifts.

Informative

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, containing 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 conversion, renovation and demolition of buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the buildings for active bird nests should be

carried out. If buildings cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

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

Landscaping

The existing Dana Prison and school site is currently almost devoid of vegetation. The landscaping of courtyards and the perimeter of the site is welcomed and is likely to provide biodiversity as well as aesthetic benefits. Where possible, species chosen should provide a source of nectar, pollen and fruit for pollinating insects, birds and other wildlife. I assume detailed landscaping details will be submitted at reserved matters.

I note on the Ground Floor Plan in the Transport Plan that the trees towards the river appear to have been removed and replaced with formal planting and a revised pedestrian route constructed. This falls outside the red line boundary and would contradict the recommendations of the Bat Report as it would interfere, at least temporarily, with the dark commuting and foraging route for bats to and from the river.

Any Construction Management Plan should take into consideration the Bat Mitigation and Enhancement Strategy, including restricting lighting during construction to prevent disturbance to bat roosts.

4.1.4 SC PROW Officer – Comments:

There are no legally recorded public rights of way at any status within the site boundary of the former prison.

4.1.5 SC Public Protection – Comments:

Having considered the information in the updated noise assessment I am satisfied that should a 34dB(A) reduction between the external and internal environment be implemented that noise levels internally will be suitable. As a result I would recommend that a condition is placed to ensure this occurs in practice:

All windows and doors facing noise sources specified in noise report reference 4212-FAC-ATN-1B dated 16th December 2015 submitted with application 17/02809/OUT shall reduce noise by 34dB(A) between the external and internal space. Trickle vents which do not compromise the effectiveness of the noise insulation properties of the glazing shall be installed in all cases. Reason: to protect the health and wellbeing of future residents.

It is noted that no noise assessment of the gym has been submitted to assess its impact of the gym on residential receptors either existing or proposed. I would recommend that this element is not brought into use before a noise mitigation scheme is provided setting out how noise and activities associated with the use are

to be managed in relation to protecting local residential amenity.

4.1.6 **SC Archaeology** – Comment:

The county gaol was originally established at this location in Shrewsbury, on previously undeveloped land beyond the areas of medieval and post-medieval occupation, in 1787-1793. Details of the prisons subsequent development are provided within the Heritage Statement which has been submitted with the application. However, in summary, the late 18th century prison was subject to a major phase of re-ordering and rebuilding from 1883-1888, and subsequent incremental development in the later 20th century, including the addition of significant new buildings in the 1970s and 1990s.

The principal impact on any below ground archaeological remains will come from the proposed new build unit between the end of C-Wing and the 1990s gymnasium building. The Heritage Statement and Heritage Impact Assessment indicate that this area was originally partially occupied by one of the wings of the Georgian prison and it is possible that archaeological remains of this building may survive below ground. However, this part of the prison was demolished as part of the Victorian reordering and subsequently utilised as the prisons exercise yard (which had an associated toilet block). In the 20th century a boiler house was added to the northern end of 'C' Wing, and this was subsequently demolished and replaced by a number of steel framed structures in the closing decades of the prisons life. It is, therefore, likely that any surviving remains of the 18th century prison buildings will have been disturbed and truncated by later construction, demolition and servicing activities. Additionally, later 20th century plans of the prison site indicate that the site of the proposed new build unit was not utilised as one of the prisons burial ground, and it is not therefore expected that any human remains will be present. As a consequence, this part of the proposed development site is considered to have low-moderate archaeological potential.

Recommendation:

The Principal Conservation and Design Officer will provide advice on the effects the proposed development will have on the significance of the Listed Buildings, Conservation Area and built non-designated heritage assets. These comments therefore relate to the archaeological interest of the site as outlined above.

A Heritage Statement and Design and Access and Heritage Impact Assessment have been submitted with the application to meet the requirements set out in Paragraph 128 of the NPPF and Policy MD13 of the SAMDev component of the Local Plan. It is understood that these will be supplemented as appropriate with additional information with subsequent Reserved Matters applications.

In view of the above, and in relation to Paragraph 141 of the NPPF, it is therefore recommended that a programme of archaeological work, to comprise a watching brief during any ground works for the new build unit, be made a condition of any planning permission. An appropriate **condition** of any such consent would be: -

1. No development shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason: The site is known to hold archaeological interest.

4.1.7 **Shropshire Fire And Rescue Service** – Comment:

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Services Fire Safety Guidance for Commercial and Domestic Planning Applications which can be found using the following link:

<http://www.shropshirefire.gov.uk/planning-applications>

4.1.8 **SC Highways** – Comment:

The current application is a resubmission following the refusal of planning permission in respect of the previous application on this site 15/05591/OUT by the Central Planning Committee. One of the main concerns raised by Members and very much echoed by the local community related to the pressure of on-street car parking in the local residential streets adjacent to the former Prison site. The current application therefore has sought to address the parking issue with the provision of 91 on-site car parking spaces. The supporting information contends that the level of on-site parking provision now address the parking concerns.

In considering the current application and having regard to the previous fundamental concerns of parking provision, the main issue is whether the scheme is now acceptable in that it mitigates its parking demand impact upon the local highway network. The fundamental planning test however is that the cumulative highway impact of the development is not 'severe'.

At the outset and as covered in the Transport Assessment (TA), the previous use of the building as a Prison has to be acknowledged. Whilst it unlikely that these buildings would be brought back in use as a Prison, it is nevertheless its extant

planning use class. Whilst the site has not been in use for some considerable while, the Prison use would have generated significant staff parking demand that would not have been met with the parking facilities available. Although attempts have been made to gauge the likely parking demand, this is difficult to quantify with any degree of accuracy. The highway authority contend that the Prison use would have impacted upon the local streets by virtue of the staff numbers and the fact also that parking demand would have varied throughout the 24 hour period in the day and the changeover of shifts where there is an inherent increase in parking demand during a changeover shift.

It is noted also that the Lancastrian School, although no longer a School use, previously enjoyed planning use class of a School with the inherent issues of pupil drop off and pick up. Whilst no particular weight can be applied to the former use of this building it does demonstrate overall that the Prison and School uses generated parking demand and vehicle activity in the locality.

As part of the previous application submission, the TA outlines the parking survey carried out in Castlefields across an extensive area. This goes into some detail but the underlying fact is that parking demand in the Castlefields area is very high. The applicant at the time of the previous application offered to assist in the financing of a Residents Parking Scheme (RPS) that would favour existing residents of the area and not the development parking demand. A RPS would have a significant impact upon the local residents parking on-street, although it does need to be acknowledged that parking on the highway is a privilege and not a right albeit that the residential parking demand within the Castlefields area is long standing. As with all there is a balance to be struck between development parking requirements and potential adverse impact upon the adjacent areas.

The TA has set out the parking rationale of the scheme and the allocation of parking spaces to the various uses within the site and highlights potential alternative parking provision at the Network Rail car park. Ultimately there are still some unknowns in terms of the quantum of parking demand in relation to the Gym facility and proposed A1/A3. The residential parking in effect is provided at 1 space per unit, which can be allocated.

There is no student accommodation parking provision and it is stated that this will be regulated as part of the accommodation. Students pick up and drop however off would be controlled within the management of the student accommodation. Preventing student car ownership may be difficult to police as the accommodation is not specifically linked to the University but as privately controlled accommodation. However, in terms of student accommodation the site is highly accessible to the town centre, railway station and bus station. It is particularly attractive in students not requiring a car. Nevertheless it is acknowledged that the operation of the on-site parking provision is controlled within a suitably worded negative planning condition and including a Student Management Plan.

The TA, as previously, discusses the use of the Network Rail car park. It is more likely that parking demand not met by the development parking will seek parking in the local streets. During the peak user periods of a private gym, these are more likely to tie in when residential parking demand will be high and therefore less

prospect of finding on-street parking. Users would be potentially forced to use the paid car park or it could well influence users of the site. It is likely also that both students and residential occupiers would make use of such a facility.

As stated above the site is highly assessable to the town centre for walking and cycling together with close access to the railway station and bus station. There is somewhat of a topography issue in terms of those less able to access across the Dana footbridge and the gradient level down to Castlegates gyratory. The issues therefore may influence potential occupiers of the residential properties but by the same token the proximity of the site to the town centre could have a positive benefit in terms of potential car ownership.

In terms of other matters, it is not considered that the proposed development would have a significant adverse impact upon traffic issues in the locality.

Overall it is considered that the applicant has carried out a major shift from the previous submission in terms of the presentation of the current proposal by providing a significant level of parking within the Prison site. Having regard to the former Prison use of the site it is considered therefore that the level of parking provision now provided is sufficient to mitigate the impact of the development proposed. In its current form therefore the highway authority consider that a highway objection to the development, based upon a lack of parking, is not sustainable based upon a requirement to demonstrate 'severe' impact. Moreover, the highway authority does not consider that a financial offer towards a RPS would meet the planning tests of Section 106.

The TA covers other transport matters in terms of traffic impact and servicing the site by refuse collection etc. It is considered that these issues are satisfactorily addressed within the TA.

In conclusion therefore the highway authority therefore raises no objection to the granting of outline consent. In providing this recommendation, it is stressed that the comments are based upon the Masterplan of the development of the site and supporting information provided. It is acknowledged however that the current application seeks outline consent with all matters reserved.

The highway authority recommends the following Conditions are imposed:-

- The development hereby permitted shall not be brought into use/occupied until the areas shown on the approved plans for parking, loading and turning of vehicles has been properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.
Reason: To provide adequate parking and servicing facilities to serve the development.
- Development shall not commence on site until details of the car parking allocation of spaces shown on the approved details together with details relating to the dropping off and picking up of students unloading/loading shall be submitted to and approved in writing by the Local Planning Authority.

The allocation of car parking spaces and student drop off and pick up arrangements shall be implemented fully in accordance with the approved details.

Reason: To ensure the efficient operation of the site car parking in the interests of protecting the amenity of the local area.

- No development shall commence on site until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include the provision for the appointment of a Travel Plan Coordinator, an implementation timetable and enforcement mechanism and shall include arrangements for monitoring of the progress of the proposals, review and actions to be taken. The results of the implementation and monitoring of the Travel Plan shall be made available to the Local Planning Authority upon request.

Reason: In the interests of promoting sustainable transport and reducing car ownership objectives of the development.

- No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority and which shall include:-

1. The parking of site operative vehicles and visitors.
2. Loading and unloading of plant vehicles off the public highway.
3. Storage of plant and vehicles off the public highway at all times.
4. Wheel washing facilities.
5. Measures to control the emission of dust and dirt during the construction period.
6. Hours of construction, including deliveries.

The CMT shall be adhered to throughout the construction period.

Reason: To mitigate the impact of the construction period on the local area and in the interests of highway and pedestrian safety.

4.1.9 **SC Housing Officer** – Comment:

Core Strategy Policy CS11 provides that all open market residential development contributes to the provision of affordable housing with a number of exemptions, which are noted in Paragraph 4.24 of the SPD Type and Affordability of Housing. One noted exemption relates to the conversion of Listed Buildings, which also includes the curtilage of a Listed Building. The rationale for this exemption relates to the increased costs that are often involved with works to Listed Building due to enhanced build specifications and secondly, as a way of the Council supporting 'enabling' development. Therefore, there is no requirement for a contribution towards the provision of affordable housing from this development.

4.1.10 **Historic England** – Comment:

Previous comments submitted in respect of the previous application 15/05591/OUT

still stand.

As you are aware you have kindly arranged for us to meet on site with the applicant and the local authority to discuss the scheme on 4 August 2017. Therefore, although we have no further comments to make at this stage regarding the supplementary information recently submitted, we may of course have further observations following our site meeting.

Addendum:

We do not in fact have any additional comments following the site meeting we had on the 4th August 2017.

Previous comments in relation to 15/05591/OUT:

Summary

Historic England supports this application in principle.

Historic England Advice

We are grateful that our earlier informal advice has been taken into account, and are glad to say that we support this application in principle as an appropriate, constructive and creative approach to the re-invigoration of this remarkable historic site and the resulting enhancement of the conservation area. Our advice particularly takes into account the well-being of the site itself and its listed historic buildings, the conservation area, wider benefits to the fine historic town of Shrewsbury, and the setting of the Castle, a Scheduled Ancient Monument.

The proposed new uses have the potential to work well with the particular significance and challenges of each building, but success here will be heavily dependent on a high quality of design and execution. In particular, the windows of A and C Wings will demand imagination and flexibility by all concerned, and we look forward to joining the discussion.

Another difficult design issue will be how to make openings in the perimeter wall. Whilst we have no objections to lowering the wall back to its former height, new openings should be kept to a reasonable minimum commensurate with the new activities within. We would encourage a consciously 'non-architectural' solution to the new opening designs, working in conjunction with the excellent emphasis on greenery that the project envisages.

Recommendation

Outline planning permission should be granted, with reserved matters encouraging continuing involvement of your Council's specialist officers, and ourselves, in the development of the scheme towards applications for full planning permission and listed building consent.

4.1.11 **SC Conservation** – Comment:

Background

The former Dana prison site is a significant landmark in the historic townscape of the Castlefields area, and consists of a number of listed Georgian and Victorian prison buildings, and associated structures. It is a rare example of a recently occupied prison, which has significance nationally and regionally for its architectural integrity, cultural and historic association with internationally renowned engineers and architects, and to the social history associated with its use and occupation.

The county gaol was originally established at this location in Shrewsbury, on previously undeveloped land beyond the areas of medieval and post-medieval occupation, in 1787-1793. Details of the prison's subsequent development are provided within the Heritage Statement which has been submitted with the application. However, in summary, the late 18th century prison was subject to a major phase of re-ordering and rebuilding from 1883-1888, and subsequent incremental development in the later 20th century, including the addition of significant new buildings in the 1970s and 1990s. Significant architects and engineers were involved in its design and construction, including Haycock and Telford.

Policy context

The provisions of Section 66(i) and 72(i) of the Planning (Listed Buildings and Conservation Areas) 1990 Act apply, in terms of the duty of the LPA to have special regard to the desirability of preserving or enhancing listed buildings and their setting, and of the character and appearance of Conservation Areas. The special interest of the heritage asset is determined through its listed status – there are a number of historic buildings within the walls, which are themselves listed, and the entire complex sits within the Shrewsbury Conservation Area. The Lancasterian School, adjacent to the site to the north, is a non-designated heritage asset which contributes positively to the character of the Conservation Area.

Background to recommendation

There are indirect impacts in terms of the visual effect of the increased height of the new building to replace the education block, the new build B to the rear of the Lancasterian School and direct impacts through the removal of historic fabric from the wall and demolition of modern buildings in order to enhance connectivity between the two sites and to open up the site. This has been limited to the minimum necessary to provide appropriate access and to ensure the viability of the scheme. Further works involved in the adaptation of the historic buildings are provided in outline form only at this stage, and the principle of these alone can be considered at this stage.

Assessment

Notwithstanding the details of the new buildings proposed in outline at this stage, any negative effects are offset by the in principle benefits of the scheme in terms of its renovation of the historic prison core and the Grade II listed buildings on site,

whose significance will be better revealed by the removal of the modern elements of lesser significance, as identified in the buildings assessment carried out and in the Design and Access Statement.

Stepping the proposed new building back from the rear of the historic A wing improves its legibility and the removal of the top five courses of the wall in this location will, whilst the building curtails an oblique view of the castle to the south, open up new views. The removal of the more modern elements of the boundary wall to the south to create a vehicular access will also result in new views between the site, the castle and historic town centre.

In relation to the new build elements in general, the use of colonnaded ground floor facades and canted fenestration could help to break up the massing of these new building elements and integrate them more into the scheme. The design of the roof storeys could also be broken up more as these appear heavy and bland at present, ensuring that they would contribute positively to the character and appearance of the conservation area. In all of these elements, it is essential that the essential character of the prison is not distilled.

Recommendation and conclusion

Overall, the scheme has a neutral effect on the character and appearance of the Conservation Area, and has the potential to enhance the significance of the listed buildings, through sensitive adaptation and improvements to their setting through the provision of a suitable scheme incorporating well designed new buildings and landscaping. It is therefore supported in principle from a conservation and design perspective.

Further comments on the detail of the new build elements and on proposals for the adaptation of the historic structures are reserved until the submission of reserved matters and the detail to be contained within a listed building consent application.

4.2 - Public Comments:

12 letters of objection have been received in respect of the proposals. The following points have been raised:

Objections:

General Observations

- While the improved facilities for onsite parking appear to go a long way meeting the concerns expressed by local residents the new plans show little detail of the proposed new developments.
- There is no change to the proposals for the student accommodation.
- Please consider a two storey build, less revenue, but much higher quality of life for everyone.

- It is apparent from the various diagrams that the North West corner of the site has been identified by the developer as an area which can be used as a profit engine for the whole of the site. This is completely to the detriment of the existing residents who are to be surrounded by 4 and 3.5 storey buildings.

Principle of Development

- The outline plans still indicate an over development of the existing site.
- The proposed new build apartment/residential block in the former school playground/car park again shows the level of over development within this scheme.

Traffic, Parking and Transport

- The car parking facilities for this development are woefully inadequate.
- One parking space for the apartments is not enough and the other facilities seem to have very low provision. As a property owner in the adjoining street it is clear the existing parking is at breaking point and this scheme is going to make matters much worse.
- The proposed route for vehicular egress through the site and down the existing ramp on to Beacalls Lane given existing parking numbers along this road is dangerous.
- There is no parking provision on site for students.
- The proposals still suggest that a parking management plan will prevent students from parking in the adjacent streets because they will not be allowed to own a car. It will be impossible to enforce this requirement without a residents parking scheme, as this is the only way that the Council will know who is parking on the streets.
- Whilst the developer maintains that student accommodation will be on a no car/vehicle basis; the ability to uphold this and provision for visitors to student accommodation has once again been overlooked.
- The recent survey undertaken by Shropshire Council shows that the existing residents occupy all the available spaces at night. Therefore the only reason to create a residents parking scheme seems to be to prevent students parking.
- If outline planning permission is granted it must be a condition of the permission that if the student flats are redefined as single occupancy flats that parking on site must be provided.
- Very against a new opening in this wall opposite no.5 and no. 4 The Dana. If an opening is essential surely a safer entrance could be made opposite no. 1 The Dana where there is already a paved area off the road, so people won't spill out onto traffic. This is a busy 2 way narrow road. Holders of the blue badge/mobility scheme are often parked here (current residents of the existing properties hold 3 of them).
- Although parking has been added 'within the site' the developer has now withdrawn the 26 or so from the main front car park. What has this been set

aside for?

- Whilst an added cost to the developer, a sub level car park could be put under his proposed new parking area. This would not only be significant to his target purchasers and businesses, but a great leap forward in gaining extra support for the redevelopment plans from the immediate neighbourhood.
- Note only 78 spaces for 78 apartments, most expectations of high-end residential apartments are that there are two cars per household and therefore 2 spaces per apartment required, there is of course also visitation.
- Unsure how many spaces are planned to serve the gym. In my experience at the gym that I attend there are typically 50 cars there at the times I go.
- The arrangement for public and service vehicle access remain problematic in that it is on the blind bend where a significant amount of Castlefield's traffic passes at peak times and so this is an obvious danger point, unless the walls were further opened-up.
- The developer is relying on historic prison officer parking numbers. Be that as it may, a new development such as this has to meet current parking standards.
- A totally holistic and overarching strategy for parking is required as part of the prison development and this must include all adjoining streets in this part of Shrewsbury.
- The School is to contain eleven apartments which may mean an additional twenty-two cars. Where are they going to park because the car park adjoining this property is now a proposed block of flats?

Heritage

- Historically the buildings show great character. The proposed large windows will dominate and will look very out of place and not complement existing buildings.
- Believe that the additional five brick courses proposed to be removed are historic and were added in the 1880s and should not be removed.

Amenity

- The New Buildings C should be no higher than the present ones. The New Building B appears as a block almost as high as the School. Residents consider that the addition of another large high building in an area of extremely high density to replace a one storey storage unit is not appropriate and would be detrimental to the area.
- Strongly object to new build A being three floors in height. A complete invasion of privacy.
- The large formal style roof windows, protruding out from the pitched roof, are not a local feature and will obviously, especially when combined with the proposed lowering of the prison wall be detrimental to the quality of life for everyone.
- The proposed 'New Build A' is earmarked to be an extra floor higher, hence giving loss of privacy to the existing property owners on The Dana (Road).
- Retaining the site walls at their current height, coupled with the 'walled

garden', will assist in buffering the noise from the site to the neighbouring community.

- The noise impact statement does nothing to address site redevelopment impact on the local area. Its intent is determine the suitability of the site for people moving into the prison site, not the impact of the development on current residents.
- Any modifications to the well-built and thick prison walls will generate tremendous levels of noise and vibration in the immediate proximity to residential dwellings. This impact needs to be addressed.
- The proposed block B is a huge shock to the residents. The existing building is a quarter of the footprint of the new building and whereas the existing building is one storey high the proposed building would be three and a half storeys high.
- This building will have the effect of blocking out the afternoon and evening sun from our gardens and will greatly reduce the light levels inside our houses. It will be an eyesore to look at being completely out of scale with the surrounding houses and it will greatly reduce our privacy. We will also have additional traffic noise and fumes in the area.
- The developers appear to be building this block so high so that they can have an access point from the top of the ramp which runs along the prison wall in Beacalls Lane. Anyone who looks at the height of this ramp and then imagines the proposed building being even taller to accommodate access from this ramp will understand the enormity of this building. Add to this its positioning right next to our garden wall and it is not difficult to imagine the sheer impact this building is going to have on our Victorian houses and gardens.
- Are the potential buyers of the eleven apartments in the Lancasterian School going to enjoy looking at a new build block of flats just metres from their main front windows?

