



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

Date: Wednesday, 13 December 2017

**Committee:  
Central Planning Committee**

**Date: Thursday, 21 December 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](mailto: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 23<sup>rd</sup> November 2017.

Contact Shelley Davies on 01743 257718.

## **3 Public Question Time**

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 p.m. on Monday 18<sup>th</sup> December 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 Proposed Retail Unit East Of Unit 8, Meole Brace Retail Park, Shrewsbury - 17/00405/FUL (Pages 7 - 34)**

Removal of existing structures and construction of an A1 (retail) unit; all associated works including car park alterations, access, servicing and landscaping.

## **6 Development East Of Stoneycroft, Valeswood, Little Ness, Shrewsbury - 17/04319/REM (Pages 35 - 42)**

Approval of reserved matters (access) pursuant to permission 15/00560/OUT for the erection of one dwelling.

## **7 Proposed Caravan Storage, Land NW Of Whiston Farm, Cardeston, Ford - 17/05153/FUL (Pages 43 - 56)**

Application under Section 73A of the Town and Country Planning Act 1990 for the change of use of agricultural land to secured compound area for storage of caravans and container storage

## **8 Schedule of Appeals and Appeal Decisions (Pages 57 - 74)**

## **9 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, 18<sup>th</sup> January 2018 in the Shrewsbury Room, Shirehall.



## Committee and Date

Central Planning Committee

21<sup>st</sup> December 2017

## CENTRAL PLANNING COMMITTEE

**Minutes of the meeting held on 23 November 2017**

**2.00 - 3.53 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

### **74 Apologies for absence**

An apology for absence was received from Councillor Keith Roberts.

### **75 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the Central Planning Committee held on 26<sup>th</sup> October 2017 be approved as a correct record and signed by the Chairman.

### **76 Public Question Time**

There were no public questions or petitions received.

### **77 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.

### **78 Land Between Preston Street & London Road, Shrewsbury - 17/01612/OUT**

*Councillor Ted Clarke as local ward Councillor vacated the Chair. Councillor Nat Green as Vice-Chairman presided as Chairman for this item.*

*Councillor Tony Parsons as local ward Councillor left the table during consideration of this item, took no part in the debate and did not vote on this item.*

The Planning Associate introduced the hybrid planning application for a residential development of up to 600 dwellings, access, footpath/cycleway, public open space, landscaping and associated drainage and development infrastructure: comprising Full application for 353 dwellings, access from Preston Street, access from London Road and spine road, footpaths/cycleway, public open space, landscaping, demolition of existing buildings and associated infrastructure; and Outline submission for (up to) 247 dwellings, footpath/cycleway, public open space, landscaping and associated development infrastructure (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 Planning Associate drew Members' attention to the Schedule of Additional Letters which included representations from local residents, Shrewsbury Civic Society, the owners of Robertson Farm and the agent acting for the applicant. It was added that further representations had been received that morning from Shrewsbury Town Council, the Scouts and the Weir Hill Development Community Group. (Copies attached to the signed minutes.)

Mr Stuart Spiers, on behalf of the Weir Hill Development Community Group spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Mike Carter, on behalf of the Shrewsbury Civic Society spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with Council Procedure Rules (Part 4, Paragraph 6.2), Councillor Hannah Fraser, addressed the Committee as the adjoining 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 her statement, a number of points were raised including the following:

- The length of time that existing residents would have to endure construction traffic on Preston Street was too long;
- The development did not include provision for economic activity or social infrastructure and was therefore unsustainable;
- Phase one should include access to the college grounds;
- There was not enough parking for the Riverside park; and
- The proposed amendments to the Belvidere Road Bridge caused more problems than they solved.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1), Councillor Jane Mackenzie 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 her statement, a number of points were raised including the following:

- The development does not reflect the beautiful environment or the heritage of the Town;

- The top end of Preston Street had a quiet lane feel and was unsuitable for construction traffic;
- The transport assessment was insufficient and the proposed widening of Preston Street would not help;
- The development needs to be integrated with the existing community and facilities and at the very least should have pedestrian/cycle access to enable residents to access facilities on London Road; and
- The Riverside Park should also be accessible to the wider public.