Ecology

- The wall is used every spring by local ducks and the large wild bird population.

Design, Scale and Appearance

- New building B at the back of the old Lancastrian School and New building C at the Albert Street end of the complex are merely blocked in. We believe the developer should remember that this is a Conservation Area.
- We should not take a 1970's approach and remove the external wall height and spoil the heritage for future generations. Think long and hard before the five course brick section on the river side wall is removed.
- Need to know proposed height of new build A as this is adding to the detrimental effect and invasion of privacy that households along The Dana have enjoyed since the properties were built in the 1920's.
- We note that the diagram on page 48 'Greening the site' doesn't even contain the School and block B area. Can we assume from this that this area

will be a second rate area of the development without the greenery and adornments of the rest of the site within the walls?

- New Build Block C - It is both bewildering and concerning that the developers are suggesting building a four storey block to replace the workshops. It would be hard to deny that the existing building is ugly and needs to be demolished. But the prison walls are going to be dwarfed by the size of this building.
- When the original prison was built, the bulk of the building would not have been considered as residents and planners had little say in the matter. Why should we increase the height of the buildings even more when light and privacy is such a precious commodity? There must be a compromise.
- Castlefields is an area of small Victorian houses and residents who appreciate living in the area. Developers have to fund their business but surely not at a cost to residents when proposed buildings could be more sympathetically designed to fit in to the surrounding area with much less impact than they are threatening to have at present.

Need

- Question the need to provide more student accommodation as the Council have already given permission for even the most optimistic projection for student numbers.
- Shrewsbury University has not seen the student numbers anticipated and Shropshire Council have, themselves, cut the number of student units being built within the town centre. There is no requirement for circa 200 student units within the Dana site and the redevelopment of the site with students at its core is short sighted and at odds with the location of current & phased student accommodation within the town.

Other comments:

- Recognise and welcome the changes made in the transport plan, particularly the rigorous enforcement of a no car policy for students and help to establish a residential parking scheme. With these measures formally baked into planning I would be comfortable, but need more detail.
- Grateful that the applicant has responded positively to the wishes of several residents living on the Dana by agreeing to retain the top levels of brickwork on the perimeter wall which will preserve their privacy to an extent.

5.0 THE MAIN ISSUES

The main planning issues concern the following:

- Principle of development
- Siting, scale and design of development

- Visual impact, amenity and landscaping.
- Impact on local residential amenity
- Heritage impact
- Highway Safety, Traffic and Transport
- Drainage and flood risk
- Ecology

6.0 OFFICER APPRAISAL

6.1 Background to Application

6.1.1 Members will recall considering a previous planning application (15/05591/OUT) for the redevelopment of this site at the Central Planning Committee meeting held on 22nd December 2016. That application was for a similar form of development but was refused on three grounds, namely: that the proposals were considered not to provide sufficient off-street car parking to serve the proposals leading to increased congestion and traffic-related problems in the Castlefields area; that the intensity of uses and new development would lead to a cramped and over-developed site; and that proposed Building B off Beacalls Lane would have an adverse effect on the appearance of the area.

6.1.2 Since that time, the applicant has reflected on these reasons for refusal and has opted to refine the development proposals to overcome the objections leading to the current planning application. The following report will consider the revised scheme against adopted planning policies and the three reasons for refusal before reaching a conclusion on the planning merits of the scheme.

6.1.3 The key changes between the two schemes are summarised as follows:

- The site area has changed. The current visitors' car park adjacent to the railway is no longer forms part of the application site.
- The number of car parking spaces has increased from 39 to 91 providing 1 space for each of the 78 residential units (previously there were 30 spaces for the 47 units then proposed) and 13 short stay spaces for staff/visitors/gym patrons.
- All car parking is accommodated within the main prison site and predominantly within the walls. Previously, parking was to be provided on the Dana outside the prison walls and on the visitor car park. That is no longer the case.
- The number of student bedrooms remains the same at 120.
- The number of residential units has increased from 47 to 78 with one car parking space per unit.
- The mix of uses proposed on the site has been reduced and simplified. The flexible office/workspace/conference facilities have been removed from the

current proposals.

- The existing modern chapel/visits/workshop and education blocks to the rear of the site will be demolished and be replaced with a new residential building (Building C).
- The gym will be the only modern building retained alongside the historic structures.
- The new proposals now include residential, student accommodation, the gym, a café, a small administrative office space, car parking and landscaping.
- Proposed Building B at the back of the Lancasterian School has been redesigned to recess the top storey as a mansard roof instead of a set-back and to re-orientate the windows along the east side to ensure they look back towards the prison and not towards the rear gardens of the Albert Street properties. It also includes car parking beneath this building.
- A one-way circulatory system is to be implemented within the prison which means cars will enter the site alongside the Gatehouse and leave via the existing ramp onto Beacalls Lane joining the flow of traffic along the one-way system that already operates on the Lane.
- The setting of the listed buildings on the prison site will be enhanced by removal of further unsightly modern buildings.
- The area to the side of A-Wing will now be dominated by car parking in a landscaped setting rather than entirely by new landscaping as in the previous scheme.

6.2 **Principle of Development**

- 6.2.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 6.2.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy 2011 and the adopted Site Allocations and Management of Development Plan (SAMDev Plan) 2015.
- 6.2.3 The SAMDev Plan is the second part of the Local Development Framework for the county. The Core Strategy policies are complimented by the SAMDev Plan DPD, which provides additional detail to the over-arching policies contained in the Core Strategy. Following its adoption on 17th December 2015 previously saved policies of the South Shropshire District Local Plan have been superseded.
- 6.2.4 Other material planning considerations also have to be taken into account when assessing the proposals. One such material planning consideration is the National Planning Policy Framework (the Framework). In March 2012, the Framework

replaced all previous PPG's and PPS's and confirmed the Coalition Government's commitment to a presumption in favour of sustainable growth and development. In terms of decision making, this means approving developments that accord with the development plan 'without delay' and, where the development plan contains either no relevant policies or where those policies are out of date, granting planning permission unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted'.

- 6.2.5 The Framework sets out a presumption in favour of sustainable development. There are three dimensions to this, namely: an economic role, a social role and an environmental role. These roles are mutually dependent. It also advises local planning authorities in paragraph 50 to deliver inclusive and mixed communities and plan for a mix of housing based on current and further demographic trends, market trends and the needs of different groups in the community.
- 6.2.6 Policy CS1 of the Core Strategy establishes a settlement hierarchy with new development focussed in Shrewsbury, the Market Towns, other identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth. SAMDev Policy MD1 supports sustainable development within Shrewsbury, having regard to other policies contained in the Core Strategy and the SAMDev Plan.
- 6.2.7 Shrewsbury is regarded as being the most sustainable settlement in the county. The site lies within the settlement development boundary for Shrewsbury and its development for alternative uses is acceptable in principle.
- 6.2.8 Core Strategy Policy CS2 establishes Shrewsbury as the primary focus for new development for Shropshire and the priority will be making the best use of previously developed land and buildings for housing and other uses within the built-up area.
- 6.2.9 The application is in outline with all matters reserved and proposes a mixed use development including alterations to the listed buildings, demolition of existing structures and construction of new buildings on the site. All specific details will be considered at the next, reserved matters, stage. At present, the local planning authority is being requested to consider the principle of the proposed uses and quantum, height and massing of proposed new build on the site and the provision of parking and servicing areas. The proposals affect a range of planning policies as a result. These are considered in detail in the following sections.
- 6.2.10 As in the recently refused application, in terms of principle, there is policy support for the proposals. The site is located within the urban area of Shrewsbury and its re-use for a mixed form of development is supported by Policies CS1 and CS2 of the Core Strategy, in particular. Policy CS1 sets the overall strategic approach for development in the county. It confirms that Shrewsbury will be the focus for new residential and commercial development over the lifetime of the local plan. Policy

CS2 sets the development strategy for Shrewsbury. It states that a comprehensive and co-ordinated approach will be pursued in respect of the planning and development of Shrewsbury to enable the town to achieve a significant level of housing and economic growth whilst protecting and enhancing the town's role, character and the unique qualities of its historic built and natural environment.

- 6.2.11 This policy references the Shrewsbury Vision, the aim of which is to provide a comprehensive plan that identifies regeneration opportunities within the town and integrates with the Local Development Framework (LDF), Community Strategy and Cultural Strategy. It provides a business plan, a delivery plan and a spatial plan for Shrewsbury and links directly with the Core Strategy. It also references the Northern Corridor Regeneration Framework covering a wedge of the town stretching away to the northwest of the application site. This seeks to enhance existing major commercial, employment and mixed use areas, such as the Ditherington Flaxmill. In addition, the site lies within the area of the Castle Foregate Regeneration Area.
- 6.2.12 The policy also emphasises the need to make the best use of previously developed land and buildings within the town, especially those that make a contribution to the enhancement of the town centre, the redevelopment of edge-of-centre areas and the regeneration of the Shrewsbury Northern Corridor, which is recognised as a 'key area of change' in the SAMDev Plan. It also specifically mentions the importance of promoting, conserving and enhancing the town's natural and historic features.
- 6.2.13 Policy MD1 of the SAMDev Plan states that sufficient land will be made available during the remainder of the plan period up to 2026 to enable the delivery of the development planned in the Core Strategy. Sustainable development within Shrewsbury will be supported.
- 6.2.14 The supporting text to Policy CS2 explains that it is important that Shrewsbury should develop in a balanced and sustainable way as a community and a place in which to live, work, visit and spend leisure time in. Policies CS2 and S16 of the SAMDev are intended to facilitate development, change and regeneration to achieve this aspiration.
- 6.2.15 Policy CS13 of the Core Strategy is relevant in that it promotes new business activity across the district and specifically mentions supporting the development of local further and higher education and training facilities. The proposed development envisages such facilities being incorporated within the overall site.
- 6.2.16 Policy S16 sets out the development strategy for Shrewsbury and states that the town will provide the primary focus for development for Shropshire, as a sub-regional centre and Shropshire's growth point. Appropriate development and redevelopment that accords with the Strategy will be encouraged on suitable sites within the town's development boundary. Key areas of change in Shrewsbury are the 'Heart' of Shrewsbury and the Shrewsbury Northern Corridor, where proposals for new development/redevelopments and enhancements should have regard to the principles, priorities and objectives of the Shrewsbury Vision and Northern

Corridor Regeneration Frameworks, as appropriate, aiming to:

- i. Provide a sustainable and complementary mix of retail, community, employment and residential uses;
- ii. Support economic and community development;
- iii. Protect and enhance heritage, environmental and conservation assets, and deliver environmental improvements;
- iv. Incorporate approaches to access, parking and movement which support the integrated and sustainable transport strategy for Shrewsbury.

6.2.17 The application site lies within the Castle Foregate Regeneration Area. This establishes a framework for the redevelopment of the wider area and the vision for Castle Foregate is to develop its gateway role and particularly the sense of arrival around the station. In the longer term, it can develop its potential as part of the commercial heart of the town centre, linking the centre to the Northern Corridor. Aspirations for the area include:

- the improvement of the railway station forecourt
- improvements to the Dana Footbridge and potentially deliver a new link from the station to Abbey Foregate
- improving the existing buildings along Castle Foregate opposite the station and Royal Mail delivery office
- the event that the Royal Mail delivery office relocates, reusing the site for a new office development
- should the prison be relocated, possible re-use for hotel and related facilities including residential
- enhancement of the pedestrian experience

6.2.18 The development proposals comprise a substantially less complex mix of different uses compared with the previous scheme. These now include an increased number of residential apartments, the same level of student accommodation, a small office for use by the site management, the retained gym to be used as a fitness centre and a cafe. The previous scheme included a shop, additional offices, workshops, educational facilities and conference suites; all of which have now been omitted. As before, it should be noted that the University is not party to this application and the student accommodation does not have any official endorsement by that institution.

6.2.19 In relation to these policies, the proposed development meets many of the stated aspirations. It is a substantial regeneration project anticipated to deliver an investment in the region of £30 million. It is located within the Castle Foregate Regeneration Area and close to the area of the Northern Corridor, which are specific regeneration areas for the town. As a mixed use development, it proposes a smaller range of uses that the applicant considers to be complementary to one another as well as being appropriate to the nature of the surrounding area. It will involve the refurbishment and re-use of an important designated heritage asset that constitutes a landmark local building. The proposals will lead to the refurbishment of this important site within the regeneration area. Provided it respects the

character and appearance of the heritage asset its re-use as proposed would be acceptable in principle.

- 6.2.20 The Framework also supports the reuse of previously developed land and promotes the delivery of mixed use developments that lead to multiple social and economic benefits whilst also enhancing heritage and environmental assets. In this respect, the basic principle of the development fits with these aspirations.
- 6.2.21 There are other important planning issues that need to be satisfied including matters of scale, design, traffic impact and effects on heritage and environmental interests. These are explored in the following sections of the report, but it is considered that the proposals are acceptable in principle.

6.3 **Siting, scale and design of development**

- 6.3.1 Section 7 of the Framework is concerned with promoting good design and re-affirms previous national guidance that permission should be refused for development of poor design. It is necessary for new development to function well, establish a strong sense of place, have a suitable balance between built form and space, respond to local character and history, create a safe and accessible environment and be visually attractive. It also states, however, that permission should not be refused for development because of concerns about incompatibility with an existing townscape (notwithstanding effects on designated heritage assets, which may justify a refusal), especially where that development promotes high levels of sustainability. It requires that new developments make a positive contribution to their surroundings. In terms of design and layout, the form of the proposed development has been described above in Section 1. The key differences between the current and previous schemes are summarised above in Paragraph 6.1.3.
- 6.3.2 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by Policy MD2 of the emerging SAMDev Plan. In summary, these policies expect new development to be designed to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping. Significantly, Policy MD2 allows for appropriate modern design and promotes “embracing opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place, but avoid reproducing these characteristics in an incoherent and detrimental style.”
- 6.3.3 Members were notably concerned about the scale and design of the previous scheme to the extent that they overturned the officer’s recommendation and resolved to refuse planning permission. Two of the reasons for refusal were directly related to scale and design with members determining the overall scheme to be an overdevelopment of the site and identifying Building B at the rear of the Lancasterian School as being particularly problematic in that regard.

- 6.3.4 As before, the current application is an outline one with all matters reserved. An indicative master plan and illustrative elevations and floor plans have been submitted but little specific detail has been provided regarding the proposed alterations to those buildings that are to be retained or the design and appearance of the three new buildings. General parameters have been provided regarding how the site might be developed but with the details to be considered at the next stage in the process.
- 6.3.5 The majority of the historic buildings on the site are proposed for retention and conversion into a mix of different uses. The buildings to be removed are mostly functional, utilitarian and relatively modern in age and now include the massive education, workshops, chapel and visitor block located at the back of the site. The previous scheme retained these buildings for conversion and the current scheme is to replace these with a new 4 storey block (Building C) with car parking at base level and 3 floors of residential over.
- 6.3.6 The intention is to open up the settings of the more historic buildings that are currently compromised by the existence of these structures in the interests of providing a more sensitive development. The cleared space will also be subject to the addition of two further new buildings: one three and a half storey building (Building A) and one three storey building (Building B). The detailed design and floor plans of these buildings will be determined at the reserved matters stage. At present, the applicant is seeking only to establish general principles of development, although some indication of the eventual design of these buildings has been provided in respect of their likely position on the site relative to neighbouring buildings and structures as well as their height and roof-styles. For example, the top floors of these buildings are likely to be contained within a mansard-style roof designed to lower the profile of the building.
- 6.3.7 Illustrative elevational drawings have been provided indicating how the design of the new buildings could look; but these are merely indicative and are not definitive. It will be possible for the local planning authority to define, secure and influence key elements of the development at the reserved matters and listed building consent stages. To assist with achieving that, it is recommended that the future development be based upon the indicative layout plan together with height and locational parameters.
- 6.3.8 The detail of how the retained listed buildings will be altered to ease conversion to alternative uses will be considered at the reserved matters application stage. The alterations will also be the subject of a future detailed Listed Building Consent application to be submitted contemporaneously with the reserved matters. The specific detail of the works will be evaluated and managed at that more appropriate time. In the meantime, the principle of these alterations are considered to be broadly acceptable and in line with Policies CS6 and MD2.
- 6.3.9 The majority of works proposed to the retained listed buildings are considered later in Section 6.4 of this report. The removal of the modern, functional and utilitarian structures within the site is considered to be a benefit as they currently detract from the setting of the listed buildings. These will be carefully removed so that no

damage is caused to the listed structures and a suitable planning condition will secure this approach.

- 6.3.10 It is not anticipated that the retention of the existing prison gymnasium and its re-use as a publicly accessible facility uses will give rise to any design issues. It is proposed that the gymnasium be refurbished to provide a modern health and sports club facility and it will be open for use by residents of the development as well as others living in the wider community. The gymnasium is to be modernised throughout with the interior being reconfigured to upgrade the sports and changing facilities. Some external alterations are proposed and these will manifest themselves in the form of a 'green wall' applied to the external elevations. This will soften the utilitarian appearance of the building as well as enhancing the biodiversity interests of the site as a whole. The precise detail of how this will be delivered is a matter of detail to be considered at the next stage in the planning process. These details can be secured through a set of suitable landscaping and materials conditions.
- 6.3.11 The issue of scale must also involve an understanding of the quantum of development proposed which includes an assessment of the mix of uses, the density of development and the space allocated within the site to provide for amenity, car parking, turning and servicing for each of the uses. Previous concerns that related to the complexity and intensity of uses proposed within the site envelope and the impacts that these could have for the functioning of the development and for neighbouring occupiers and future occupiers of the site have been addressed in the current application.
- 6.3.12 As in the previous proposal, the level of car parking to serve the site is of concern to local residents; not least because existing car parking on the surrounding streets is at a premium and residents are fearful that any development that lacks adequate off-street parking will add to the demand for parking near their homes. The applicant has submitted an updated Transport Assessment which has been reviewed by the Highways Officer. The updated TA reflects the changes now made to the scheme, including the additional car parking within the prison, the reduction in the number of uses and the increased number of residential apartments proposed. The current proposals are less dense in form than the previous scheme and more open space created by new car parking areas within the walls has helped to reduce the impression of an overdeveloped site.
- 6.3.12 The impact of Building B located at the rear of the Lancasterian School in relation to scale, siting and design had been a concern during the previous application. The current application retains this building and reverts to the original concept of providing a level of car parking (13 spaces) at ground level with two floors of residential over. In response to the concern of committee members, this building has been set further back into the site from the Beacalls Road frontage wall in order to preserve more of the back elevation of the School building which is an important visual backstop in views north-eastward from Howard Street.
- 6.3.13 The building will replace an existing hipped roof single storey garage structure at the back of the School. The indicative master plan shows it to have a footprint

covering a smaller proportion of the curtilage compared with the previous iteration and, although in reality this is likely to be refined still further once the design has been fully resolved. The building will still accommodate 8 apartments but it will now be set back from both the Beacalls Lane boundary wall and the shared boundary with the adjoining property at 39 Albert Street. The refined design will expose more of the rear elevation of the Lancasterian School building in views from the Howards Street end of the Lane, which is considered to be an improvement compared to the previous submissions.

- 6.3.14 The Lancasterian School is not formally listed although it does constitute a non-designated heritage asset. The conservation area, however, is a designated heritage asset and potential harm caused to a component element (in this case to the feature building that is the Lancasterian School) is an important matter. The previous iteration of Building B, due to its proximity to the Lancasterian School, design and proximity to the frontage boundary, was considered to be harmful to the asset's setting. The amended design is considered to be more sympathetic, revealing more of the rear of the School building in views from along Beacalls Lane. It is considered to be more respectful and would not now be harmful to the setting and appearance of the conservation area. This matter is considered later in this report under Section 6.5.
- 6.3.15 Building A remains as before and was not considered to be especially controversial. However, one development that affects this building worth noting has been the applicant's agreement to retain the perimeter wall along Victoria Street/the Dana in response to the concerns expressed by local residents about potential overlooking. The retained upper section of the wall will assist in assuaging those concerns.
- 6.3.16 Building C is a new proposal and is designed to replace the existing modern education block that wraps itself around the corner of the site facing the back of Albert Street and adjacent to the ramp alongside Beacalls Lane. The current building is of monolithic and functional appearance and stands three storeys high with a further plant room on top. It is set back from the perimeter wall in line with the adjacent gym building. Previously, this building was planned for retention and conversion to commercial uses. The current application proposes replacing it with a new residential building four storeys in height and located closer to the back wall along the rear of Albert Street and to the wall along Beacalls Lane. Indicative plans and elevations showing apartments in the building have been supplied, but these are purely illustrative and do not necessarily depict what will be submitted for approval at reserved matters stage.
- 6.3.17 The increased height, proposed use and position of this building has the potential to affect residential amenity of the occupiers of the Albert Street properties in a way that the existing building does not. The building would be approximately 50 metres away from the back elevations of the Albert Street dwellings, so would be unlikely to exert an overbearing effect directly on the dwellings themselves. As the applicant has pointed out, the rear gardens of these dwellings also include some mature trees; several of which protrude above the top of the perimeter wall and provide a degree of protection.

- 6.3.18 However, notwithstanding this, the prison site is at a higher ground level which exacerbates the height of the building still further and unless carefully designed, the new building has potential to allow the apartments occupying the top floor to overlook the private rear gardens of the Albert Street properties.
- 6.3.19 The applicant is aware of these concerns and of the requirement to design a structure that will avoid overlooking of the properties to the rear. As this is a matter of detail, it will be more carefully considered at the next stage. As it stands, it is considered that a suitably designed four storey building in this tightly knit urban area is feasible in principle.
- 6.3.20 In terms of siting, scale and design, however, the development is capable of being designed so that it complies with Policies CS6 and MD2 as well as the design guidance contained within the Framework, in that regard.

6.4 **Impact on Local Amenities**

- 6.4.1 The Framework is particularly concerned with the impact that new development may have on the amenities of local residents. Amongst the core land-use planning principles that it embodies, those that affect this particular issue include the need to secure high quality design and a good standard of amenity for all existing and future occupants.
- 6.4.2 Core Strategy Policy CS6 also requires new development to contribute to the health and well-being of communities, including safeguarding residential and local amenity. Policy MD2 of the SAMDev Plan expects development proposals (amongst other things) to contribute to and respect locally distinctive or valued character and existing amenity value. This should be done by:
- i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and
 - ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
 - iii. Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; and
 - iv. Enhancing, incorporating or recreating natural assets in accordance with MD12
- Many of these aspects are matters of detail and are more appropriately considered at the reserved matters stage. Nevertheless, it is possible to assess the impact of the outline proposals in relation to several of these matters.
- 6.4.3 In terms of visual impact, the main effects will arise from the removal of modern, functional structures, the removal of a portion of and reduction in height of the boundary wall, the erection of two new buildings and the physical alterations to be

carried out to the retained buildings on the site, including the historic buildings.

- 6.4.4 The modern structures that are to be removed are mainly 20th Century functional buildings and containers that have either low degrees of heritage significance or which detract from the setting of the heritage assets on the site. Most of these structures are low level and are not visible from outside of the site. The direct impact of their removal on the amenity of the surrounding area is restricted because of this low degree of inter-visibility.
- 6.4.5 The lowering of the prison perimeter wall will potentially expose more of the buildings to public view, especially the retained gymnasium building and the attached workshop, chapel and education buildings, which already project above the existing wall. From certain vantage points, these buildings are visible from outside the site and they detract from the setting of the listed buildings within the prison. In response to local objections, the applicant has agreed to leave the height of the perimeter wall unchanged along the Dana and Victoria Road frontage. This has been welcomed by residents living in the former prison guard houses on the south-side of the Dana.
- 6.4.6 The gymnasium building was constructed comparatively recently (2006) and is of a particularly functional and incongruous design and appearance. It is in good structural condition and the applicant wishes to retain the building and re-use it as a gymnasium/fitness centre which may be used by non-residents of the site.
- 6.4.7 Greater exposure of this building to public view by reducing the boundary wall will create a potential adverse visual impact. The upper part of this building is already visible from Victoria Street immediately outside the site. There are intermittent views further to the east on this street towards the intersection with Albert Street. However, the narrowness of the street and the presence of roadside vegetation restrict views of the site until one is close to the south east corner of the prison. In order to preserve existing levels of residential and visual amenity in this particular area, the applicant has recently agreed not to seek the reduction in the height of the perimeter wall by approximately 1m along the Victoria Street and Dana frontage.
- 6.4.8 The applicant also proposes to clad this building with vegetation to form a “living wall” comprising hanging planting or vines added to the facades of the building. The applicant acknowledges there is a lack of vegetation on the site and is interested in adding as much natural planting to ‘green’ the site as much as possible given the degree of constraints. Although precise details are to be agreed, illustrative images have been provided that demonstrate how this could be achieved at the reserved matters stage. It is possible that such an approach would make a significant contribution to softening the hard, urban appearance of the gymnasium building to the benefit of external views of the building from Victoria Street. A suitable landscaping condition could secure these improvements.
- 6.4.9 The other two modern buildings attached to the gymnasium building and which turn the corner along Beacalls Lane date from the 1970’s and have a similar functional and relatively discordant appearance and are to be demolished. These will be

replaced with a new building. This has been considered above in Section 6.3.

- 6.4.10 The effects of construction traffic, deliveries and noise upon local residential amenity arising from development activities are also potential sources of harm although it is possible to limit these effects through a construction management plan condition should outline planning permission be granted. This will ensure that all work, including deliveries and storage of materials, is carried out between specific times, on specific days and at specified locations on the site to reduce noise and disturbance to reasonable levels.
- 6.4.11 Subject to the above matters being addressed through suitable planning conditions, it is considered that the impact of these elements of the development upon local amenities can be satisfactorily managed and would be compliant with Policies CS6 and MD2.
- 6.4.12 The impact of the proposed Building B upon the nearest neighbour at 39 Albert Street has been a significant concern throughout the previous application process. As mentioned earlier, previous concerns have been addressed and a set of illustrative drawings showing how this building could be designed has been submitted. These now show a three storey building with a low profile mansard roof set back from both the rear elevation of the Lancasterian School building and the frontage wall along the Beacalls Lane boundary. There is also a more substantial gap to the rear boundary shared with 39 Albert Street. The lower floor is to be given over to car parking to address another criticism of the previous scheme. The indicative drawings show a building with a flat roof and a contemporary appearance, angled back into the site when viewed from the upper part of Beacalls Lane. The rear elevation sits one storey above the rear boundary wall and range of windows at the back will be designed to be angled away from the rear of the adjoining dwelling on Albert Street guiding views back towards the prison. Both the new building and the Lancasterian School have a modest but enlarged area of outdoor amenity space compared to before. This is not considered to be unusual arrangement within a tightly knit urban setting.
- 6.4.13 The degree of separation between the new building and the main part of the back of the Lancasterian School, which is proposed to be converted into 11 apartments, is shown as ranging between 13 metres and 15.70 metres compared to around 7 metres previously. This is a significant improvement compared to the previous iteration which was considered to be likely to exert a harmful effect on the residential amenities of existing and future occupiers of Albert Street and the School apartments. It is possible to control the scale and height of the new building through a condition so that the reserved matters details reflect the parameters established at the outline stage.
- 6.4.14 In relation to the adjoining property at 39 Albert Street, the three storey Lancasterian School building is located immediately adjacent and already projects outwards from the rear of 39 Albert Street affecting the outlook at the back of that property. The new building will be of lower height and is now shown on the amended masterplan to be approximately 15.70 metres to the rear of the School thereby maintaining a clear gap between the two, which will provide some relief in respect of any impact on the amenities of that dwelling house. Compared to the previous iteration where the gap was almost completely closed off, this is

considered to be an improvement and would be a less overbearing form of development. The reduced height and angled windows are also considered to be an improvement in this regard.

- 6.4.15 Although indicative, these drawings demonstrate that a suitable building could be accommodated on the site designed to fit within the tight constraints imposed by existing development. Subject to appropriate detailing, it is concluded that Building B, as amended, could be designed so that it fits onto the site without giving rise to unreasonable impacts affecting local residential amenities. As such, it would be in accordance with Policies CS6 of the Core Strategy and MD2 of the SAMDev Plan.
- 6.4.16 The Environmental Protection Officer has considered the submitted Noise Report and has recommended that windows and external doors of the residential and student accommodation be designed and fitted to protect the occupants from externally derived noise that secures a reduction of 34dB(A). A suitable condition has been recommended to achieve this.
- 6.4.17 He has also considered the potential impact that the use of the gymnasium could have and has suggested submission of a further noise mitigation scheme in respect of this element of the scheme. However, this was not required as part of the previous scheme for an identical use of the gymnasium and the physical circumstances of the site have not changed. If anything, they have improved as the perimeter wall, which provides a degree of noise protection, won't now be lowered in this location. The building is self-contained and does not include any windows. Under these circumstances, it is not considered such a scheme would be necessary.

6.5 **Heritage Impact**

- 6.5.1 The application site lies within the Castlefields Conservation Area and contains a number of listed buildings and has some archaeological interest as well. It also lies close to a Shrewsbury Castle, which is a Scheduled Ancient Monument. All of these are designated heritage assets. Section 12 of the Framework places high importance on the conservation and enjoyment of the historic environment. Both Historic England and the Conservation Officer have been consulted and their views are set out in detail in Section 4 of this report.
- 6.5.2 Policy CS6 of the Core Strategy requires new development to protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, having regard to national and local design guidance, landscape character assessments and ecological strategies, where appropriate. This policy also requires development proposals to have appropriate landscaping. The supporting text explains that the quality and local distinctiveness of the county's townscapes are important assets and the new development is expected to complement and relate to its surroundings to maintain and enhance the quality of

Shropshire's environment as an attractive, safe, accessible and sustainable place in which to live and work. Heritage assets require careful consideration and management where change is proposed. Policy CS16 similarly sets out to promote and preserve the distinctive historic, heritage brand and values of Shrewsbury.

- 6.5.3 SAMDev Policies MD2 and MD13 reflect this approach to preserving and enhancing heritage assets, by ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings. Support is provided for development proposals which deliver positive benefits to heritage assets, as identified within the Place Plans. Support will be given in particular, to proposals which appropriately conserve, manage or enhance the significance of a heritage asset including its setting, especially where these improve the condition of those assets which are recognised as being at risk or in poor condition.
- 6.5.4 The fact that the site lies within a conservation area and affects listed buildings does not mean that the site is incapable of being developed; even where a degree of harm may arise. The Framework and the adopted Development Plan policies accept the principle of change within such sensitive locations. The test is to ensure that any change is appropriate to its setting and the degree of change minimises harm to the significance of the heritage asset and maximises the opportunity for making positive contributions to local character and distinctiveness, including substantial public benefits, that may outweigh any harm, where relevant.
- 6.5.5 The proposals involve removal of a series of relatively modern structures on the site, the majority of which are of functional and utilitarian appearance. These have been assessed in the Heritage Impact Assessment and are considered to be of no merit and detract from the setting and appearance of the older, more significant buildings planned for retention. This approach has been endorsed by Historic England and the Council's Conservation Officer has also supported removal of these structures.
- 6.5.6 When the previous scheme was under consideration Historic England supported the principle of regenerating this important heritage asset, subject to detailing. There were residual concerns about how the proposals are likely to affect the fabric of the retained listed buildings on the site but, because of the outline nature of the application, it was understood that no details had been provided. That application, like the current one, sought to establish broad development principles including the alterations to historic fabric and the reuse of the buildings on the site. Both Historic England and the Council's Conservation Officer expressed general support for the re-use of the site and that remains their position with the current application. Any comments made in relation to specific details are more properly to be considered at the reserved matters and listed building consent stages of the planning process and a set of suitable planning conditions is recommended.
- 6.5.7 Development that concerns heritage assets is prone to incurring higher costs. The applicant has provided an updated Development Viability Appraisal as part of the supporting documentation, to reflect the changes evident between this and the previous schemes. This is a commercially sensitive document and has not been

made public at the applicant's request, but it has been considered and commented on by the Council's Regeneration Manager (see comments above in Section 4). It sets out in detail the costs involved in acquiring and developing the site and the predicted return on investment. It also reflects the increased costs associated with developing a historic site. The revised development now provides an increased number of residential units affecting the value of the development. This, together with the omission of the previous walled garden concept has enhanced development values slightly compared to before. The viability of the proposed development still remains marginal but is viable. The scheme as proposed will, therefore, deliver a financially viable development that respects and brings back into productive use the listed buildings on the site.

- 6.5.8 The removal of the obtrusive modern additions across the site is supported by the Conservation Officer. As mentioned earlier in this report, the design and detailing of Buildings A, B and C do not form part of this outline application but will be subject to greater refinement at the next stage in the planning process. From the detailed indicative drawings submitted in respect of Buildings A and B, there is no reason to doubt that an appropriate design is achievable on both plots. Building C will require further detailed work to ensure there is no unreasonable impact on neighbouring properties, but that is similarly achievable. The local planning authority will have an opportunity to control and influence these important issues at the reserved matters stage.
- 6.5.9 Historic England identified an issue that is of concern relating to the proposed openings in the perimeter wall. There are no objections to lowering the wall back to its former height but new openings should be kept to a reasonable minimum commensurate with the new activities within. Historic England would encourage a consciously 'non-architectural' solution to the new opening designs, and these matters of detail will be subject to assessment as part of the detailed reserved matters and listed building consent applications should outline planning permission be granted. The Conservation Officer holds a similar view.
- 6.5.10 The design, siting and appearance of Buildings A, B and C have been considered in detail earlier in this report. Previous concerns about the potential for Building B to obscure views of the Lancasterian School building (a non-designated heritage asset) along Beacalls Lane have now been addressed. The views expressed by committee members last December relating to design principles and impact have been taken on board by the applicant. The illustrative plans and drawings demonstrate that this building is capable of being designed so that its effects on both the street scene and the views along Beacalls Lane towards the Lancasterian School are acceptable and to the extent that it no longer dominates the view of that building.
- 6.5.11 The Council's Archaeologist has commented on the proposals and has no objections in principle. The development has the potential to affect sub-surface archaeological remains in the area of the proposed new build unit (Building A) between the end of C-Wing and the 1990s gymnasium building. He observes that the Heritage Statement and Heritage Impact Assessment indicate that this area

was originally partially occupied by one of the wings of the Georgian prison and it is possible that archaeological remains of this building may survive below ground.

- 6.5.12 However, he notes that this part of the prison was demolished as part of the Victorian reordering and subsequently utilised as the prison's exercise yard (which had an associated toilet block). In the 20th century a boiler house was added to the northern end of 'C' Wing, and this was subsequently demolished and replaced by a number of steel framed structures in the closing decades of the prisons life. It is, therefore, likely that any surviving remains of the 18th century prison buildings will have been disturbed and truncated by later construction, demolition and servicing activities. Additionally, later 20th century plans of the prison site indicate that the site of the proposed new build unit was not utilised as one of the prison's burial grounds, and it is not therefore expected that any human remains will be present. As a consequence, this part of the proposed development site is considered to have low-moderate archaeological potential and no objections arise subject to a programme of archaeological work, to comprise a watching brief during any ground works for the new build unit, being made a condition of any planning permission.
- 6.5.13 Therefore, in terms of heritage impact, it is possible to address the residual concerns expressed by Historic England and the Conservation Officer at the reserved matters and listed building consent stages. As such, there is no objection from a heritage perspective and the proposals are consistent with Policies CS16, MD2 and MD13.

6.6 **Impact on Highway Safety**

- 6.6.1 The SAMDev Plan contains Settlement Policy S16 Shrewsbury which identifies a number of policy areas where regeneration and high quality urban realm are encouraged. The Heart of Shrewsbury and the Northern Corridor are areas identified and the application site lies either within or adjacent to them. One of the stated aims of S16 insofar as it concerns this particular scheme is reduce the impact of traffic and congestion in key areas, including Castle Foregate. The proposal involves a complex and dense variety of uses within a confined site located within a tightly knit urban area where off-street parking opportunities are limited. Without provision of adequate parking facilities and a management regime to control parking demand there is a clear risk that the proposed development would contribute to traffic and congestion in the area, at variance with the stated aim of S16.
- 6.6.2 The 2015-2016 Shrewsbury Place Plan identified a number of key community priorities the most significant of which was transport. One of the key concerns for the community was the development of an "improvement plan for congested roads."
- 6.6.3 As was the case in the previous proposal, for many local residents, the issues of traffic generation, highway safety and availability of adequate levels of off-street car parking are of paramount importance. The site lies within reasonably close proximity to the town centre and all of its facilities and amenities with direct access

to the town centre via a footpath across the railway line. In general, it occupies a relatively sustainable location. Policy CS6 requires development proposals that are likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel reduced. It requires new development to make appropriate levels of car parking provision to serve the development.

- 6.6.4 The site is located within a particularly tight-knit urban area, where terraced houses fronting the street are reliant upon car parking being available on the street but where there are no parking restrictions. As a consequence, visitors and people working in the town centre are attracted to the area due to its convenience and lack of parking charges. Additional demand is also likely attributable to people travelling by train from the nearby railway station.
- 6.6.5 Following the refusal of the previous application, the applicant has set out to address the traffic and parking issues as part of the revisions that have led to the current scheme.
- 6.6.6 The updated Transport Assessment (TA) submitted as part of the planning documents assesses the likely levels of impact and explores the issues this raises and then proposes certain forms of mitigation.
- 6.6.7 Previously, the proposals included 39 car parking spaces (increased to 60 in the end following amendments including the existing car park outside the site), and not all of these were within the site. Members may recall that some of these spaces were to be provided on the Dana alongside the perimeter wall, where the road is narrow and subject to two way flows. This would have assisted with meeting the car parking demand of what was a more complex mix of proposed uses at the site, but it proved especially unpopular amongst the local community who considered it to be a potential highway safety hazard. These spaces have now been removed and all of the car parking (91 spaces) will be provided within the site, inclusive of three located on the “triangle” adjacent to the perimeter wall on the Dana.
- 6.6.8 The proposed student accommodation will be the subject of a Student Management Plan together with a Travel Plan for the overall development, designed to control and manage traffic flows and to encourage residents to adopt a more sustainable approach to making journeys.
- 6.6.9 It is acknowledged that car parking in the surrounding area is especially problematical, due to the narrow form of the neighbouring streets with few off-road parking opportunities and the need for local residents to park on the street. The area also appears to be used by commuters using the nearby railway station and town centre-based employees and shoppers. Car parking locally is a challenge. Local parking issues and the effect of the new development thereon were flagged up early on in the planning process and have been the subject of continuous discussion throughout this planning application.
- 6.6.10 The current application has simplified the mix of proposed uses and activities at the site and no longer proposes business/workshop units or non-residential institutional uses, all of which have the potential to create additional traffic demand. The small

office that is retained in Block A is intended to serve the administrative functions of the site rather than be an independent use in its own right, which should reduce future parking demand within the site.

6.6.11 The amended Transport Assessment has set out how the development will accommodate and manage its traffic demands without impact on existing residents by:

- Provision of adequate parking for private residents and users of the redeveloped site in car parks within the confines of the site itself, amounting to 91 spaces. This includes customers using the gym facility.
- Using a student management plan to prevent students bringing cars to site. This is a system in place in many other Cities and will be rigorously enforced.
- Offering financial assistance towards the setting up of a residents parking scheme so as to physically constrain other drivers from occupying on street spaces in the area.
- Benefiting from the sustainable city centre location adjoining the railway, bus stops and pedestrian routes, so promoting reduction in the use of cars.

6.6.12 The TA also states that re-development of the site will result in the following benefits:

- There will be a lesser demand for on-street parking than when the prison was fully operational on site. The prison had a demand for at least 100-130 vehicles in the local car parks and surrounding streets.
- It will include the development of a travel plan framework for the site which will promote the use of car club vehicles as well as the use of trains buses, cycling and walking.
- It will promote the use of public transport which is in close proximity. The ease of access to the town centre will also provide an incentive not to travel by car.
- Student accommodation will not be occupied on the site until at least September 2020.
- Student drop off and pick-ups will be managed so they do not all occur at once.
- It concludes that the overall the development will have minimal transport impact on the surrounding area as all the ramifications of the development have been carefully considered and the car parking managed to minimize the effect on local residents in the vicinity.

6.6.13 The TA report places heavy emphasis on the proximity of the site to the town centre and its related sustainable transport credentials; especially for students, where the town centre, university facilities and railway station are all within relatively easy walking and cycling distance.

6.6.14 Howard Street Pay and Display car park is located close to the site on the opposite side of Beacalls Lane. The car park was surveyed by the applicant's Traffic Consultant over two days in December 2015 (Friday and Saturday) and data produced showed that the occupancy of the car park grew steadily across the

morning survey period and reduced steadily across the afternoon on the Friday. Given the likely use of the car park by commuters on a weekday this is not surprising but it is significant that the even at maximum occupancy at least 68 spaces were always available. The parking demand on the following Saturday was less with 84 spaces unoccupied. Therefore, it is suggested that spare capacity exists in this car park should it ever be required by future residents, students or users of the site.

- 6.6.15 As this issue is of most importance to the local community, the following paragraphs examine the matters in detail.

Traffic Generation and Car Parking

- 6.6.16 Insofar as trip generation is concerned, the TA concludes that this will be comparatively low and postulates that it will be less than was the case when the prison was operational. This is acknowledged above in the Highway Officer's comments. He accepts that the Prison use would have generated significant staff parking demand that would not have been met with the parking facilities available. Although attempts have been made to gauge the likely parking demand, this is difficult to quantify with any degree of accuracy. The highway authority contend that the Prison use would have impacted upon the local streets by virtue of the staff numbers and the fact also that parking demand would have varied throughout the 24 hour period in the day and the changeover of shifts where there is an inherent increase in parking demand during a changeover shift.
- 6.6.17 A significant contributory factor to the conclusion that trip generation arising from the new development relates to the inclusion of a substantial element of student accommodation within the development. No car parking is to be made available specifically for students at the site. To justify this, the TA anticipates that student occupiers will not have cars because the university admissions procedure strongly discourages students bringing their cars to the town, and a stipulation for students living in the university accommodation on the site will be that they will not be allowed to bring a car on site nor to park in the vicinity: this will be included in the student management plan. Students will sign agreements that they will not bring their cars to Shrewsbury and thus normally be dropped off with their belongings at the start of term, and collected at the end. On site management will be implemented to deal with the influx of vehicles at this time, so that drop offs and pick-ups are staggered.
- 6.6.18 The University of Shrewsbury is not associated with this development and so has no direct influence over the way in which it will be managed. The applicant is aware of the concerns expressed within the local community relating to perceived student behaviour and has responded these concerns by preparing and submitting an Outline Student Management Plan, setting out in some detail how the behaviour of future student residents may be managed. In summary, this states the following:
- Each student will be bound by a residential contract which will be signed

prior to moving in which will include all of the items noted below setting out requirements control and monitor the way that students use the site.