Mr Jason Tait, 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 Members, the Area HDC Manager (North) confirmed that the transport assessment was considered robust and demonstrated that phase one of the development could be delivered off the Preston Street access and the Column roundabout had sufficient capacity to cope with traffic from the new development.

The Planning Associate stated that Paragraph 6.5.11 should read 'These works must be carried out following the occupation of 250 dwellings and the removal of construction traffic' not completion as stated in the report. In response to questions he explained that the S106 would address the contribution for improvement works to the Belvidere Road Bridge and clarified that there was provision for bus route if an operator wished to run one.

In the ensuing debate, Members raised concern in relation to the impact of the development on residents in Preston Street, in particular the impact of construction traffic and questioned the trigger point for when the London Road access should be provided. Concern was also noted in regard to the timing of the development of the Riverside Park, with Members suggesting that it would be ecologically beneficial for the whole park to be delivered upfront and not phased as proposed; the lack of community facilities within the proposed development; and the fact that Phase one did not include any access from the site to existing development and facilities in the wider area.

Having considered the submitted plans for the proposal and noted the comments of all the speakers, Members unanimously expressed the view that the application should be deferred to allow the opportunity for the issues raised in relation to the London Road access trigger point, the timing of the development of the Riverside Park and the access to existing development and facilities to be addressed.

**RESOLVED:**

That consideration of the application be deferred to a future meeting of this Committee to allow the opportunity for the following issues to be addressed:

- The trigger point for the requirement of the London Road access;
- The timing of the development of the Riverside Park; and
- Further detail in relation to footpath and cycleway connectivity from the site to existing development and facilities in the wider area.

**79 Coton Hill Glass Works, Coton Hill, Shrewsbury - 17/05049/FUL**

*The Solicitor notified those present that due to a request from a member of the public the following item would be recorded.*

*Councillor Nat Green as local ward Councillor left the table during consideration of this item, took no part in the debate and did not vote on this item.*

The Technical Specialist Planning Officer introduced the application for conversion of a former Church and current retail premises (use class A3) to five residential apartments to include terraces and external fire escape with footbridge 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 Technical Specialist Planning Officer drew Members' attention to the Schedule of Additional Letters which included representations from the Environment Agency recommending an additional condition regarding finished ground floor levels and the Conservation officer requesting that a fuller heritage assessment be submitted to accompany the submission of a discharge of conditions application for the approval of the external architectural detailing and materials for the roof extensions. Members were therefore advised that if they were minded to approve the application any permission granted should include an amendment to condition 8 regarding the submission of a heritage assessment and an additional condition regarding finished floor levels.

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

**RESOLVED:**

That planning permission be granted as per the Officer's recommendation subject to:

- The Conditions as set out in Appendix 1 of the report;
- Condition 8 being amended to include the request for a fuller heritage assessment to be submitted to accompany the submission of a discharge of conditions application for the approval of the external architectural detailing and materials for the roof extensions; and
- An additional condition in relation to Ground Finished floor levels as detailed on the schedule of additional letters.
- 

**80 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the Central area as at 23<sup>rd</sup> November 2017 be noted.

**81 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, 21<sup>st</sup> December 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....