- Car ownership among students who rent a room in this converted prison will be strictly prohibited. This will be enforced by the management agency and will also be policed by them. No student car park spaces will be provided on or adjacent to the site.
- With Shrewsbury mainline train station adjacent to the site –students will be encouraged to take the train when travelling to or from Shrewsbury. The student rail card discount will be encouragement for this form of transport.
- The closest bus stop is located at the bottom of Howard Street on the main road the A5191. The town centre itself is served well by buses, which will also provide cost effective travel solutions for students.
- Predominantly the management will encourage students to walk between their residence in the prison, the town centre and other university buildings. The town centre is easily accessible by crossing the covered footbridge across the railway, which leads to the Dana footpath. All areas of the town are within walking distance.
- Students will predominantly walk along Castle Street and through the pedestrianised area along to Rowley’s House which will provide learning and administration facilities for the university.
- A route over the pedestrian footbridge behind Pride Hill will provide the most direct access to the University Centre at Guildhall, which will alleviate some of the existing pressure with pedestrian flows on Welsh Bridge.
- An independent management company will manage the two student blocks.
- It is likely that hall wardens would be appointed for each block in order to ensure a degree of pastoral care to students.
- In addition there would be an out of hours ‘duty’ call-out team to deal with any emergency issues.
- A full time member of staff would be on hand to deal with any issues arising between students and the local community.

6.6.18 The accommodation is not being provided by the university so it is essential that a management plan created and implemented independently of the university is properly supervised. The suggestion that this be carried out by an independent management company is not unusual in these circumstances and similar arrangements have been successfully introduced elsewhere in the country, including Chester where the University is served by a substantial amount of privately owned and operated student accommodation. Such arrangements should be integrated into the planning permission via a planning condition.

6.6.19 Local residents are naturally concerned that the development will exacerbate local highway congestion, particularly during peak times. It is important that the proposed development does not make the situation materially worse. The level of car parking proposed is a key factor and has been assessed by the Highways Officer. He considers that car ownership levels amongst students are not of the highest order and there are potential control mechanisms that could be relied upon to control student car parking. The site is located in an area that is highly accessible to the town centre, railway station and bus station. In his opinion, the site is likely to be particularly attractive to students not requiring a car although this needs to be made

the subject of a robust Student Management Plan, which is the applicant's intention, and may be secured via a planning condition.

- 6.6.20 There are also likely to be specific onsite parking and offsite traffic impact issues at the start and end of terms with an influx of cars to drop off/pick up students and their belongings. However, this is likely to be short term in nature and its impact can be effectively managed as part of the overall Parking Management Plan/Travel Plan for the development, which should minimise the potential impacts. This could be achieved, for example, by allocating specific slots of times and days for individual students to arrive/depart. The increase in car parking provision within the site will aid the delivery of such a Plan. The area behind the Gatehouse is intended to be the primary area where students will arrive and leave at the start and end of each term or semester.
- 6.6.21 Car parking will be made available for apartment owners and site users amounting to 91 spaces within the site and equates to a parking ratio of just over 0.8 parking space per dwelling (or 65 spaces required for 78 units) leaving around 33 spaces to cater for visitors and customers of the gym, for example. Trip generation and parking accumulation forecasts for the commercial gymnasium use have been provided and the TA suggests a maximum of 33 car parking demand spaces for gym users at its peak. By managing on-site parking flexibly the applicant considers peak demand for the gym can also be accommodated on site. In addition the publicity for the gym will make it clear that there is a nearby pay and display car park that is available to the general public. All site users will be discouraged from parking on street, and indeed on-street parking immediately adjacent to the site isn't permitted.
- 6.6.22 It is considered that this level of parking is not inappropriate given the sustainable urban location of the site and its proximity to public transport and relatively easy access to the town centre.
- 6.6.23 In order to deliver appropriate parking levels and traffic management, an outline Travel Plan has been submitted and this sets out the basis for working up a full Travel Plan as the site comes online. This will be a major component in the promotion of sustainable modes of transport to and from the site and it sets out the physical measures to be implemented to aid, promote and encourage sustainable travel. In principle, the Highways Officer considers the proposed outline Travel Plan to be realistic in its ambition, subject to a five year period of regular monitoring, annual reviews and adaptation to meet changing circumstances and trends. Further detailed work is required to develop a full Travel Plan which should be secured through a suitable planning condition.
- 6.6.24 Concerning the café use, the TA states that this is intended to be incidental to the overall use of the site and will most likely be used by students, residents and users of the gym. It assumes a nil impact upon parking demand arising from this use. The café would also be available to the wider public including local residents in the surrounding area who may choose to use the facility as they can easily walk to them.
- 6.6.25 The proposed new Building B at the back of the Lancasterian School will have

thirteen parking spaces underneath accessed separately from the main site via the existing access onto Beacalls Lane. These will mainly serve the seven proposed new apartments in this block with the remaining parking possibly being available for the apartments proposed within the School building. This building has a lawful use as administrative offices and the current edition of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Class M in Part 3 of Schedule 2) allows for the change of use of offices to Class C3 dwelling houses without having to apply for planning permission. As a fall-back position, therefore, this building could be converted as permitted development into approximately 6 town houses, based on the number of bays and the size of the rear two storey out-rigger addition, without any car parking provision.

- 6.6.26 The Highway Authority has considered the information made available to it and the direct comparison between the previous use and its impact and that of the proposed development has resulted in the conclusion that the likely differences are not significant and would not amount to severe detriment either to public safety or operation of the highway, which is the test set out in Framework. This is a higher level test compared with previous national planning guidance and in order to fail it must be demonstrated that the highway impact is so great that the degree of harm is exceptional. In this instance, the Highway Authority concludes that such a level of harm cannot be demonstrated and no objection is raised, subject to the recommended conditions and planning obligations.
- 6.6.27 Consequently, it is considered that the proposed parking arrangements can be made to work. A planning condition requiring further details of a car park management plan to be submitted and agreed is recommended. This would provide comfort over the level of parking and how it is to be managed.
- 6.6.28 The Highways Officer concludes that, overall, the applicant has carried out a major shift from the previous submission in terms of the presentation of the current proposal by providing a significant level of parking within the Prison site. Having regard to the former Prison use of the site it is considered therefore that the level of parking provision now provided is sufficient to mitigate the impact of the development proposed. In its current form, therefore, the highway authority consider that a highway objection to the development, based upon a lack of parking, is not sustainable based upon a requirement to demonstrate 'severe' impact. Moreover, the highway authority does not consider that a financial offer towards a RPS would meet the planning tests of Section 106 as it is not necessary to make the development acceptable in planning terms.

Servicing, Permeability and Other Highway Matters

- 6.6.29 In respect of servicing, it is anticipated in the TA that the area to the rear of the Gate House will be used to facilitate service vehicles, which is an improvement on the situation when the prison was operational and most servicing took place on the street.

- 6.6.30 In terms of permeability, the masterplan shows a number of new pedestrian entrances created within the fabric of the prison wall intended to increase the ability for people to move within and through the site thereby improving connections with its surroundings. Details of these openings will be considered at the reserved matters and Listed Building Consent application stages.
- 6.6.31 Cycle storage areas are also proposed within the site adjacent to buildings to encourage an alternative sustainable mode of transport, especially for students. This is also considered to represent a benefit weighing in the development's favour. A suitable condition to secure this is recommended.

Highway Conclusions

- 6.6.32 In summary, parking demand and availability in the locality is considered to be the main highway issue. The updated TA submitted with this application has secured 91 car parking spaces within the site following a redesign of the development and a reduction in the number of different uses proposed. The Highway Authority is now satisfied that the proposed development provides sufficient levels of parking which, combined with a strategy for managing student parking and provision of a Travel Plan covering the entire development, is considered to mitigate the impact of the proposed development. There are no highway objections to the proposals subject to imposition of suitable conditions.

6.7 Drainage and Flood Risk

- 6.7.1 The Council's Drainage Team has commented on the application and has raised no objection subject to a satisfactory method of foul and surface water drainage being submitted for approval as part of a reserved matters application. There is, therefore, no objection to the proposal on drainage grounds.

6.8 Biodiversity and Ecological Impacts

- 6.8.1 The Conservation of Habitats and Species Regulations 2010 requires local authorities to give due weight to the presence of protected species on a development site. Planning permission may be granted provided there is no detriment to the maintenance of the species population at favourable conservation status in their natural range. The Regulations advise that if any detriment would be caused by the proposed development, planning permission should only be granted provided:

- There is no satisfactory alternative; and
- The development is in the interests of public health and safety, or other imperative reasons of over-riding public interest, including those of a social

or economic nature and beneficial consequences of primary importance for the environment.

- 6.8.2 The Framework places high importance on protection of biodiversity interests and new development should minimize impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. The Framework places great weight on conserving and enhancing the natural environment. The local plan contains specific policies that are concerned with safeguarding biodiversity interests in the county. Core Strategy Policy CS17, supported by SAMDev Plan Policy MD12, requires all development to minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.8.3 The developer proposes carrying out significant alterations to buildings on the site where there are potential bat roosts. An Extended Phase 1 Habitat Survey was requested and subsequently submitted during August 2016.
- 6.8.4 Development works that would contravene the protection afforded to European Protected Species, such as bats, requires a Habitats Directive Licence and these applications are considered by Natural England on behalf of the Secretary of State. Before such a licence can be granted, several tests must be satisfied.
- 6.8.5 Local planning authorities must also consider these tests prior to determination of the application. Authorities would risk breaching the requirements of the Directive and Regulation 9 (5) if the three tests were not considered during the determination of the application. These are considered below.
- 6.8.6 The Council's Ecologist has been consulted and her response is set out in the Consultations section above. In summary, the Ecologist has no objections in principle to the proposed development and she has recommended a number of planning conditions relating to protected species. One of the conditions requires precise details of scaffolding unless a licence is issued beforehand by Natural England. The applicant objects to this which he considers to be an unreasonable encumbrance. It may be necessary to have to put up scaffold at any point for urgent works and it may not be able to get a license quickly in those circumstances. They have agreed to carry out all activities sensitively especially in those areas of the site that are likely to be particularly ecologically sensitive. It is considered that conditions 9 and 19 contained in Appendix 1 provide adequate protection in this regard.
- 6.8.7 In respect of the three tests and the relative assessment referred to above, these are considered as follows.
- 6.8.8 **Test 1: "preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment"**

The proposed development does not address any pressing risk to public health or safety. However, it does involve public interests of a social or economic nature, including the reuse and renovation of an important group of listed buildings leading

to physical improvements in the quality and appearance of the area. This also involves provision of additional residential accommodation and provision of facilities that may potentially help to enhance the quality of the neighbouring residential area (sports facilities, café/restaurant uses etc). The development will provide environmental enhancements that have potential to benefit protected species including additional nesting boxes for birds and bats as well as the addition of new planting to create improved local habitat. Therefore, it is considered that the first Test has been satisfied.

6.8.9 Test 2: “that there is no satisfactory alternative”

The site is a significant previously developed site that is both listed and set within a conservation area. Although it has not been allocated for any specific use in the adopted local plan, it is situated within the defined settlement boundary and its proposed redevelopment for a mix of uses is acceptable in principle. The site is unique and there is no other similar site available within the locality. It is considered that the proposals will in principle contribute both economically and socially to the local area and will provide a new lease of life for this important designated heritage asset. As such, it is considered that no satisfactory alternative exists and the second test has been met.

6.8.10 Test 3: “the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range”

A bat hibernation survey was carried out between February and April 2016 on cellars and other suitable structures in Wings A and C by Treetec using static bat detectors. No physical signs of bats were found and no echolocation calls were recorded. The humidity was low and temperatures were relatively steady between 13 and 15 degrees centigrade, despite periods of freezing conditions outside. It is highly unlikely bats use these structures for hibernation.

6.8.11 Follow-up summer activity surveys were carried out between May and July 2016. Small numbers of old droppings were found in the roof spaces of D Wing, C Wing, the Kitchen and the Lancastrian School.

6.8.12 The amount of bat activity increased through the summer season with second emergence surveys showing there was a constant amount of bat activity of pipistrelle species concentrated in the C wing courtyard and A wing sports pitch every survey and most nights according to the externally mounted static detectors. Some bats commute in from the river direction whilst others roost on site. Most nights revealed occasional passes of Noctule Bats either commuting or foraging across the site, but the majority of bats recorded were Common and Soprano Pipistrelle Bats. The externally placed detectors recorded a Brown Long-eared Bat on the 29th June. The data showed that the sports pitch and courtyard are used extensively for foraging during the first one to two hours after sunset and sporadically thereafter until dawn or one hour before.

6.8.13 The report concludes that B wing roof coverings are presently used as a summer day roost for two to four pipistrelle bats and another Pipistrelle bat was observed in

a mortar joint. Judging by the lack of fresh droppings or any recordings on internally placed monitoring detectors, it is concluded that bats did not use the roof spaces during the survey period. Given the habit of bats to change their roost sites, it is likely that the prison is being used in conjunction with other roosts in the local area. There was no evidence to suggest the presence of a maternity roost, where females gather to give birth and raise their young, in the buildings.

6.8.14 EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of a bat breeding site or resting place and killing or injury of individual bats. The likely offences cannot be avoided through mitigation measures secured through planning conditions as the buildings are going to be repaired, demolished or converted. In view of these likely impacts, a European Protected Species Mitigation Licence for bat species will be required from Natural England before works on the buildings, including erection of scaffolding or changes to lighting commence.

6.8.15 Section 8.4 of the Bat Survey Report contains the following recommended mitigation measures:

- Roof works to be carried out in the period from October to November or March to April when bats are likely not to be present or have the ability to re-locate;
- Two Schwegler 1FQ Woodcrete bat boxes to be fixed to gable of B Wing before work commences to act as alternative roost sites and receive recovered bats during the works period;
- Works shall take place under the supervision of an Ecological Clerk of Works who is a licenced bat worker;
- Replacement ridge tiles in vicinity of observed roost are to be installed to leave a gap;
- Bat access slates to be installed close to where a bat was seen to roost in a verge;
- External lighting to be designed to maintain dark commuting and foraging routes, particularly from the river to the development site.
- Further enhancement measures for bats will be sought at first submission of reserved matters.

6.8.16 The Council's Ecologist is satisfied that the proposed development will not be detrimental to the maintenance of the local bat populations at favourable conservation status within their natural range, provided that the recommended conditions set out in the formal consultation response are included on the decision notice and are appropriately enforced. Subsequently, the third test is satisfied.

6.9 **Other Issues**

6.9.1 The DCLG has recently extended and clarified its definition of what types of residential accommodation may be taken into account by local planning authorities when assessing the local strategic housing land supply. The DCLG definition of dwellings now includes self-contained student flats with a cluster of 4 to 6 bedrooms. It states:

“Communal establishments, i.e. establishments providing managed residential accommodation, are not included in overall housing supply statistics (however, all student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can be included towards housing provision in Local Development Plans). These cover university and college student, hospital staff accommodation, hostels/homes, hotels/holiday complexes, defence establishments (not married quarters) and prisons. However, purpose-built (separate) homes (e.g. self-contained flats clustered into units with four to six bedrooms for students) should be included. Each self-contained unit should be counted as a dwelling.”

- 6.9.2 The key to compliance with the DCLG definition is the degree of self-containment. The proposed student accommodation will be mostly laid out in this cluster arrangement, thereby constituting ‘dwellings’ in line with the DCLG definition and also attracting New Homes Bonus, which represents a considerable boost to the local authority’s financial resources that could be invested locally.
- 6.9.3 For the purpose of housing land monitoring, housing forecasting and the Council’s Strategic Housing Land Availability Assessment, cluster flats are included in the housing land supply and are counted as one unit per cluster. This is in line with guidance from DCLG. The development would therefore make a modest contribution towards the housing supply. The precise level of contribution remains a matter to be determined at the reserved matters stage, but it is factor that weighs in the scheme’s favour.
- 6.9.4 Under different circumstances, a development of this nature would be expected to make a contribution towards affordable housing. However, the development relates to bringing back into productive use a listed building and the submitted confidential development appraisal shows that the quantity of new development including the change of use of retained buildings is consistent with delivering an unencumbered planning permission. The Housing Officer has commented on this and agrees that an affordable housing contribution is not warranted in this case due to the additional costs which would prejudice the viability of the development.
- 6.9.5 Other material planning issues raised in the various representations received following publicity have been covered elsewhere in this report.

7.0 THE PLANNING BALANCE AND CONCLUSIONS

- 7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The starting point must be the Development Plan and then other material considerations must be considered. The Framework reaffirms the primacy of an up to date Development Plan in the decision making process.
- 7.1.2 The application is in outline form and is intended to establish the principle of

redeveloping this site for the broad purposes contained in the application. The site lies within the defined development boundary for the town and constitutes previously developed land. The proposed redevelopment of the prison site is, therefore, acceptable in principle. The site is also considered to be in a sustainable location close to the town centre and with reasonable accessibility for future occupiers to the town's services and shops.

- 7.1.3 Policy CS2 defines Shrewsbury's broad role in delivering sustainable growth over the Plan period and provides strategic guidance on how and where new development should take place; a strategy supported further by SAMDev Plan Policy S16. It is clear that these policies envisage new housing and other development taking place within the limits of the defined development boundary for the town and on allocated sites.
- 7.1.4 The application site lies within the development boundary and the redevelopment of the site for residential purposes is consistent with these policies. The site is considered to be in a sustainable location. In addition, the proposed development is considered to be sustainable as defined in the Framework. There are three strands to sustainable development defined in the Framework, namely: economic; social; and environmental. These are mutually dependent and new development is expected to deliver benefits associated with all three roles.
- 7.1.5 The analysis carried out above in this report is based upon the definition of sustainable development set out in the Framework and encompasses matters of principle as well as matters of detail and development impact.
- 7.1.6 In respect of the three dimensions to sustainable development, it is considered that the delivery of housing, both open market and student accommodation, is a contributor to economic growth. The development represents a substantial investment in the town and will generate employment during the construction phase and during the occupation of the building following completion. Further on-going financial benefits will be generated in terms of expenditure by residents in local shops and on services as well as the continuing servicing and maintenance of the site. The development will also qualify for the New Homes Bonus and will generate revenue through commercial rates for the local authority, thereby resulting in direct local economic benefits.
- 7.1.7 The commercial elements of the development including accommodation for small businesses, cafes, the gymnasium, shops and so forth are also of economic benefit and weigh in favour of the proposals.
- 7.1.8 The proposals will fulfil a social role by delivering additional open market housing to meet current and future needs, student accommodation and a number of services and facilities that have the potential to add diversity and choice for local residents. The development will remove a series of unattractive modern functional and utilitarian buildings which are considered to detract from the setting of the listed buildings on the site.
- 7.1.9 The development will retain the majority of historic buildings and fabric within this listed site. Notwithstanding the outline nature of the application, the development is

likely to preserve and enhance the historic setting and character of the site and the local planning authority will be able to exert further control over the precise detail of the development at the reserved matters stage, which will also have to be accompanied by a listed building consent application setting out full details of the proposals.

- 7.1.10 The site constitutes previously developed land and is adjacent to the town centre where future residents will have access to a variety of cultural, leisure and entertainment facilities. The development is considered to contribute to the government's aim of supporting strong, vibrant and healthy communities.
- 7.1.11 The proposed development will have an environmental impact in the form of a number of substantial new buildings and alterations to the fabric of the existing structures. However, there will be several environmental benefits accruing from the scheme, including regeneration of an important heritage asset, retention of historic buildings on the site, implementation of a comprehensive landscaping plan, provision of nesting boxes for protected species, the removal of extensive swathes of hard surfaced areas; all of which will have a positive environmental effect. These factors also weigh in the development's favour.
- 7.1.12 The previous report dated October 2016 explained that there were two major concerns with the proposals as they stood at that time. The first related to potential highway safety and traffic issues arising from the density of development and the complex mix of proposed uses and activities within the site. The concern related specifically to the impact arising from the new Building B at the rear of the Lancasterian School building. As set out above, these concerns have now been satisfactorily resolved clearing the way for the recommendation to change from one of refusal to one of approval.
- 7.1.13 Whilst it is acknowledged that the development is still likely to result in significant change within the local area, particularly in a context where the site has not been intensively used since 2013, it is now considered that the impacts of that change are capable of being managed so that the degree of impact is not unreasonable when balanced against the benefits of regenerating this historic site.
- 7.1.14 The reasons for refusing the previous scheme are considered to have been overcome. As a consequence, it is recommended that the application be approved, subject to the conditions set out in the following Appendices.

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

National Planning Policy Framework:

The following paragraphs are considered to be relevant:

7, 14, 17, 19, 28, 32, 49, 51, 56, 58, 69, 128, 132, 133, 134 and 141.

Shropshire Adopted Core Strategy:

Policies CS1, CS2, CS6, CS7, CS13, CS16, CS17 and CS18.

Shropshire Adopted SAMDev Plan:

Policies MD1, MD2, MD11, MD13 AND S16.

RELEVANT PLANNING HISTORY:

SA/03/01129/CIR - Erection of an extension to provide ICT workshop and library on Beacalls Lane elevation. No objection.

SA/04/0992/CIR - Erection of a two storey detached modular building for temporary use until the replacement gymnasium is rebuilt. No objection.

SA/06/0170/CIR - Erection of a two storey gymnasium building. Objection.

SA/06/0770/F - Erection of a two storey extension to existing workshop building to accommodate new gymnasium. No objection.

SA/08/1045/LB - Erection of a single storey extension to existing plant room affecting a Grade II Listed Building. Approved.

SA/96/0136 - Extension of existing kitchens. No objection.

15/05591/OUT – Outline application for the redevelopment of former Dana Prison into mixed use development to include student accommodation, residential dwellings, retail/restaurant, business non-residential institutions, a gymnasium and extensive landscaping works. Refused.

16/05467/CPE - Application for Lawful Development Certificate to establish that the existing prison can be reopened for any of the uses set out in the Use Classes Order - C2A Secure Residential Institution - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks. Also as detention centre or short term holding centre for immigrants, migrants or refugees; also, that the gymnasium can be reopened for use as a standalone facility - D2 - gymnasium - for use of existing gymnasium as a standalone use as consented under planning consent 06/0770/F. Part Granted/Part Refused.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=dates&keyVal=NNBQE4TDK0800>

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 Nat Green

Appendices
APPENDIX 1 – Planning Conditions

APPENDIX 1

Grant outline planning permission subject to the following:

1. Recommended Conditions

STANDARD CONDITIONS

1. Application for the approval of details of the appearance, access, landscaping, layout and scale (hereinafter called the “reserved matters”) shall be made to the local planning authority before the expiration of three years from the date of this permission and thereafter the development shall only be carried out in accordance with the details as approved.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The reserved matters shall be based on the hereby approved master plan IMA-15-198-004 Rev C.

Reason: To define the permission and ensure a form of development that respects the historic setting of the site.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development approved by this permission shall commence until a phasing scheme has been submitted to and approved in writing by the local planning authority. Development thereafter shall be carried out and completed in accordance with this agreed phasing scheme.

Reason: To ensure the appropriate phasing of the site in the interests of visual and residential amenity and the amenity of the heritage assets on the site.

5. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (i) Indications of all existing trees and hedgerows on the land;
- (ii) Details of any to be retained, together with measures for their protection in the course of development;

- (iii) All species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site in relation to the proposed buildings, roads and other works and means of protection during development;
- (iv) Planting plans, including details of the proposed “Green Walls” on the retained gymnasium building, written specifications (including cultivation and other operations associated with plant and grass establishment);
- (v) Schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and an implementation programme;
- (vi) Finished levels and contours;
- (vii) Details of means of enclosure;
- (viii) Hard surfacing materials and specifications including roads and footpaths.
- (ix) Retained historic landscape features and proposed restoration, where relevant; and
- (x) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc. indicating lines, manholes, supports etc.).

Reason: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use and no dwelling shall be occupied until the approved surface water drainage system for that part of the site has been constructed, completed and brought into use in accordance with the approved scheme.

Reason: To ensure that the development can be adequately drained.

7. No development shall commence on site until details of the works for the disposal of foul sewerage have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details for that part of the site have been fully implemented in accordance with the approved plans.

Reason: To ensure that the proposal is provided with a satisfactory means of drainage.

8. No development shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:
- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not

be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason: The site is known to hold archaeological interest.

9. No development shall commence on site, until a Construction Method Statement, has been submitted to and approved in writing by the local planning authority and which shall include the following:
- (i) The parking of vehicles of site operatives and visitors;
 - (ii) Loading and unloading of plant and materials;
 - (iii) Storage of plant and materials used in constructing the development;
 - (iv) The erection and maintenance of any security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (v) Wheel washing facilities;
 - (vi) Measures to control the emission of dust and dirt during construction;
 - (vii) A scheme for recycling/disposal of waste resulting from construction works;
 - (viii) Measures for the protection of the natural environment; and
 - (ix) Hours of construction, including deliveries

The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the local planning authority.

Reason: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

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

11. No development shall commence on site until a Green Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include provision for the appointment of a Travel Plan Co-ordinator, an implementation timetable and enforcement mechanism and shall include arrangements for monitoring of progress of the proposals and review thereof, and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

Reason: In the interests of promoting sustainable transport and reduce reliance on the private motor car.

12. Development shall not commence on site until details of the car parking allocations and management arrangements, including those relating to the start and end of term time, have been submitted to and approved in writing by the local planning authority. The car parking arrangements shall be implemented in accordance with the approved details prior to first occupation of the development by students.

Reason: In the interests of highway safety.

13. The approved student accommodation shall not be occupied until a Student Management Plan has been submitted and approved in writing by the local planning authority. This will include details of management of student residents, staffing levels, residential contracts and tenancy agreements, community engagement arrangements, control of noise, security arrangements and arrangements for resolution of complaints in respect of student behaviour. The Student Management Plan shall be implemented as approved before the student accommodation is first occupied and shall thereafter be retained in perpetuity.

Reason: In the interests of local residential amenity.

14. No development shall commence on site until details of secure covered cycle parking have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first occupation of the development hereby permitted and shall be retained for use at all times thereafter.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

15. Prior to any extraction system being installed into any Class A3 use on the site details of the odour and noise abatement equipment to be installed, grease baffling/coils in any cooking hood and location and height of any flue shall be submitted to the planning authority for approval in writing.

Reason: to protect the amenity of the area.

16. The first submission of reserved matters shall include an updated and detailed Bat Mitigation and Enhancement Scheme and Method Statement, and these works shall be carried out as approved for the lifetime of the development. The submitted scheme shall include but not be restricted to:

- a. the recommendations in the 'Bat Survey Report, The Dana Prison, Activity Surveys, Shrewsbury, SJ495129 VC40', 16th May – 18th July 2016, by Treetec;
- b. at least one bat loft of appropriate design and dimensions;
- c. additional features such as raised tiles, bat tiles, bat bricks, bat boxes etc.;

- d. provision for monitoring after construction;
- e. provision for continued maintenance and protection of the features when the development is occupied;
- f. a plan indicating the location of bat roost features and the dimensions of the bat loft;
- g. identification on a plan, for both the construction and occupation periods, those areas/features on site that are particularly sensitive for bats and nesting birds, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging;
- h. clearly show on the plan the proposed dark commuting routes to be maintained for bats providing a connection to the river corridor to inform the later production of a lighting plan for the development.

Reason: To ensure the protection of bats, which are European Protected Species.

17. Prior to commencement of development (or each phase of development with prior agreement of the LPA) an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that the Bat Mitigation and Enhancement Strategy and Method Statement and other ecological mitigation and enhancement measures are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place.

Reason: To ensure the protection of bats which are European and UK protected species and other wildlife.

18. Prior to first occupation of the buildings, or each phase of the buildings, the Ecological Clerk of Works shall provide a report to the Local Planning Authority demonstrating implementation of the Bat Mitigation and Enhancement Strategy and Method Statement and other ecological mitigation and enhancement measures appropriate to the phase. This shall include photographs of installed features such as bat and bird boxes, bat bricks/tiles, and the bat loft.

Reason: To demonstrate compliance with ecological mitigation and enhancement proposals to ensure the protection of bats which are European and UK protected species and other wildlife.

19. Modification, demolition, changes to lighting of the Gate House, Wings A, B, C, D, the Kitchen block and the Lancasterian School as identified in the Existing Site Layout Plan Drawing Number 435/P/002 Rev. B shall not in any circumstances commence unless the local planning authority has been provided with either:

- c) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or
- d) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.

Reason: To ensure the protection of bats, which are European Protected Species.

20. As part of the Reserved Matters details for the provision of nesting opportunities for swifts shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the buildings.

Reason: To ensure the provision of nesting opportunities for swifts.

21. No works shall commence on site until a full schedule and specification of works involved in the removal of the buildings approved for demolition by this outline planning permission, as shown on the approved demolitions plan 435/P/003 Rev A, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

22. No works on or directly affecting any listed buildings on the site shall commence until an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the building concerned. This record shall be carried out by an archaeologist/building recorder or an organisation with acknowledged experience in the recording of standing buildings which is acceptable to the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has first been agreed in writing with the Local Planning Authority.

Reason: To secure the proper recording of the listed building.

23. The first submission of reserved matters shall include details of the proposed alterations to the perimeter wall of the prison, including the reduction in height (excluding the stretch of wall along the Dana and Victoria Street frontage which shall remain unaltered in height), the formation of new openings, the formation of the new principal access and the methodology of how these works are to be carried out. The development shall be carried out in strict accordance with the approved details.

Reason: To preserve the special architectural and historic interest of the listed building.

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

24. Prior to occupation, a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority. The strategy shall show how and where

external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To minimise disturbance to bats, a European Protected Species.

25. Unless prior permission has been obtained in writing from the Local Planning Authority, all noisy activities shall be restricted to the following times of operations.

- 08:00 - 18:00 hours (Monday to Friday);
- 08:00 - 13:00 hours (Saturday)
- No working is permitted on Sundays or Bank Holidays.

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

Reason: To avoid the risk of disturbance to neighbouring dwellings from noise during unsocial hours.

26. All windows and doors facing noise sources specified in noise report reference 4212-FAC-ATN-1B dated 16th December 2015 submitted with application 17/02809/OUT shall reduce noise by 34dB(A) between the external and internal space. Trickle vents which do not compromise the effectiveness of the noise insulation properties of the glazing shall be installed in all cases.

Reason: to protect the health and wellbeing of future residents.

27. Prior to occupation details of ventilation into habitable rooms shall be submitted to the local planning authority for approval in writing.

Reason: to protect the health and wellbeing of future residents.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

28. The development hereby permitted shall be carried out in accordance with the following approved plans:

- IMA -15 – 198 - 001 Site Location Plan
- 435 – P/004G Proposed Layout Plan
- 435/P/003 Rev B Proposed Demolitions Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no television / radio aerial / satellite dish or other form of antenna shall be affixed on the exterior of any building forming part of the development hereby permitted, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the character and appearance of the building and area.

30. The works hereby granted consent shall be carried out in such a manner as to ensure that the existing building(s) designated for retention are preserved and not structurally or superficially altered in any way whatsoever, save in accordance with the approved plans and the schedules required by condition 21 of this permission and the said building(s) shall be structurally supported and weatherproofed at all times during the construction period in accordance with established building practice.

Reason: To preserve the special architectural and historic interest of the listed building.

31. All materials suitable for reuse on the existing buildings approved for demolition shall be carefully dismantled and stored in a dry and secure place for re-use in the works to the listed building. The materials shall not be disposed of or otherwise taken off-site without the prior written approval of the Local Planning Authority.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

32. If the development, or each phase of a phased development, hereby permitted does not commence (or having commenced is suspended for more than 12 months) before 1st May 2019 then the approved ecological measures and mitigation secured through conditions shall be reviewed and, where necessary, updated and amended.

The review shall be informed by further ecological surveys (in line with recognised national good practice guidance) in order to i) establish if there have been any changes in the presence and/or abundance of species or habitats on the site and ii) identify any likely new ecological impacts and mitigation requirements that arise as a result.

Where update surveys show that conditions on the site have changed (and are not addressed through the originally agreed mitigation scheme) then a revised updated and amended mitigation scheme, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of

development (or commencement of the next phase). Works will then be carried forward in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that development is informed by up to date ecological information and that ecological mitigation is appropriate to the state of the site at the time development/phases of development commence.

INFORMATIVES

1. 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, containing 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 conversion, renovation and demolition of buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

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

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

2. The applicant's attention is drawn to the need to submit a Listed Building Consent application concurrently with the first submission of reserved matters to cover the proposed works affecting the listed buildings on the site.



Committee and date
 Central Planning Committee
 31 August 2017

Item
9
 Public

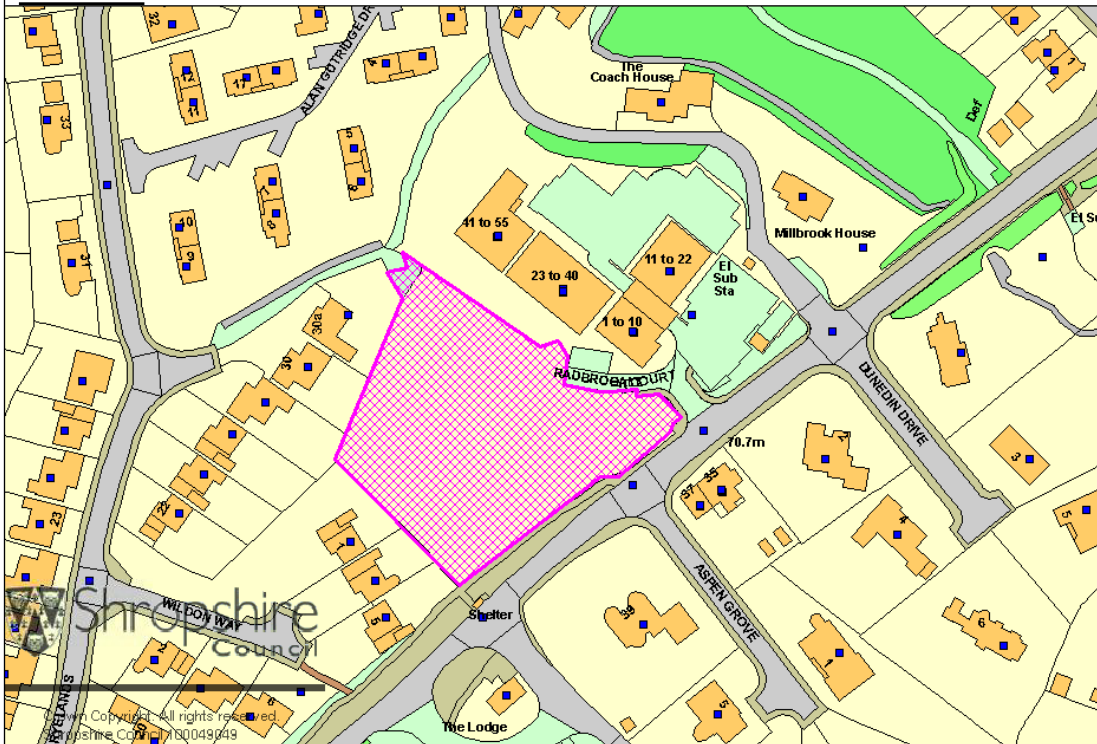
Development Management Report

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

Summary of Application

Application Number: 16/04883/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of ten (1 block of 4 and 2 blocks of 3) dwellings; formation of estate road and parking areas (modification to approved scheme SA/06/0333/F) (Amended Description).		
Site Address: Radbrook Hall Court Radbrook Road Shrewsbury Shropshire		
Applicant: EFB Property Investments (IoM) Ltd		
Case Officer: Vincent Maher	email: vincent.maher@shropshire.gov.uk	

Grid Ref: 347428 - 311961



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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal has been significantly amended since initial submission (originally being for 12 houses) and is now a full planning application for the erection of 10 x four bedroom, three storey town houses in three terraced blocks arranged either side of the centrally located access road. The amended layout plan shows two blocks on the south side of the driveway and one on the northern side.
- 1.2 The development would provide two parking spaces per dwelling accessed directly off the access road. A turning head will be situated west of the northern block.
- 1.3 The proposed construction materials include light brick plinths with off-white coloured render elevations under a natural grey slate roof. The front and rear elevations will feature pitched and flat roofed dormer windows constructed of dark grey coloured weather boarding. The front dormers will be part of a full height projecting design element intended to add visual interest and relief to the facades.
- 1.4 The site would also be comprehensively landscaped, including retention of existing trees around the site edges.
- 1.5 The original application drawings were accompanied by a Design and Access Statement; a Phase 1 Habitat Survey; a Tree Survey; a Parking Allocation plan. The applicant has submitted additional documentation in the form of a second ecological report (July 2017) and a section plan showing the relationship between trees and the proposed houses and the extent of the tree root protection zone (August 2017 – refer drawing 1080D 3003 revision A).
- 1.6 Subsequent to this, the applicant has submitted additional drawings to clarify aspects of the development. Drawing 1080D 3003 revision D clarifies both the tree root protection zone and clarifies which trees would be removed and drawing 1108D P0002 Rev B superimposes the footprints of the approved houses under an earlier grant of permission.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site comprises an irregular shaped parcel of land immediately to the west of the apartment development on Radbrook Hall Court. The overall site formed part of the grounds of a former hotel which was demolished and redeveloped approximately 10 years ago for 55 flats in three storey blocks (planning permission SA/06/0333/F refers). The application site was included in this development and the approved layout plan shows a development of five detached dwellings on the site which have not been built.
- 2.2 The site is an overgrown parcel of land with a heavily landscaped frontage to Radbrook Road. It is accessed directly off Radbrook Hall Court via an arm of the service road serving that development. Site levels are relatively even within the centre with a substantial bund/embankment along the northern edge; but the land falls quickly away to the north. The site is overgrown with mature trees along the

southern and western boundaries. There is a group of high quality, mature trees within the north western area of the site.

- 2.3 Besides the three storey flats to the east, the land to the west and north has been developed for two storey houses. Due to the relief of the area, the dwellings to the north and north west are set at lower levels than the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal is being reported to the Central Planning Committee because the recommendation is at odds with the comments from Shrewsbury Town Council and the Area Planning Manager in consultation with the Chair/Vice Chair of Committee agrees that those comments are material and warrant consideration by the Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Shropshire Council Drainage – No objection.

Drainage, plans and calculations should be conditioned if planning permission granted.

4.1.2 Shropshire Council Affordable Housing – Comments.

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

The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

The applicant should submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed.

4.1.3 Shropshire Council Highways – No objection.

Proposed increase in scale of residential units and resultant additional traffic generation unlikely to have significant effect on existing development junction onto Radbrook Road. As long as development has sufficient car parking capacity and suitable facilities to enable refuse collection, it is acceptable from a highways and transport perspective.

Has recommended conditions and informatives.

4.1.4 Shropshire Council Tree Officer: No objection.

Initial concerns with the scheme have been addressed.

Revised layout and reduced scale provides better separation between the retained

trees and the proposed dwellings and the internal site road. Would be satisfied with this layout if it can be demonstrated that the site road and any retaining structures required to deal with the differences in land levels can be constructed in a way that allow the retained trees to be protected in accordance with BS 5837: 2012.

A subsequent section drawing has been provided which addresses this last point.

4.1.5 Shropshire Council Parks: Comment

Development needs to provide open space consistent with SAMDev Policy MD2 figure of 30 sqm per person. Assume 1 person per bedroom.

4.1.5 Shropshire Council Ecology: No objection

Initial concerns overcome by revised layout and additional ecology assessment.

Has recommended conditions and informatives.

Offers the following comments based on the additional ecology assessment submitted:

- The trees for removal have low bat roosting potential and the other trees have negligible bat roosting potential. The site is unlikely to form an important foraging area for bats either.
- The current site and future development is still likely to be suitable for breeding birds.
- The likelihood of passing otters on the site is low and there are no signs of badgers either.
- There is a low likelihood of reptiles on the site.
- The gardens are considered suitable for hedgehogs.
- The revised design is welcome as it retains a larger amount of natural habitat around the edge of the site. The extent of “free space area” should be a light sensitive zone protected during and post construction.

4.1.6 SC Learning and Skills Team – Comment:

Local primary school has no excess capacity. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary at those schools. It is recommended that any resulting capacity pressures from this development are addressed by way of a CIL tariff.

4.1.7 Shrewsbury Town Council – Objection

Members objected to the design of these buildings which are not in keeping with neighbouring properties due to their scale and massing.

Shrewsbury Town Council has considered the amended plans for this development and feels that whilst the layout of the site has been improved, the poor design of the elevations for the houses is not in keeping with the neighbouring properties. Members also feel that there is a need to protect the number of trees on the site and request this application be considered by the Central Planning Committee.

4.1.8 West Mercia Constabulary – Comments.

Development should aim to achieve Secured By Design award status.

4.2 Public Comments**4.2.1 33 letters of objections from local residents have been received in relation to the original submissions and to the amendments.**

The objections can be categorised around the following five matters:

Comments on the implementation of the 2006 planning permission

- The original planning approval was passed in 2006. This was for Radbrook Court and 5 detached dwellings. Radbrook Court was completed in 2011 and work to the 5 detached properties should have started immediately (see correspondence between yourselves (10/01713/ENF) and the developer.
- No work has taken place on site since June 2011 which may be a breach of the original planning application.
- Original application has now expired and therefore this is not an amendment to an existing application but should be treated as a new application. The original application for 5 houses has no relevance to this new application of 12 houses.
- How can this be a variation to the previous planning permission when the proposal increases the number of dwellings from 5 to 12? Section 73 applications to modify conditions should be appropriate only in circumstances where the description of development does not change materially.
- Government guidance suggests that section 73 applications can be used to seek a minor material amendment defining such an amendment as 'likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved'. This situation does not appear to apply in respect of this application.
- Shropshire Council have rejected a number of applications to alter the condition related to building 5 detached houses because it was felt that type of property was more in keeping with the neighbourhood.

Design/ character and appearance

- This development is ugly, overbearing, out of scale and out of character with other existing developments in the vicinity (excluding Radbrook Hall Court).
- This proposed design is inappropriate in its context, and fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- It does not respect local context and street pattern or, in particular, the scale and proportions of surrounding buildings, and would be entirely out of the character of the area, to the detriment of the local environment.
- It certainly would not "protect or enhance the local environment, including wildlife habitats, trees and woodland parks and gardens."
- The new plan shows a block of either two or four properties now immediately facing (their rear windows) my property whereas the existing application had

one property with a side on elevation which was to have no windows overlooking my property.

- The design of these houses does not have any synergy with any of the other neighbouring buildings and would certainly not "enhance the level of architecture in the area" it will only dominate existing developments.
- Radbrook Hall Court is the only development in the vicinity to exceed two storeys and is not characteristic of the local area. Three storey development is out of character.
- The need for three storeys is a result of the small footprint of each dwelling proposed. This small footprint is a direct result of the applicant seeking to cram as many properties as possible onto the site.
- The site is also raised above Radbrook Road which will exacerbate the height, scale and mass of the dwellings.