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Committee and date

Central Planning Committee

21 December 2017

Item

# 5

Public

## Development Management Report

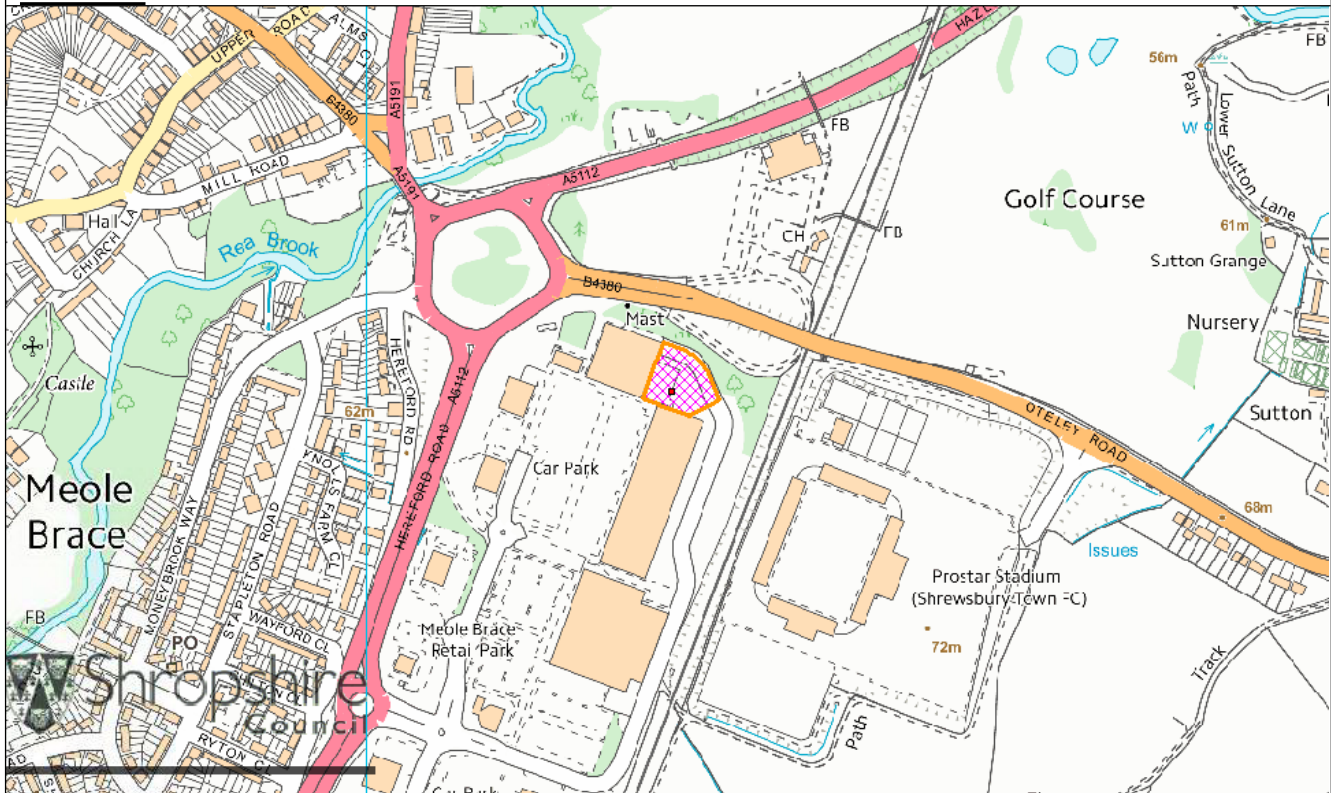
Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 17/00405/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Removal of existing structures and construction of an A1 (retail) unit; all associated works including car park alterations, access, servicing and landscaping		
<b>Site Address:</b> Proposed Retail Unit East Of Unit 8 Meole Brace Retail Park Shrewsbury Shropshire		
<b>Applicant:</b> Coal Pension Properties Ltd		
<b>Case Officer:</b> Karen Townend		<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 349294 - 310522