Trees/ ecology/ green issues

- The site contains a number of protected trees (the applicant appears to be unaware). The applicant should be required to clearly identify the protected trees on a plan and identify those which it wishes to remove, including clear justification for this. Reducing number of dwellings would enable resiting of the blocks away from rear of properties on Wildon Way and avoid having to remove a substantial number of trees which run along the southern boundary of the site.
- The site plan shows visitor parking very close to existing trees and the Council should satisfy itself that the works necessary to construct the spaces do not affect the tree roots with particular consideration to be given to changes in levels and ground compaction.
- The effect of three storeys should not be underestimated, particularly when viewed from properties on Ryelands which are set at a substantially lower level to the site and a cross section through the site to Ryelands should be provided.
- Confirmation that the tree group behind 1 Wildon Way is to be retained would be welcomed as well as boundary screening and treatment.
- I can confirm that bats are nightly visitors to our garden in the summer months flying along linear features. That they emerge at early dusk suggests that they are roosting very locally (common pip).
- Para 3.3.1 of the submitted Ecological Report suggests all trees to be retained and this is not correct - climbing inspections should be undertaken to assess whether the trees contain roosts and it is not appropriate to rely on EPS licencing post consent without firstly understanding the extent to which bat roost may be affected.
- Strict conditions should be placed on any development of the site to ensure that the trees and mature vegetation are retained and well maintained as specified in the Pre-development Arboricultural Report. This will ensure that the future street scene along Radbrook Road is largely unaffected.
- This site was never used for any vehicle parking or access at all it was the hotel gardens, bowling green and a play area for children. Therefore it should be reclassified as a Greenfield site.

Impact on neighbours

- The site plans are not accurate in their representation of our own property (on Wildon Way), a principal rear room of which is significantly closer to the boundary (and therefore to the proposed end elevation of the housing) than is shown. This should be amended accordingly to provide a true picture of the degree of impact on private residential amenities.
- The distance between the rear of properties on Wildon Way and the gable end of the closest block should also be provided. A quick review of guidance provided by local planning authorities across England suggests that distances to blank three storey gables from principal room windows of up to 20m is appropriate.
- The proposals are an overdevelopment of the site and will have an adverse impact on the character of the neighbourhood and residential amenity of its neighbours. The number of houses should be reduced and the height lowered to two storeys.
- Some of the neighbouring houses in both Ryelands and Wildon Way will be forced to have imposing buildings taking away their views of trees and fauna.
- The effect of three storeys should not be underestimated, particularly when viewed from properties on Ryelands which are set at a substantially lower level to the site and a cross section through the site to Ryelands should be provided.
- We are in a ground floor apartment that faces the development site, and at a lower level than the site. The three storey buildings will lead to loss of light, overshadowing and privacy.
- My apartment is likely to be overshadowed by the gable end of the first house which will block sunlight and sunshine to my windows.
- The proposal is for the 12, 3-storey townhouses to be built in 3 blocks. This will cause a very considerable brick mass which will be much more dominant for neighbouring properties than separate houses with view gaps between individual dwellings.
- Plot 8 & the vast majority of plots 7 & 12 fall outside the footprint of the granted plans & are closer to neighbouring properties.
- The land falls away from this site on the boundaries with some of the neighbouring houses: this makes height considerations very important.

Other matters

- There will be a significant increase in traffic, pollution and noise compared with the original application.
- From a practical point of view, wouldn't it be difficult to build so close to the boundary without impinging on Radbrook Hall Court? I assume they would need to keep within the boundary of the new development site.
- Would the drainage be able to cope with a deluge from a storm, in order not to cause flooding by run-off from the developed site to Radbrook Hall Court.
- The access road to the site is single track; this will not only cause a lot of congestion during the build, it will be an ongoing problem once the houses are built and occupied. Trucks, cars, delivery vehicles and so will be stopping to let traffic pass right below my windows. My apartment is on the first floor. I am concerned about the noise and pollution that the traffic will cause.
- Concerned that my apartment will look out onto a bin store. This is likely to affect the resale value.

- Why is a bin store required for a development of family houses?
- Concerns about the likely quality of construction and finish.
- The amendments do not overcome the objections already submitted.

5.0 THE MAIN ISSUES

- Principle of development
- Assessment of sustainability
- Design, scale and character and residential amenity
- Highways
- Drainage
- Other material considerations raised by consultee comments

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 This application (as presented to the Committee) is now for full planning permission to erect 10 three storey dwellings. The site has an extant planning permission for five detached dwelling houses that dates from 2006, which formed part of the larger redevelopment of the former hotel on the site and which led to the development of flats to the north east.

6.1.2 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." Since the grant of planning permission, the development plan for Shropshire has evolved and the introduction of updated Government advice on planning must be taken into account too.

6.1.3 The National Planning Policy Framework (NPPF) promotes sustainable development, directing Councils to boost significantly the supply of housing while reaffirming the importance of good quality design. New development should respond to local character and history and reflect the identity of local surroundings and materials. It states that new housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF supports the delivery of a wide range of high quality homes and advises councils that should normally approve planning applications for new development in sustainable locations that accord with the development plan unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the NPPF indicate development should be restricted.

6.1.4 In assessing the principle of the development, regard needs to be given to the

following policies. Core Strategy (CS) Policies CS1; CS2; CS6; CS7; CS9; CS17; and CS18 and SAMDev Policies MD1; MD2; MD3; MD8; and S16.

- 6.1.5 The site lies within the defined development boundary for Shrewsbury, where sustainable development will be supported in principle, according to SAMDev Policy MD1. CS Policy CS1 establishes Shrewsbury as the main focus for development during the lifetime of the development plan. SAMDev Policy S16 reaffirms this and states that new housing development will be delivered through a combination of existing brownfield sites and a range of new greenfield sites, both sites allocated for development and windfall opportunities. The site has an extent planning permission for five dwellings which formed part of the previous hotel curtilage that occupied the site of the apartment development to the north east. As such, the principle of new housing on the site is acceptable. The issues surrounding the increase in numbers of dwellings on the site relative to the earlier grant of planning permission are considered later in this report.
- 6.2 **Assessment of sustainability**
- 6.2.1 CS Policy CS1 sets the overall development strategy for the county and aims to deliver the majority of new development within a hierarchy of settlements with the urban centres of Shrewsbury, the Market Towns and Key Centres being the main focus for development.
- 6.2.2 SAMDev Policy S16 sets out the Settlement Strategy for Shrewsbury. As the key centre, it is expected to accommodate a further 6500 new homes or thereabouts from both site allocations and windfall sites over the lifetime of the current Development Plan (2006 – 2026). Policy MD1 supports sustainable development within the key centres in principle.
- 6.2.3 CS Policy CS6 requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. CS Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. CS Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.2.4 The application site is located within the settlement boundary for Shrewsbury, which is the main focus for new development within the county over the lifetime of the development plan. Radbrook Road is on a bus route into the town centre and the site is close a range of local services including the Radbrook Green shopping centre. Thus, the site can be considered to be in a sustainable location without the need for future residents to be reliant on the private motor car.
- 6.2.5 However, 'sustainable development' is not just solely about accessibility and proximity to essential services. The NPPF states that it is 'about positive growth – and decisions makers are obliged to assess the performance of applications against economic, social and environmental matters. The following analysis briefly addresses Government advice in this respect of these three matters.

6.2.6 Economic Considerations

The construction of new housing will provide short term employment during the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers are likely to access and use local services and facilities helping them to remain viable. The proposal will be liable for a CIL payment (to which the extant permission for five houses is not) which will provide additional financial contributions towards infrastructure. Finally, the new housing will also attract New Homes Bonus and additional Council Tax that can be reinvested by the Council within the community. These factors on their own provide limited support for the proposals.

6.2.7 Social Considerations

The amended proposal will provide a net increase of five family dwelling houses (compared to the approved development of five units) which will make a modest contribution towards the supply of housing in Shropshire and broaden the mix of housing options in the immediate vicinity.

6.2.8 The previous planning permission for the erection of 55 residential flats and five detached dwellings on this and the adjoining site included 21 affordable flats. The five dwellings were all open market. These five dwellings have not been constructed yet but could be without the need for Council approval. The Housing Officer has requested a contribution towards meeting the affordable housing requirements within Shrewsbury. However, this development constitutes a new form of development and will supersede the previously approved development. As the amended number of houses falls below the current affordable housing contributions threshold of more than 10 units and Government guidance set out in the National Planning Practice Guidance (the NPPG), it is not subject to those contributions.

6.2.9 The provision of open market housing supporting existing facilities will be of benefit to both existing and future resident in the community and will help meet the needs of present and future generations. However, it is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement. The Council expects new developments to contribute towards improving social infrastructure in part funded by CIL contributions. The development will be expected to contribute towards these facilities. It is concluded that the social benefits of this scheme weigh considerably in its favour.

6.2.10 Environmental Considerations

The site is an overgrown parcel of land to the west of a recently built flatted development. The tree survey submitted with the application indicates the site has 44 on and off site trees, mostly deciduous. It contains numerous trees around the edges (particularly to the north, south and west). The Council's Tree Officer had objected to the original proposals which showed extensive tree removal including three high quality specimens and another high quality tree to be substantially pruned. The revised application reduces this to 10 trees. They are all graded U

(poor condition), C (low quality) or B (moderate quality).

- 6.2.11 The applicant has materially revised the scheme since it was first lodged by reducing the yield and moving back the westernmost terrace (now renumbered Plots 7 to 9) as well as removing a communal parking area and bin stores, thus protecting the root zone of a cluster of high and moderate quality trees in the north western corner of the site (yews, oak, beech). No high quality (grade A) trees would be affected by the proposal.
- 6.2.12 The trees fronting Radbrook Road would be largely retained and a landscaping condition is proposed to provide additional tree coverage to strengthen this green buffer on a route into town and around the edges of the site for future generations to enjoy. Conditions requiring tree protection zones during construction and the restriction of permitted development rights for the new houses will further reduce the risk of trees being threatened during building works and by future development once the houses are occupied such as extensions or sheds.
- 6.2.13 From an ecological perspective, the site sits within a semi-urban setting, is not an internationally or nationally designated site and there are no local wildlife sites within 1km of the site. The Council's ecologist is satisfied with how the revised scheme makes the most of the site's limited ecological value.
- 6.2.14 Promoting more intensive development on a sustainable site also accords with the Government advice which directs councils to boost significantly the supply of housing on sustainable sites while theoretically taking pressure off open countryside.
- 6.2.15 Based on the foregoing analysis and the advice offered in paragraph 8 of the NPPF, it is concluded that the proposal will not result in environmental harm and that, as such, the proposals can be considered to constitute sustainable development as defined by the Government.
- 6.3 **Design, scale, character and residential amenity**
- 6.3.1 CS Policy CS6 requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. SAMDev Policy MD2 is also concerned with ensuring the design of new development respects and contributes to the character and appearance of the local built and natural environment.
- 6.3.2 Section 7 'Requiring Good Design' of the NPPF states that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. It also indicates that councils should not refuse planning permission for buildings which promote high levels of sustainability because of concerns about incompatibility with the existing townscape, if those concerns have been mitigated by good design.
- 6.3.3 The originally submitted scheme showed a development of 12 houses of a typical modern and inoffensive if unadventurous suburban style and appearance incorporating pitched roofs and bay windows and extensive areas of parking and bin

stores. This has been reduced to ten units with greater degrees of separation from retained trees and the existing dwellings to the north and west in particular. The amended development retains a sense of cohesion due to the shared design features and common materials.

- 6.3.4 The immediately adjoining flatted development at Radbrook Hall Court is of greater mass and its materials are different to those proposed in the new development. The residential developments to the west and north are also different, in that they are detached two storey properties on more generous plots so that the density is lower. The development to the south of Radbrook Road is at a lower density still, but is physically separated from the site by Radbrook Road. There is, therefore, a mix of housing styles, heights and densities in the local area that affords an opportunity for further variation.
- 6.3.5 There has been some local criticism directed at the proposals in respect of its height, design and density even in relation to the reduced scheme. Whilst acknowledging the views expressed, the site does not lie within a designated area and sits within a predominantly residential location that exhibits a wide range of housing types and styles. There is no overwhelming style within the area which leaves scope for a different style of built form that will contribute to the diversity of development locally. In this context, a development of this form and scale would sit appropriately in its context subject to conditions confirming final details of design (materials and landscaping). The level of open space proposed (1478 sqm) exceeds the minimum requirements set out in SAMDev Policy MD2 (1200 sqm).
- 6.3.6 The amended plans refine the design and layout of the development to safeguard the living conditions of the residents of adjacent properties. These show the separation distances between the existing flats at Radbrook Hall Court at 13m, only two metres closer than the 2006 approved scheme. The distances between the houses at Plots 8 to 10 and the main building line of the houses to the north is around 21m. There would be no side flank windows on Plots 1 and 7 and so there would not be any direct overlooking. The angled relationship of the proposed dwellings with the existing helps mitigate any direct impact in terms of overlooking or a sense of overbearing effect. Additional landscaping along the site boundaries can also be secured and this combination is considered to be an acceptable solution to a potential difficulty.
- 6.3.7 The original proposal would have been dominated by hard surfaces, devoted to extensive car parking areas to the front of each dwelling. The application form states there would have been 34 car parking spaces provided. The effect of this would have been to create an over-engineered and harshly urban appearance which is likely to further affect the ecological interests of the site. The amended plans have shown this area to be greatly reduced with a shorter and less intrusive access drive and lower car parking provision to reflect the reduced scale of development. This is considered to be an improvement.
- 6.3.8 Despite the density of the adjacent flats, the character of the surrounding area is predominantly green and loose knit. The reduced scale and reorientation of the proposed development, as amended, would no longer appear incongruous in relation to the nature of the area and has helped resolve the above issues. It is

considered that the amended density and form of development proposed is acceptable on balance and complies with CS Policy CS6 and SAMDev Policy MD2.

6.4 Highways

- 6.4.1 CS Policy CS6 indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.
- 6.4.2 The site is considered to be in a sustainable location. The Highway Authority has no objections with regard to traffic generation.
- 6.4.3 Each of the proposed dwellings makes provision for off-street car parking for at least two cars per dwelling with additional visitor spaces. This is considered to be acceptable for 4 bedroom dwellings. There is, therefore, no objection to the proposals on highway safety grounds.
- 6.4.4 The highway authority officer's suggested conditions and informatives have been incorporated into the recommendation in this report.

6.5 Drainage

- 6.5.1 CS Policy CS18 indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.5.2 The site is not in an area indicated as being at high risk of flooding on the Environment Agency FRA maps. The application states that all surface water will be disposed of via a sustainable drainage system, utilising the underground storm water attenuation tank that sits to the north of the flats. Subject to the capacity being large enough to cater for the additional development, the Drainage Engineer has no objections. Foul drainage will be taken to the existing mains services. This is considered to be appropriate.
- 6.5.3 A sustainable urban drainage scheme is considered to be beneficial in this location consistent with CS Policy CS18 and could be secured via an appropriate planning condition. It is considered that the site is capable of being satisfactorily drained and there are no objections on drainage or flood risk grounds.

6.6 Other material considerations

- 6.6.1 Officers have given careful consideration to all other matters raised in the community consultation but find nothing to alter their recommendation especially given the fall-back position of the extant planning permission that applies to the site.
- 6.6.2 Protection of views and perceived impacts on property values are not legitimate planning considerations. There is no merit in re-designating the site as "greenfield" given that it forms the gardens of a former hotel, a brownfield site, and, further, that the site benefits from planning permission for housing that could be completed. The Council's ecology and tree advisers have considered the proposals and advise that

it is now acceptable. Other matters in the representations can be addressed via planning conditions particularly one which restricts permitted development both for extensions and outbuildings.

7.0 CONCLUSION

7.1 This proposal is an infill housing development that seeks to supersede a development which has planning permission. It is more intense relative to the approved scheme but this is not a reason in itself to withhold permission. A considered review of its layout shows that it is acceptable having regard to its surrounding context and its interfaces with adjoining land subject to appropriate planning conditions being imposed. Indeed, the proposal delivers important sustainability benefits through the more effective use of land within the town of Shrewsbury. It is therefore recommended that planning permission be granted.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

National Planning Policy Framework

National Planning Policy Guidance

Core Strategy

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS9 – Infrastructure Contributions

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Sites Allocations and Development Management Plan

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD8 - Infrastructure Provision

Settlement: S16 - Shrewsbury

RELEVANT PLANNING HISTORY:

10/01444/VAR Variation of condition number 9 attached to planning permission reference 06/0333/F dated 21st July 2006 to allow a further 12 weeks for the completion of hard surfaces
GRANT 15th July 2010

PREAPP/15/00199 Proposed development of no. 12 townhouses accessed via a private drive and sited within existing mature trees. PREAMD 29th July 2015
 16/03220/FUL Erection of 3 blocks of 4, 3 storey terraced dwellings APPRET
 16/04883/FUL Erection of ten (1 block of 4 and 2 blocks of 3) dwellings; formation of estate road and parking areas (modification to approved scheme SA/06/0333/F) (Amended Description). PDE

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) SA/06/0333/F
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Keith Roberts
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. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.
4. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs
5. No ground clearance, demolition, or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.
Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.
6. No development shall take place until a scheme of foul drainage, and surface water drainage consistent with Sustainable Urban Drainage System principles has been

submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

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

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

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

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species, and to minimise light spillage beyond the site.

9. Prior to first occupation / use of the building, the makes, models and locations of bat boxes and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

A minimum of 2 external woodcrete bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited at an appropriate height above the ground with a clear flight path where unaffected by artificial lighting. The boxes shall thereafter retained.

A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for swift (swift bricks or boxes), or sparrow (32mm hole, terrace design) shall be erected on the site. The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path. The boxes shall thereafter be retained.

Reason: To ensure the provision of roosting opportunities for bats and wild birds.

10. Prior to first occupation / use of the building, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the Bat Reasonable Avoidance Measures (as set out in the Addendum Ecology Assessment prepared by BL Ecology Ltd 13th July 2017 report).

Reason: To demonstrate compliance with the Bat Reasonable Avoidance Measures.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Classes A and B shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities of neighbouring properties.

Informatives

National Planning Policy Framework (NPPF)

The Council has worked proactively with the developer and sought to explore a solution to the application consistent with advice in paragraphs 186 and 187 of the NPPF.

Highways

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.

Disabled needs

The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.

Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent or previous consents are safeguarded in any sale of the application site or part(s) thereof.

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.

Ecology

Badgers

Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

Bats

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all works on mature trees there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working on mature trees, particularly where cracks and crevices or thick ivy covering are present. Any cracks and crevices should be visually inspected prior to the commencement of works on the tree and if any cracks or crevices cannot easily be seen to be empty of bats then an experienced, licensed bat ecologist should be called to make a visual inspection using an endoscope and to provide advice on tree felling.

Works on trees with high bat roosting potential (aged or veteran trees with complex crevices and areas of dead wood) should not be undertaken without having first sought a bat survey by an experienced, licensed ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition). Felling and tree surgery work should only be undertaken in line with guidance from a licensed ecologist and under a European Protected Species Mitigation Licence where necessary.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Wild birds

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 scrub removal should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

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

Hedgehogs

The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. To avoid harming hedgehogs during the works, site clearance (including removal of piles of deadwood and other potential hibernation sites) should be undertaken between April and October. Materials should not be stacked in the working area before then unless they are raised up on pallets, or similar.

If a hibernating hedgehog is found on the site then it should be covered over with a cardboard box and advice sought from an ecologist or the British Hedgehog Preservation Society (01584 890 801).

Semi-natural habitats

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

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<u>Committee and date</u>
Central Planning Committee
31 August 2017

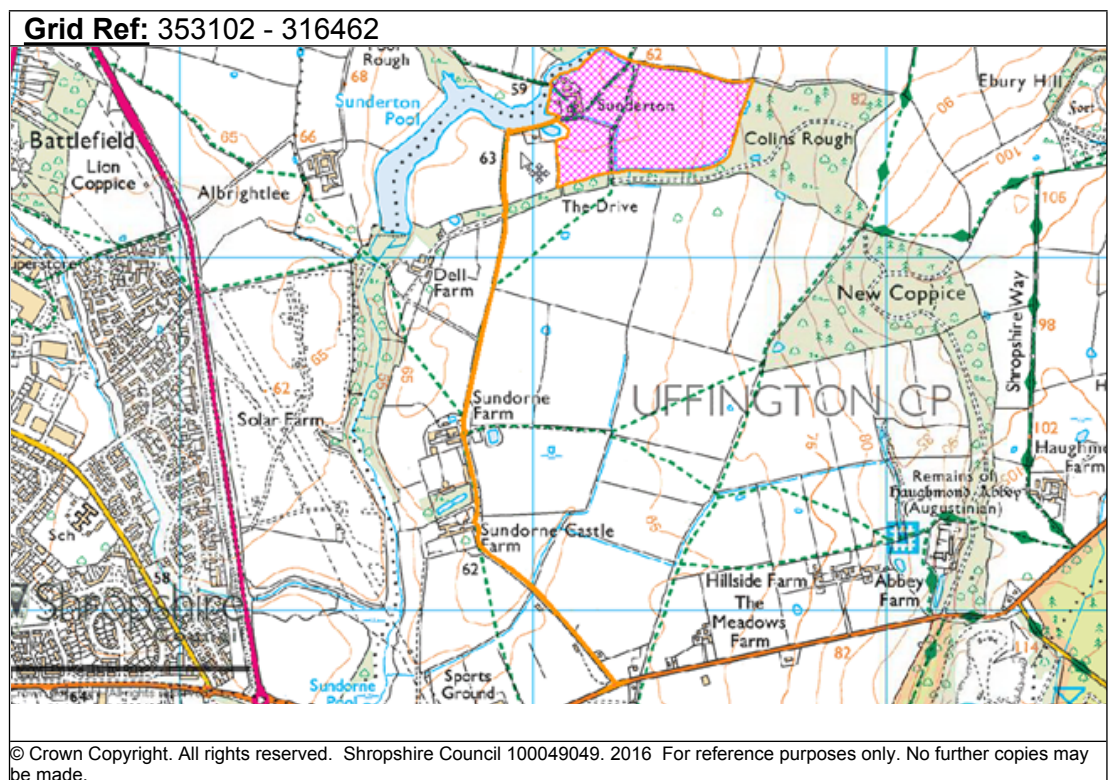
<u>Item</u>
10
Public

Development Management Report

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

Summary of Application

Application Number: 17/02522/VAR	Parish: Uffington
Proposal: Variation of condition number 2 (approved plans) attached to planning application reference 16/04518/EIA dated 07/03/2017 to allow alterations to the layout of sheds 1 and 2 (amended description)	
Site Address: Sunderton Farm Uffington Shrewsbury Shropshire SY4 4RR	
Applicant: Mr Hockenull	
Case Officer: Frank Whitley	email: planningdmc@shropshire.gov.uk



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL****1.1** The application seeks planning permission for the:

Variation of condition number 2 (approved plans) attached to planning application reference 16/04518/EIA dated 07/03/2017 to allow alterations to the layout of sheds 1 and 2 (amended description)

1.2 The application seeks to alter the design of the buildings which have been approved as part of 16/04518/EIA, (Planning Committee 16 Feb 2017) *Erection of four poultry sheds, feed bins, solar photovoltaic panels and ancillary equipment, creation of access tracks to the site and alterations to existing vehicular access (Amended scheme)*. This application was approved by Planning Committee on 16 February 2017 and limited by condition to no more than 200,000 birds in total.