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

- 1.1 This application is for the erection of an additional retail unit at Meole Brace retail park and associated alterations to the servicing area and landscaping of the site. The scheme did not originally propose any alterations to the existing car park or access to the site for vehicles or pedestrians. Following negotiations with the Council Highway Officer amendments have been proposed to the road and roundabouts within the retail park with the intention of provision better traffic management. No changes are proposed to the existing car parking and service area. The proposal is for a retail unit of 2,787sqm gross made up of a ground floor of 1,393sqm and a full mezzanine.
- 1.2 The supporting information includes full plans, Design and Access Statement, Retail Statement, Planning Statement, Transport Assessment and Drainage details. The submission suggests that the proposal is for “Sports Direct”, with “Outfit” taking over the existing Sports Direct unit; however during the consideration of the application the agent has confirmed that they are seeking an open A1 use rather than a restricted use. The proposal is for non-food retail. The original units on the retail park are all open A1, with no restrictions such as bulky goods only, and the proposal is for an additional open A1 unit.
- 1.3 Unlike other recent food retail developments this application will not need to be referred to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009. Although the application consists of the provision of out of centre retail where, cumulatively, with other consented developments, will provide new floor space of more than 5,000 square metres the application is considered to be consistent with the development plan, as detailed later in this report.
- 1.4 It is the opinion of Shropshire Council as Local Planning Authority that the proposal is not an EIA development under any part of either Schedule 1 or Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2015 and as such do not require an Environmental Statement to be submitted. The application does not meet the criteria of any part of Schedule 2 of the 2015 Regulations, including part 10(b) as although the development could be considered as an urban development project the site is under 0.5ha in area. Furthermore, taking into account the advice in the National Planning Practice Guidance (available online) the application is not considered to require an Environmental Statement as the proposed development is not significant in relation to the surrounding uses and would not have a significant impact or result in significant effects on the environment by virtue of its nature size or location.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is and currently used as the service yard for the adjacent units, it was previously used as the outside garden centre area when the adjacent unit

was occupied by Homebase. Since TK Maxx has occupied the adjacent unit this part of the site has been used ancillary rather than as retail space. It is already hard surfaced and enclosed by fencing with a close boarded fence along the edge of the retail park car park.

- 2.2 Oteley Road lies to the south of the site and the railway line to the east with the football club beyond. In the wider area the site is close to the A5 and residential areas including the Sustainable Urban Extension. The existing retail park was developed in the 1990's and has since been extended and altered with the latest developments including the M&S Food store and three small units occupied by a card shop, mobile phone shop and Costa coffee.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The determination of this application under delegated powers does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution. The Town Council have submitted a view contrary to officers, one of the three local members covering this ward has requested that the application be determined by the Central Planning Committee and the Vice Chair of the Committee has confirmed that he agrees that the matter should be decided by committee.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

- 4.1.1 **Shrewsbury Town Council** – The Town Council feels that this application should be considered in parallel with 17/00529/FUL, 17/00369/FUL and 17/00391/FUL to take into account the cumulative impact of all the potential developments for this site and the exacerbated traffic issues within both the retail park and the outlying highways which need to be addressed. The Town Council has no objection in principle to the plans and before any further development of the Retail Park takes place, members would like to see a comprehensive transport and access plan developed to mitigate the traffic problems encountered in this area. Members respectfully request that this planning application is considered by the Central Planning Committee.

*Note – 17/00529/FUL (Sainsbury on-line grocery collection point) has been withdrawn and replaced by new application 17/03097/FUL to which the Town Council have commented with no objection. 17/00369/FUL (left turn lane at retail park roundabout) has been approved under delegated powers following discussion with the Chair and Vice of Committee. 17/00391/FUL (replacement mezzanine at unit 6) has also been approved under delegated powers. As such only 17/03097/FUL remains pending a decision.*

- 4.1.2 **Policy Officer** – The proposed development is located on the site of the former Focus garden centre in the North East corner of Meole Brace Retail Park. The proposal would result in a new unit of 2,787sqm gross of open A1 use (non-food). The end user is identified as Sports Direct who will move from their existing unit at Unit 6 to the new store. It is proposed Outfit will accommodate Unit 6 and there is a separate application on this unit to increase the amount of mezzanine floor area (consent is not required for Outfit to use unit 6).

It is understood the size and layout of the proposed new unit reflects the requirements of Sports Direct. If developed the new unit would be the second largest non-food unit on Meole Brace Retail Park after Unit 8 which currently accommodates TK Maxx. It is also understood that both the sequential and impact tests have been informed by the specific store requirements and likely trade turnover of Sports Direct.

These policy comments will focus on the principle of development on the site with reference to the Development Plan, and will assess the proposal against the sequential and impact assessments.

#### Development Plan Overview

The applicant's Planning Statement considers the proposal against a number of relevant Development Plan policies, namely CS2, CS15, and MD10b.

Core Strategy Policy CS2 (Shrewsbury – Development Strategy) states:  
*“Shrewsbury will develop its role as Shropshire’s primary retail, office and commercial centre, and the vitality and viability of the town centre will be promoted, protected and enhanced. The Riverside and West End areas of the town centre will be redevelopment priorities.”*

The policy goes on to state:

*“Shrewsbury’s strategy will recognise the need for the continuing development of high quality business parks on the edge of the town centre and the periphery of the town... and the importance of the Meole Brace and Sundorne retail parks, both of which have the scope for enhancement and expansion, if required”*

SAMDev Policy S16.2 (Shrewsbury Area) further clarifies the development strategy for Shrewsbury and confirms that development proposals should have regard to the aims of renewing the Riverside area. To support this, and to acknowledge the extant planning permission, the Riverside Shopping Centre is specifically allocated for an additional 26,000 m2 net retail floorspace, and this is included within the Primary Shopping Area.

Core Strategy Policy CS15 (Town and Rural Centres) states:

*“In accordance with national planning policy, and having taken into account sequential and impact assessment where relevant, town centres will be the preferred location for new retail, office and other town centre uses”*

The policy goes on to state that provision will be made for 80,000m2 gross comparison retail floorspace between 2006 and 2026. In delivering this requirement the policy states that *“priority will be given to identifying and delivering town centre and edge of centre redevelopment opportunities before less central locations are considered. The Riverside and West End regeneration areas are considered to be the main opportunities for improving the offer for retail and office uses within the town centre.”*

SAMDev Policy MD10b (Town and Rural Impact Assessments) requires proposals for new retail, leisure and office proposals to prepare Impact Assessments where

they outside a defined centre, are not in accordance with the development strategy, and, in Shrewsbury's case have a gross floorspace of over 500m<sup>2</sup>. Where proposals would have a significant adverse impact on the town centres they will not be permitted.

It is noted the applicant considers the proposal accords with the development strategy and that Policy CS2 promotes development at the retail park. It is considered this is an oversimplification of the policy framework, and fails to adequate consideration to the 'town centre' first approach to retail development and prioritisation of the Riverside for town centre investment specifically defined in Policies CS2 and CS15.

However, the policy framework does provide scope for additional retail development at Meole Brace Retail Park if required. In this context, 'if required' relates to the application of the sequential and impact tests. Regards to the application of the impact test in Shrewsbury, the explanatory text of policy MD10a clarifies that the impact on the New Riverside investment opportunity should be considered.

#### Sequential Assessment

The sequential assessment is a 'gateway' test for retail proposals in out-of-centre locations which are not in accordance with the development plan. As such, the sequential test applies to the proposed development, and the applicant has undertaken the exercise as part of their Retail Impact Assessment (RIA).

The applicant has assessed two sequentially preferable sites for their suitability and availability: the New Riverside development site (Pride Hill, Darwin and Riverside Malls); and the 'Gap' site at Raven Meadows. The applicant considers neither site represents an available or suitable option. To this end, the applicant considers the proposal passes the sequential test.

Case law is plentiful on the application of the sequential assessment. For instance, it is an established position that it is LPAs should consider only 'real world' options for disaggregation, i.e. not requiring a developer to artificially disaggregate a proposal so it would 'fit' a town centre site to such an extent it would have a negative impact on the developer's established business model. However, it is reasonable to require a developer to show a reasonable degree of flexibility to their proposals. To this end, it is noted the applicant has sought to show flexibility in applying the sequential test by amending the car parking and access aspects of their current proposal.

UK Commercial Property Trust (UKCPT) are the trustees of the Riverside Mall. Deloitte, working on behalf of UKCPT, have objected to the proposal on both sequential and impact grounds. Regarding the sequential test, Deloitte accept that the New Riverside scheme is not currently available to the applicant within a reasonable timeframe. However, Deloitte do consider it would be possible to accommodate the requirements of Sports Direct into existing premises within the Darwin Centre. Deloitte argue this could be achieved through combining existing units to provide larger floorplates within a reasonable timeframe on a permanent

basis.

It is evident that Sports Direct and UKCPT had entered into early discussions about the potential for the relocated store to be accommodated in an 'in-centre' location within the Charles Darwin centre. It is unfortunate the applicant did not reflect these considerations specifically within their sequential site assessment, even if they ultimately felt the site was not suitable for their purposes. NJL have subsequently provided further consideration to the vacant units within the Charles Darwin Centre within their recent 13<sup>th</sup> April letter. NJL argue that none of the vacant units within the Charles Darwin Centre are suitable for the purposes of Sports Direct.