1.3 The approved scheme consists of four sheds each measuring 97.5m long, 24.5m wide, and a maximum height of 4.6m (also feed bins and ancillary buildings/equipment).

1.4 This application proposes to reduce the length of two of the four buildings to 73m long and 20m wide, though they will be taller with a maximum height of 6m and eaves height to 3.3m.

1.5 The reduction in floor area will result in a corresponding reduction in bird numbers. The unchanged Sheds 3 and 4 will house 100,000 birds between them. The proposals which apply to Sheds 1 and 2 will result in a reduction from 100,000 to 32,000 birds between them.

1.6 The variation as first submitted intended to alter the access route. However it was found that the preferred option was exactly as finally approved in 16/04518/EIA. The description of development was amended accordingly.

2.0 SITE LOCATION/DESCRIPTION

2.1 Sunderton Farm is located at the end of a 2km private drive accessed from the B5062 which connects Shrewsbury and the village of Roden. Sunderton is located in a flat and low lying area to the east of Shrewsbury bypass. The application site lies in Flood Zone 1 (the lowest risk of flooding). The proposed development forms part of a planned strategy to ensure the future viability of the farm unit.

2.2 The current holding extends to 400 acres and comprises arable with cereals, oilseed rape and fodder beet. There is a herd of sucker cows and circa 220 breeding ewes.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposal relates to a schedule '1' EIA development and therefore Committee consideration is mandatory in accordance with the Council's scheme of delegation.

4.0 **Community Representations**

Consultee Comments

4.1 **Parish Council- no objection**

Customer made comments in support of the Planning Application

Comment Reasons: Comment: After discussion it was agreed that the Parish Council support this application

4.2 **Conservation- no objection**

No comments are raised in terms of historic environment matters. All conditions regarding external materials and colour finishes, along with landscaping mitigation measures and landscaping maintenance, should still be applied.

4.3 **Regulatory Services- no objection**

Having considered the variations I have no objections in principle.

4.4 **Rights of Way- no objection**

Comments made to the previous application for this site regarding public rights of way are still relevant to this application.

I attach a plan of the area showing rights of way information onto which I have overlaid the current proposed block plan which shows various Rights of Way within the vicinity of Sunderton Farm. It appears from the plan that FP 16 will be obstructed by the development of the sheds and will require a legal diversion under the terms of the Town and Country Planning Act. The applicants will need to apply to the Mapping and Enforcement Team for such a diversion and, in the meantime, the route needs to be kept open and available at all times.

4.5 **SUDS- no objection**

We have no comment regarding the Variation of condition number 2 (approved plans) attached to planning application reference 16/04518/EIA dated 07/03/2017 to allow alterations to the layout of sheds 1 and 2 (amended description).

4.6 **Public Comments- none received**

5.0 **THE MAIN ISSUES**

Principle of development

Siting, scale and design of structure

Visual impact and landscaping

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 The principle of development was established in 16/04518/EIA which is given very significant weight in this application. The following policies were relevant and there have been no changes since then to alter the Case Officer's position.

6.1.2 The National Planning Policy Framework, (NPPF), emphasises in paragraph 28 on Supporting a prosperous rural economy, that planning policies should support economic growth in rural areas, in order to create jobs and prosperity by taking a positive approach to sustainable new development and promote the development and diversification of agriculture and other land based rural businesses.

6.1.3 Policy CS5: Countryside and green belt in the Core Strategy states that new development will be permitted where it improves the sustainability of rural communities where development diversifies the rural economy including farm diversification schemes. The policy further states that large scale agricultural related development will be required to demonstrate that there are no unacceptable adverse environmental impacts.

6.1.4 Policy CS6: Sustainable design and development principles emphasises how development must be designed to a high standard using sustainable design principles and make the most effective use of land whilst safeguarding natural resources.

6.1.5 Policy CS13: Economic development, enterprise and employment, puts emphasis on diversifying the Shropshire economy, supporting enterprise and seeking to deliver sustainable economic growth and in rural areas recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy and in particular areas of economic activity associated with agricultural and farm diversification.

6.1.6 With regard to the Shropshire Council SAMDev Plan, Policy MD7b (General Management of Development in the Countryside) states that agricultural development will be permitted where proposals are appropriate in size for their intended purpose, well designed and sited close to existing farm buildings, and where there no unacceptable impacts on the environment and existing residential amenity. Policy MD12 (Natural Environment) seeks the avoidance of harm to Shropshire's natural assets and their conservation and enhancement and restoration.

6.1.7 The policies referred to above support appropriate agricultural economic growth and diversification having regard to the local environment.

6.1.8 The development is generally considered to be an appropriate form of farm diversification for the existing family owned business. Accordingly the development is considered acceptable in principle and accords with the above Core Strategy Policies.

6.2 **Siting, scale and design**

- 6.2.1 The four buildings are to be constructed in the same layout as approved previously. Sheds 1 and 2 which are to be modified are to be positioned to the south of the group. Overall, the buildings have a significantly reduced footprint overall, though this benefit is partly offset by two buildings being 33% higher than before.
- 6.2.2 A 200kw solar panel array will be installed on the south facing roofs of Sheds 1 and 2 as before.
- 6.2.3 Having regard to the approved scheme, the alterations are considered acceptable in terms of design and scale.
- 6.2.4 In all other respects, development approved under 16/04518/EIA remains the same.
- 6.3 **Visual impact and landscaping**
- 6.3.1 Given that two buildings will be 33% higher, it is accepted that it may be more difficult to screen them out completely, especially from short-medium range ground level views. However there is still considered to be potential to secure an adequate landscaping scheme by way of condition to mitigate the impacts
- 6.3.2 From longer range viewpoints, the mass of development is likely to be noticeably less than the previous approved scheme, and the height increase not discernible.
- 6.3.3 On balance, taking the above into account, it is considered that the changes are acceptable and will not materially impact upon the scheme.
- 7.0 **CONCLUSION**
- 7.1 Overall, the 33% increase in height of the two of the buildings is considered acceptable, and will only have a small visual impact from shorter range views. As before, a landscaping scheme will be required by condition and is considered sufficient to mitigate any additional impacts. No other material objections have been raised as an issue.
- 7.2 Planning permission is recommended
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

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

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

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

8.2 Human Rights

Article 8 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:

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
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

11/00258/VAR Variation of condition number 2 attached to Planning Permission Ref. 04/0804 dated 30/07/2004 to allow an increase in the height of the eaves GRANT 18th March 2011
11/05062/AGR Erection of an agricultural storage shed PNAGR 23rd November 2011
14/01387/AGR An open plan, portal framed agricultural building. PNR 17th April 2014
14/04411/FUL Erection of additional building on the eastern elevation of the recently approved storage building (planning ref: 14/01387/AGR). GRANT 26th November 2014
14/04412/FUL Erection of additional building on the western elevation of the recently approved storage building (planning ref: 14/01387/AGR) GRANT 26th November 2014
15/00178/SCO Proposal for 4 poultry buildings with feed bins and ancillary equipment and amendments to access SCO 13th February 2015
15/00548/DIS Discharge of Condition 3 (Drainage) on Planning Application 14/04411/FUL for the erection of additional building on the eastern elevation of the recently approved storage building (planning ref: 14/01387/AGR). DISAPP 12th February 2015
15/00549/DIS Discharge of Condition 3 (Drainage) on Planning Application 14/04412/FUL for the erection of additional building on the western elevation of the recently approved storage building (planning ref: 14/01387/AGR) DISAPP 12th February 2015
15/04709/EIA Erection of Four Poultry Houses, with feed bins, solar photovoltaic panels and ancillary equipment and amendments to vehicular access WDN 29th September 2016
16/04518/EIA Erection of four poultry sheds, feed bins, solar photovoltaic panels and ancillary equipment, creation of access tracks to the site and alterations to existing vehicular access (Amended scheme). GRANT 7th March 2017
17/02522/VAR Variation of condition number 2 (approved plans) attached to planning application reference 16/04518/EIA dated 07/03/2017 to allow alterations to the layout of sheds 1 and 2 (amended description) PDE

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
--

Local Member Cllr Lezley Picton

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 including those of 16/04518/EIA unless otherwise varied by this permission.

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 the above ground works commencing samples and/or details of the roofing materials, solar panels, materials to be used in the construction of the external walls (including ancillary buildings and structures) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

4. Prior to the commencement of works, (including demolition, ground works and vegetation clearance) a landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Means of enclosure, including all security and other fencing
- b) Hard surfacing materials
- c) Minor artefacts and structures (e.g. lighting)
- d) Planting plans, including wildlife habitat and features (e.g. bat box)
- e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
- g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- h) Implementation timetables

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

5. Prior to the commencement of work on site a 10m buffer shall be fenced off parallel to the banks along the length of the ditch, put in place within the site to protect the ditch during construction works. No access, material storage or ground disturbance should occur within the buffer zone unless previously agreed in writing by the Local Planning Authority. The fencing shall be as shown on the approved site plan HPJ9242-05 A Received 24 May 2017.

Reason: To protect features of recognised nature conservation importance.

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

Reason: The development site is known to have archaeological interest

7. Prior to the commencement of development full engineering details of the proposed levelling and surfacing works as outline under point no. 9.15 within the Environmental Statement, shall be submitted to and approved in writing by the Local Planning Authority; the amendments to the access entrance apron onto B5062 shall be fully implemented in accordance with the approved details before the development hereby permitted is first occupied.

Reason: To provide a satisfactory means of access to the site in the interests of highway safety.

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

8. The proposed works to the private drive, internal access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved plans drawing no's HPJ9242-03 Rev B and HPJ9242-05 RevA received 24 May 2017 prior to the poultry units first being brought into operation. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

9. A total of 4 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

10. Prior to occupation, a 'lighting design strategy for biodiversity' for the proposed development site shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

11. The access road from the B5062 public highway shall not be used by HGVs in connection with the development between the hours of 2300hrs and 0700hrs the following morning.

Reason: To protect the amenity of residential dwellings during night time hours.

12. Surface water disposal will take place in full accordance with the submitted Flood Risk Assessment (FRA) report reference: 2003/FRA Version 1 dated July 2015 and drainage plan reference HPJ9242-07 Revision B dated August 2015 received 24 May 2017.

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

13. The development hereby approved shall not be used to house any more than 132,000 birds in total.

Reason: To ensure the scale of development does not exceed the capacity of the access route and highway network, and to protect the amenity of residential dwellings.

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Committee and date

Central Planning Committee

31 August 2017

Item

5

Public

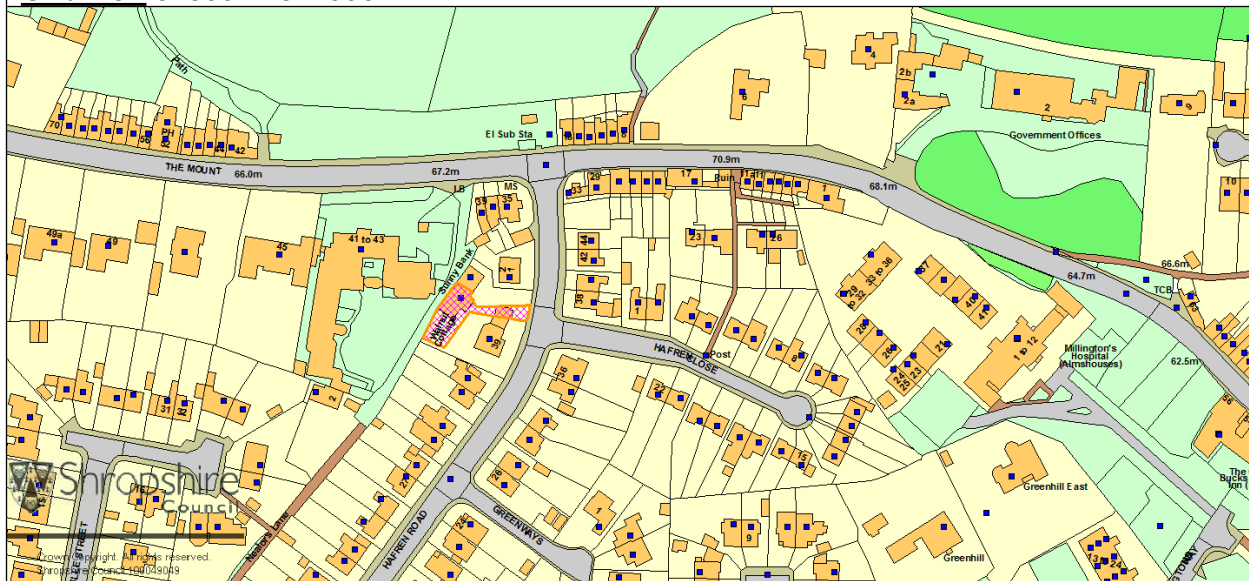
Development Management Report

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

Summary of Application

Application Number: 17/02940/VAR	Parish:	Shrewsbury Town Council
Proposal: Variation of Condition No. 2 (approved plans) pursuant to 14/01324/FUL to allow for an increase in height of approved extension		
Site Address: Walnut Cottage Nealors Lane Shrewsbury SY3 8NF		
Applicant: Mr & Mrs M Rogers		
Case Officer: Cathryn Robinson		email: planningdmc@shropshire.gov.uk

Grid Ref: 348332 - 312996



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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks permission to vary condition 2 attached to application 14/01324/FUL to amend the plans approved by this condition in order to allow for an increase in height of the afore-approved extension.

2.0 SITE LOCATION/DESCRIPTION

2.1 Walnut Cottage is a semi-detached property off the Mount just outside central Shrewsbury. It has a large garden to the side and a thin strip of land to the rear (west) where there is a garage and rear access point facing onto Hafren Road.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council have provided views contrary to the Officers recommendation. This has been discussed with the Local Member whom has requested a committee determination for this application.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Shrewsbury Town Council

Members were concerned about the neighbouring residents being overshadowed from the significantly increased ridge height. They would support the application if the height of the roof was reduced to the original height when approval was last granted. They requested that this application be considered by the Central Planning Committee.

4.1.2 SC Ecology

No objection; informatives recommended.

4.1.3 SC Conservation

Comments were made by the Conservation Officer to the previous submission (14/01324/FUL) which was approved following revisions to reduce the height. Whilst concerns were raised regarding the increased height of the garage within the context of the conservation area, no objections were raised provided the work was of a high standard in terms of external materials, roof lights and joinery and conditioned accordingly. The scheme now proposed is slightly higher than the amended approved plans, but lower than the original submission that we commented on from the 2014 application. In this regard it is not considered that the additional height would be considered to negatively impact on the conservation area where taking account of the approved scheme and in considering the relevant policies and legislation referred to above. Appropriate conditions are recommended in respect of materials, rooflights and joinery if the scheme is recommended for approval.

4.1.4 SC Trees

No objection.

4.1.5 SC Archaeology

We have no comments to make on this application with respect to archaeological matters.

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and newspaper advertisement. Additionally, the residents of four neighbouring properties were individually notified by way of publication.

4.2.2 At the time of writing this report, two representations had been received in response to this publicity. The objections/concerns are summarised as follows –

- Application appears to be a resubmission of previous works, which were refused due to being inappropriate
- Loss of light
- Fragmentation of the curtilage; concerns a new/separate dwelling would be established on the site
- Works will make the existing property even more out of scale and character
- Insufficient information submitted in order to make an informed assessment
- Incorporation of hipped roof provides opportunity for ambiguity surrounding the impact of any height increase

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Impact on visual amenity

Impact on neighbouring amenity

6.0 OFFICER APPRAISAL**6.1 Principle of development**

6.1.1 The application form as submitted is for the removal or variation of a condition following the granting of planning permission ref: 14/01324/FUL under s73 of The Town and Country Planning Act 1990 (TCPA). A s73 application allows for minor material amendments to those already approved permissions, subject to their being a relevant condition that can be varied. An approval to vary or remove a condition is, in effect, the issuing of a new planning permission – sitting alongside the original permission, which remains intact and unamended (para 015, 17a PPG).

6.1.2 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Section 7 of the National Planning Policy Framework reinforces these goals at a national level, by requiring

development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.

6.2 Siting, scale and design of structure

6.2.1 Proposed are alterations to the height of the existing garage, which has been previously permitted an increase by way of facilitating its conversion to residential accommodation. In relation to the garage roof height, as initially proposed during the course of application 14/01324/FUL, an increase of approximately 2m (overall ridge height approx. 5.8m) was sought; this was subsequently amended to be, and permitted as, an increase of some 0.7m (overall ridge height approx. 4.5m).

Following this amendment, the overall scheme – which consisted also of a link extension connecting this garage to the main house – was considered to be acceptable its scale, design and siting.

6.2.2 The current application seeks to increase the overall ridge height to roughly 5.5m, namely a 1m increase on the previous approval; this amendment is pursued in order to allow sufficient head height for first floor accommodation within the structure. The currently proposed design also noted to feature a semi-hipped roof, in contrast to the previously approved gabled roof, and a shallower ridgeline.

6.2.3 The incorporation of design features – the slightly reduced overall ridge height, the shallower roof pitch and half-hipped roof design – are considered a notable improvement to the originally submitted design which was deemed inappropriate. Though this represents an increase of roughly 1m on that design previously approved by application 14/01324/FUL, it is not considered that the overall scale and design is inappropriate in this instance.

6.3 Impact on visual amenity

6.3.1 The variation to the roof design, incorporating a semi-hipped roof, is acknowledged to make effort by way of working to lessen the bulk and massing of the proposal. It is noted that the 1m height increase in comparison to that previously approved shall see the garage as a more prominent installation within the street scene; however it is not considered that this visual impact is sufficiently detrimental as to warrant the refusal of the application.

6.4 Impact on neighbouring amenity

6.4.1 The application site its neighbouring properties exhibit somewhat irregular curtilages; the garage in question adjoins the garage of neighbouring no.39 to the South, and runs along the shared curtilage (and the only garden amenity space) of neighbouring Sunny Bank to the North. It is noted that a cluster of mature trees currently occupy this shared boundary.

6.4.2 Falling within the Shrewsbury Conservation area, it is noted that the aforementioned trees located to the shared curtilage boundary could not be felled without consent from the Local Authority; as such this affords a notable degree of protection to the neighbouring residents. The sectional drawings provided with this application illustrate that the garage height as proposed shall not surpass the overall height of these trees; therefore it is not considered that the proposed works shall significantly exacerbate the existing situation in terms of neighbouring amenity.

6.4.3 It is noted that the fenestration contained within the North facing gable of neighbouring no.39 appears to be obscure glazed, likely containing a bathroom. The existing garage of this curtilage also provides a degree of separation/buffering

from the development site. In this light, on balance, it is not considered that the proposal shall give rise to levels of harm to the amenity of neighbouring residents sufficient to justify the refusal of this application.

7.0 CONCLUSION

7.1 The proposed variation is deemed to remain in scale and character with the original and its setting, and is not considered to pose demonstrable harm to the amenity of neighbouring residents. The application therefore fails to accord with the principal determining criteria of the relevant development plan policies and approval is recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and SAMDev Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD2 - Sustainable Design

RELEVANT PLANNING HISTORY:

SA/99/0924 Erection of a detached garage and provision of new vehicular access. PERCON
27th October 1999

14/01324/FUL Erection of link extension from existing house to garage; raised garage roof and conversion; internal alterations GRANT 2nd July 2014

14/01324/FUL (Erection of link extension from existing house to garage; raised garage roof and conversion; internal alterations) to replace the existing back door and proposed new door with 1 no. bi-fold door on new line GRANT 25th August 2015

15/03469/AMP Non-Material Amendment to previously approved planning permission

15/03516/DIS Discharge of condition 3 (External Materials), 4 (Windows/Doors), 5 (Roof Windows) attached to planning permission 14/01324/FUL Erection of link extension from

existing house to garage; raised garage roof and conversion; internal alterations DISAPP 1st October 2015

17/02940/VAR Variation of Condition No. 2 (approved plans) pursuant to 14/01324/FUL to allow for an increase in height of approved extension PCO

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
--

Local Member

Cllr Julian Dean

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

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

4. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

5. Prior to their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

6. The development hereby permitted shall only be used for purposes in connection with and ancillary to the enjoyment of the existing dwelling on the site as a single dwelling unit, and shall at no time be occupied as a separate independent dwelling or used for commercial or business purposes.

Reason: To safeguard the residential amenities of the area and avoid the establishment of a separate dwelling unit without the requisite affordable housing contribution, in accordance with Policies CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

Informatives

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

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to discharge conditions. If a fee is necessary this will be required per request. The required forms are available from www.planningportal.gov.uk or from the Local Planning Authority.

Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given. Failure to discharge pre-commencement 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. All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all building renovation, demolition and extension works there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working in roof spaces and removing roof tiles etc.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chose.

4. 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 conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

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

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

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Committee and date
 Central Planning Committee
 31 August 2017

Item
12
 Public

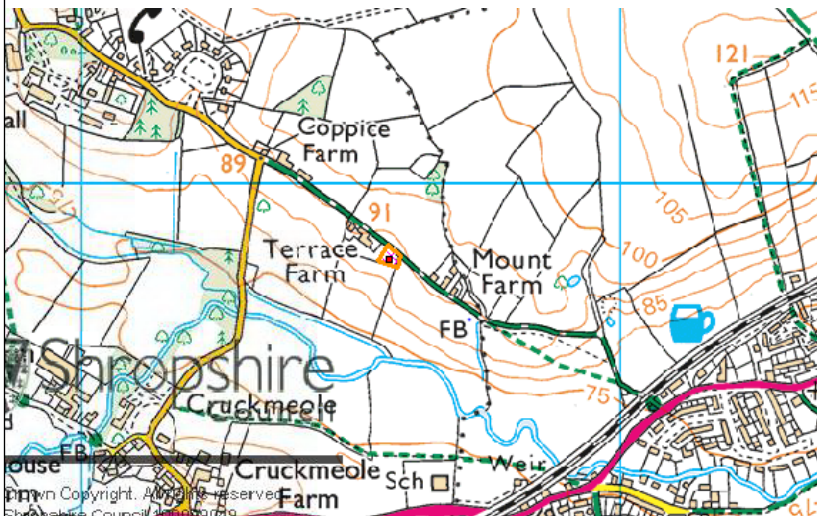
Development Management Report

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

Summary of Application

Application Number: 17/02233/FUL	Parish:	Pontesbury
Proposal: Erection of an affordable dwelling, associated garage and installation of septic tank		
Site Address: East Of Terrace Farm Cruckton Shrewsbury Shropshire		
Applicant: Mr George Gaskell		
Case Officer: Alison Tichford	email: planningdmc@shropshire.gov.uk	

Grid Ref: 343570 - 309862



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Recommendation:- Refuse
 Recommended Reason for refusal

The proposed development is considered to be in an inappropriate location for an exception site dwelling. The proposed site cannot be considered to be within or adjacent to the named settlement of Cruckton, and development of the site would adversely affect the local historic and rural character as well as the local landscape. Furthermore the site is accessed from a public bridleway, and sits very

close to existing agricultural buildings and may not be considered as a suitable location for the provision of an affordable dwelling separate from the farmstead i.e. in perpetuity.

In terms of design and scale, the proposed dwelling is well planned, but it would be an inappropriate domestic intrusion into the local countryside landscape, visible in views from all directions, including from the public bridleway adjacent.

The proposal is therefore considered to be contrary to the relevant parts of the Type and Affordability of Housing SPD and policies CS5, CS11 and MD7a of the Shropshire Local Plan policies and the application is recommended for refusal.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for the erection of an affordable three bedroomed home providing 100 sq. m gross internal floor space, garage, septic tank and associated curtilage space. The application site is 0.10ha.
- 1.2 The dwelling will consist of a two storey house with porch, an entrance hallway, living room, kitchen / diner, bathroom, and three bedrooms one of which is en-suite, with a single storey addition comprising a utility and wet room with side porch.
- 1.3 In September 2016 pre-application advice was sought and provided by Officers. This advice was as follows.

The development of this site will constitute the provision of a residential development in an area of open countryside and detached from any settlement. This is contrary to adopted SPD on the Type and Affordability of Housing and policy CS5 of the Shropshire Core Strategy which restricts new housing in these areas. Furthermore its location adjacent to an operational agricultural unit could have an unacceptable impact on the residential amenities for future occupiers as identified by Public Protection Officers. While there are no other objections to the proposal in terms of ecology, drainage and highways these do not outweigh the overriding policy objections. As such the proposal is unlikely to be supported by officers.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located to the south east of Cruckton, adjacent to Terrace Farm which does not appear on historic mapping and is probably of 20th Century origin, with some fairly modern farm buildings. Permission was granted in 2002 for the conversion of the farm's stable block to ancillary residential accommodation. The proposed conversion of a barn to living accommodation was considered not to constitute permitted development in 2015.
- 2.2 The grade II listed Church of St Thomas and Roman Villa Scheduled Ancient Monument are located approximately 300 metres to the North West of Terrace Farm with other designated assets located further to the North West and some distance away to the South.
- 2.3 The site is accessed from a registered bridleway accessed itself from the C classified Cruckton Crossroads to Cruckmeole Road, and is approximately 550 metres to the north west of the village of Hanwood.
- 2.4 Historic mapping indicates that there was no development along this bridleway until the 20th century, and there now appear to be 3 separate properties. Coppice Farm lies 200m appx. to the north west of Terrace Farm, and permission was recently (Dec 2016) granted

here for a single plot exception site affordable dwelling south east of the farm buildings. Mount Farm lies 200m appx. to the south east, and was granted permission in 2007 for the conversion of redundant buildings to ancillary accommodation.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Pontesbury Parish Council, supported by the Local Member, have submitted a view contrary to Officers recommendation for refusal based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions

4.0 COMMUNITY REPRESENTATIONS – full comments can be viewed on the planning record

4.1 - Consultee Comments

4.1.1 SC Flood and Water Management
No objection. Informative advice provided.

4.1.2 SC Affordable Housing
Have confirmed that the applicant has demonstrated strong local connections to the administrative area of Pontesbury Parish Council. After considering his housing needs and personal circumstances it is confirmed that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.

4.1.3 SC Ecology
No objection, but conditions as to bats/bird boxes and lighting plans, and informative advice, proposed.

4.1.4 SC Public Protection
No comments.

4.1.5 SC Highways
No objection – subject to the development being constructed in accordance with the approved details. Conditions and informatives recommended.

The proposed development site is accessed via a private track which has a public right of way with the status of bridleway running along it. The track leads from a sharp bend in the Class C 5133 rural road to the west of the development plot. The access track also serves the adjacent farm and an angling and wildlife pool.

It is considered that the additional vehicle movements likely to arise from the proposed dwelling will not significantly impact on the surrounding highway network and it is therefore acceptable from a highways perspective.

The applicant will also need to consult Shropshire Councils Rights of Way Officers regarding the status of vehicular rights from the public highway along the bridleway.

4.1.6 SC Rights of Way
Commented as follows:
The definitive line of BW 85 runs down the lane from which the proposed access into the new development will leave. From the plans provided it appears that the bridleway will not be directly affected by the development.

Conditions and informative advice were proposed.

4.2 Public Comments

4.2.1 Parish Council (NB 6.1.11 below)

Pontesbury Parish Council supports this application for an affordable housing which will have minimal impact on the surrounding countryside. The design is sympathetic to the neighbouring properties.

Cruckton was a recognised dispersed settlement in the 19th century which was strengthened by the addition of 6 scattered smallholdings in the 20th century, including Terrace Farm. Later Church Close was added to give more of a nucleus to the settlement. Therefore today Cruckton settlement consists of a relatively recent central cluster and a longer established dispersal of habitations. This is attested by postal addresses, house names, electoral roll, footpath network, trade directories, old maps and, not least, the perceptions of local residents.

Recently the Planning Officer accepted that the neighbouring property of Coppice Farm was part of Cruckton (*NB 6.1.11 below*). This alone means that Terrace Farm at least adjoins the settlement of Cruckton. Also both properties are within easy walking distance of the centre of the settlement which was one of the criteria used by the Planning Officer to determine that Coppice Farm was within Cruckton. (*NB 6.1.11 below*)

The proposed new house as part of Terrace Farmstead is very much a part of the character of Cruckton as at least 7 of its farmsteads have had planning permission for additional dwellings or annexes.

4.3 Two neighbouring properties have been advised as regards the proposal. No public comments have been received as a result of this publicity.

5.0 **THE MAIN ISSUES**

Principle of development

Design, Scale and Character

Impact on Residential Amenity

Other Matters – Drainage, Affordable Housing, Ecology, Public Protection, Highways, Rights of Way

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The site falls outside any defined development boundary or Community Cluster and is therefore identified as being open countryside under SAMDev Policy MD1 and 2. Policy CS5 in the Shropshire Core Strategy, supported by SAMDev Policy 7b, indicates that new development in open countryside will be strictly controlled in accordance with national planning policies protecting the countryside and green belt. However, exception may be

made if, the proposal is for affordable housing to meet a local need in accordance with national and local plan policies in which case

- 6.1.3 Policy CS11 indicates that exception schemes for local needs affordable housing may be considered on suitable sites in and adjoining Community Clusters or recognised named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.
- 6.1.4 Policy MD7a of the SAMDev states that suitably designed and located exception site dwellings will be positively considered where they meet evidenced local housing needs and other relevant policy requirements.
- 6.1.5 The Type and Affordability of Housing Supplementary Planning Document (SPD) has been brought into place with regard to affordable housing within Shropshire and clearly details the policy criteria in relation to affordable plot exception sites.
- 6.1.6 The applicant is required to satisfy criteria including:-
- ☐ Housing need in the local area
 - ☐ Local Connection
 - ☐ Location
 - ☐ Scale and design
- 6.1.7 The Council's Housing Enabling Officer has assessed the proposal.. They have confirmed that the proposal satisfies the need requirements of the SPD in relation to the build your own affordable home scheme, in that the applicant has demonstrated housing need, strong local connections and a need to live in the local area, and that there were no other affordable homes available at the time of application.
- 6.1.8 Paragraph 5.14 of the SPD makes it clear that sites that do not lie in a settlement, constituting isolated or sporadic development, or which would adversely affect the landscape, local historic or rural character (for example due to an elevated, exposed or other prominent position) are not considered acceptable
- 6.1.9 In assessing whether the application site is within or adjacent to a recognised named settlement, guidance is provided in paragraphs 5.17 of the SPD, summarised as follows:
- a settlement is a *relationship* between different properties and the limits of the settlement are defined by where the relationship peters out. This varies from settlement to settlement, depending on a number of factors. For example, a site a short distance from a loose-knit settlement may be considered "adjoining" while a similar distance in a tightly clustered settlement would not be. Larger settlements also have a wider "pull" or "sphere of influence" than small settlements, influencing the relationship between a site and the settlement.
- 6.1.10 The applicant's agent makes a case for the site falling within CS11 and the scope of the Type and Affordability of Housing SPD, as follows.

Cruckton is not a settlement designated for residential development within the Core Strategy and SAMDev, and as such it must, for planning purposes, be regarded as open countryside, where new open market housing is not permitted. However, Policies CS1, CS5 and CS11, along with the National Planning Policy Framework, do allow for the erection of affordable dwellings on rural 'exception sites' to meet specific local housing

needs. The site is located at Cruckton, which is clearly identifiable as a recognised named settlement. The settlement of Cruckton has no defined development boundary, and is a settlement that is characterised by both clustered and loose-knit housing development moving further distant from its centre. The proposed development site is located to the east of farm buildings associated with Terrace Farm. Although the proposed site is not located immediately adjacent to the main cluster of housing in Cruckton, its location next to a farmstead slightly detached from the main cluster, is a common characteristic of other dwellings in the settlement, and as such an argument can be made that the site fits the pattern of development in the settlement, the site therefore forming part of the settlement. This view is shared by Pontesbury Parish Council and Unitary Cllr Roger Evans. This view is further endorsed by a nearby application (16/03379/FUL) for an affordable home. The proposed affordable home at Coppice Farm is located just 180 metres distant of the site and a planning application was resolved to approve subject to completion of a S106 agreement in December 2016.

- 6.1.11 The application does have the support of Pontesbury Parish Council and the Local Member, as outlined at 4.2 above.

It is to be noted, that contrary to the Parish Council comments received, the officer report prior to the 2017 grant of planning permission at Coppice Farm to the north west concluded that the site was “not within or directly adjacent to the named settlement of Cruckton”, although granting permission on other grounds.:

- 6.1.12 Officers consider that in fact the current proposed site cannot be considered as falling within the location criteria outlined in policy in respect to affordable housing exception sites.
- 6.1.13 There is today a clear central core to Cruckton, centred around Cruckton Hall which has occupied the site since the 17th century, with listed Home Farm opposite. There has been residential development along the road running past Cruckton Hall, within its former grounds, and opposite, on the site of the Roman scheduled monument, and including the conversion of the 19th century church.
- 6.1.14 There are also some more dispersed buildings along the roads into and out of Cruckton, many of these also appearing on historic mapping, but no very clear evidence as to where perceptions of Cruckton start and finish, although the Parish Council is clear that local people would include some outlying farmsteads.
- 6.1.15 Officers would suggest however, that the properties developed along the bridleway to Hanwood in the 20th century should be considered as extraneous to both the central core of Cruckton and any more dispersed historic notion of Cruckton where sporadic development has been focussed along roads into and out of the village and with accesses from those roads.
- 6.1.16 The application site lies 400m distant from the converted Church House, the most easterly dwelling in the central core, and lies 375m away from the classified road running into that core, along a rural bridleway running between Cruckton and Hanwood and officers consider it can only be identified as lying in open countryside.
- 6.1.17 Development along this bridleway is currently limited to the three dispersed properties developed during the 20th century (with converted ancillary accommodation). The dwelling recently granted permission adjacent to Coppice Farm will lie less than 75m from the classified road, while Coppice Farm itself has a frontage to the road.
- 6.1.18 Further development along this bridleway may begin to create a residential link between

Hanwood and Cruckton which does not currently exist, the two settlements clearly separate. Officers feel that further residential development along this bridleway between the two settlements would adversely affect the local historic and rural character as well as the local landscape, and that therefore this site falls outside policy requirements within CS11 and the Type and Affordability of Housing SPD.

6.2 **Design, Scale and Character**

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

6.2.2 5.19 of the Type and Affordability of Housing SPD states that exception site developments must have regard to housing need and are relatively small sites. The scale of any individual scheme must reflect the character and scale of the settlement.

6.2.3 5.20 continues that any development must be in harmony with the character of the area, of a suitable design and construction materials and appropriate to its location, and that given the exceptional nature of these developments, high quality design is essential

6.2.4 5.22 specifies that the dwelling size will not normally be permitted to exceed 100 square metre gross internal floor area. Detached garages and other outbuildings for storage purposes will not count against the 100sqm and therefore may be permitted, where they are suitably designed and appropriate to their context. Plot size must generally not exceed 0.1 hectare.

6.2.5 The proposed 2 storey dwelling will measure approximately 12.2 metres wide in total, comprised of the 2 storey section of 9.5m width, and the single storey extension of a further 2.8m width. In addition, there will be a porch to the side, adding a further 1.1m in this dimension. The proposed dwelling will be 5.9 metres deep at its maximum, with an additional front porch area of 1.5m depth. The dwelling will have a maximum ridge height of appx. 7.8 metres, eaves of 5.2 metres. The internal floor space will be 100 sq. m gross. The double garage with dual pitched roof will measure approximately 7.2 metres wide, 6.6 metres deep with a ridge height of appx. 5.7metres, eaves of 2.7metres.

6.2.6 The proposed site plot situated on land to the south east of Terrace Farm is a substantial distance from the listed building of Church of St Thomas and Scheduled Ancient Monument to the north west. It will be fairly well screened by existing tree cover and vegetation, and officers consider it will have no adverse impacts on the nearby heritage assets, or those situated further into the settlement of Cruckton.

6.2.7 The dwelling is simple in its design with a total gross internal floor area of 100 sq metres which is within the allowance specified within the policy. However, it is a 2 storey dwelling, which will add a new and significant presence to the bridleway on which it is situated. The recently granted permission at Coppice Farm was for a single storey dwelling with a maximum height of 6.1 metres, although of larger footprint.

6.2.8 The site for the dwelling is immediately adjacent to a steel framed farm building, and officers feel that this will not as suggested, provide context for the new dwelling but will instead highlight the domestic nature of the new addition to the landscape.

- 6.2.9 The proximity to the barn may also make the dwelling less attractive in the future to anyone not connected with the farm, potentially creating difficulty with the perpetuity criteria of the affordable exception site policy.
- 6.2.10 Although revisions were sought to remove a barn at Coppice Farm, the site of the recently granted affordable house, this solution is not considered appropriate in the current case where the removal of the barn would also increase the impact and prominence of the new dwelling, standing then in isolation. Alternatively, if the dwelling were to be moved to the site of the barn, the farm would then appear largely as a cluster of residential buildings in the rural landscape.
- 6.2.11 Landscaping is proposed to include post and rail fencing, and a native hedge to the front boundary with the bridleway and native trees to the residential curtilage, and these suggestions would be welcome should permission be granted. However, the landscaped grounds would add to and highlight the new domestic nature to the site and could not usefully mitigate the new built development in the countryside.
- 6.2.12 A new access from the bridleway is to be provided, and there will be some associated additional vehicular traffic. Although highways consultees are satisfied this will not create any safety concerns, it will all add to erosion of the existing peaceful and rural nature to this bridleway between two separate centres of population.

6.3 **Impact on Residential Amenity**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The proposed new dwelling will be situated appx 200m from neighbouring properties to either side, although adjacent to existing farm buildings at Terrace Farm. The only impact on neighbouring properties is likely to be in terms of increased noise and traffic and neither of these are expected to be significant in effect. Officers consider that the proposal's impact on neighbouring amenity will be minimal and acceptable.

6.4 **Other Matters – Drainage, Affordable Housing, Ecology, Public Protection, Highways, Rights of Way**

- 6.4.1 Consultees have no objections to the proposal, but have provided conditions and informative advice to be imposed on any grant of planning permission.
- 6.4.2 Officers note that Terrace Farm itself is accessed from the bridleway as is Mount Farm to the south east. A right of vehicular access may be required for the application site, but this is outside of the scope of Planning legislation and policy. Informative advice would be included on any grant of planning permission advising the applicant to pursue their right of vehicular access as appropriate outside of the planning process.

7.0 **CONCLUSION**

The proposed development is considered by officers to be in an inappropriate location for an exception site dwelling. The proposed site cannot be considered to be within or adjacent to the named settlement of Cruckton, and development of the site would adversely affect the local historic and rural character as well as the local landscape. Furthermore the site is accessed from a public bridleway, and sits very close to existing agricultural buildings and may not be considered as a suitable location for the provision of an affordable dwelling separate from the farmstead i.e. in perpetuity.

In terms of design and scale, the proposed dwelling is well planned, but officers consider

that it is inappropriate as a domestic intrusion into the local countryside landscape, visible in views from all directions, including from the public bridleway adjacent. Officers acknowledge that the proposal may be able to satisfy policies CS6, CS17 and CS18 in terms of amenity, drainage, ecology, highways, and rights of way issues, but these do not outweigh the objection to the principle and location of the development.

The proposal is therefore considered to be contrary to the relevant parts of the Type and Affordability of Housing SPD and policies CS5, CS11 and MD7a of the Shropshire Local Plan policies and the application is recommended for refusal.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

Article 8 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:

CS5 - Countryside and Greenbelt

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

National Planning Policy Framework

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

15/04208/PMBPA Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use PPPMBZ 23rd November 2015

PREAPP/16/00476 Erection of an Affordable Dwelling PREUDV 1st November 2016

17/02233/FUL Erection of an affordable dwelling, associated garage and installation of septic tank PDE

SA/06/1411/F Erection of a conservatory to rear PERCON 7th December 2006

SA/02/1025/F Conversion of Stable Block to provide ancillary residential accommodation

PERCON 23rd August 2002

SC/CC1993/0044 Extension to provide additional general purpose agricultural building PERMIT 21st January 1994

PREAPP/16/00476 Erection of an Affordable Dwelling PREUDV 1st November 2016

17/02233/FUL Erection of an affordable dwelling, associated garage and installation of septic tank PDE

Appeal

16/02444/PAPD Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use DISMIS 2nd September 2016

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

Local Member

Cllr Roger Evans

Appendices

APPENDIX 1 - Conditions

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<u>Committee and date</u>
Central Planning Committee
31 August 2017

<u>Item</u>
Public

Development Management Report

Responsible Officer: Tim Rogers

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

LPA reference	17/01027/VAR106
Appeal against	Refusal to Discharge Planning Obligation
Appellant	P H & J M Griffiths
Proposal	Variation of Section 106 for planning application number 13/00798/OUT to remove the requirement to contribute towards affordable housing
Location	Cherry Cottage Lower Road Pontesbury Shrewsbury
Date of application	03.03.2017
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	28.04.2017
Date of appeal	05.06.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	16/04169/REM
Appeal against	Appeal Against Conditions Imposed
Appellant	Mr J Homden
Proposal	Approval of reserved matters (access, appearance, landscaping and layout) pursuant to permission 14/05719/OUT for the erection of a detached single self-build dwelling and garage to include scale
Location	Proposed Dwelling To The South Of Little Ness Shrewsbury
Date of application	15.09.2016
Officer recommendation	Grant Permission
Committee decision (delegated)	Delegated
Date of decision	22.12.2016
Date of appeal	21.06.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	
Appeal against	
Appellant	
Proposal	
Location	
Date of application	
Officer recommendation	
Committee decision (delegated)	
Date of decision	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	