Additional information provided by Deloitte, on behalf of UKCPT, has outlined current opportunities within the Charles Darwin Centre. It is considered none of the available units are of a sufficient scale to accommodate the proposed Sports Direct even when factoring in a reasonable degree of flexibility.

On the basis of the information provided by the applicant and Deloitte, it is considered the applicant has sufficiently demonstrated the proposal complies with the sequential test.

#### Impact Test

The applicant has provided a Retail Impact Assessment (RIA) which responds to the requirements of SAMDev Policy MD10b and the NPPF. NPPF Paragraph 26 indicates there are two main tests to consider when assessing impact:

- The impact on existing, committed and planned public and private investment;
- The impact on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the application

The Riverside scheme is allocated in the Development Plan, and is therefore a planned private investment within the context of NPPF paragraph 26. When developed it will support the ongoing vitality and viability of Shrewsbury Town Centre. The impact on the delivery of the allocated Riverside site is therefore of significant importance when assessing the proposal.

It is noted NJL have assessed the impact on the Riverside within their RIA. It is useful to look at the Council's own evidence of retail 'need' prepared by Peter Brett Associates (PBA) in July 2014. Having taken into account existing retail commitments in the town and the level of likely available expenditure at 2014, the PBA study indicated there was negative expenditure capacity for comparison goods. At the time, this led PBA to conclude that further out-of-centre retail development would likely dilute investor and operator interest in Shrewsbury Town Centre. It is therefore necessary to assess if circumstances have changed since 2014 in order to establish any ongoing concerns over the delivery of the Riverside scheme. This will include an assessment of available expenditure capacity within the catchment area.

The New Riverside scheme gained an approval in 2012, and it is acknowledged the delivery of this scheme faced delays. The approval has recently lapsed. However, it is also clear the site's owners UKCPT continue to be committed to the site's redevelopment in the medium term. The New Riverside scheme should therefore continue to be considered a major town centre investment opportunity and therefore requires suitable and appropriate protection.

The applicant's RIA provides an up-to-date assessment of expenditure capacity within the same study area as applied in the PBA 2014 study, and has updated this to take into account Experian Retail Brief 14 prepared in 2016 with regard to the population forecasts and comparison good expenditure. It is evident that the more recent position does indicate a more positive picture with regard to expenditure capacity compared to the PBA assessment.

For clarity, 'need' is not a specific requirement of the impact test. However, it is evident that the degree of available expenditure capacity is a relevant consideration when assessing likely trade diversion from a centre. Currently, NJL have shown that there is surplus capacity for their proposal having taken into account likely growth in expenditure capacity up to 2022 and having taken into account existing commitments (including the New Riverside) as well as Special Forms of Trading such as internet sales.

It is considered the level of available surplus capacity is marginal, although it does indicate there is available capacity for the proposal. Looking specifically at NJL's forecasts on trade diversion, it is predicted that £3.15m will be diverted from the Town Centre from a total town centre turnover of £290.35; representing a 1.07% impact. It is forecast that there will be a greater impact on the existing stores on Meole Brace Retail Park where a 7.65% impact is forecast.

It is considered the level of impact on the town centre's overall vitality and viability is well within the level of acceptable impact. However, in line with the tests set out in the NPPF and in policy MD10b, it is equally relevant to look at the individual impact on the allocated Riverside proposal. To this end NJL argue that the only way in which the proposal could affect the Riverside would be if the scheme was directly competing for the same retailer representation. NJL argue this is not the case with Sports Direct. NJL go on to conclude that the scheme will have no significant adverse impact on investment in the Riverside.

The argument presented by NJL is sound in principle given that Sports Direct are seeking to relocate from their existing site at Meole Brace Retail Park and appear not to be seeking a town centre representation at this stage. It also appears unlikely that Sports Direct is the type of retailer that would be considered as an anchor tenant for any future Riverside scheme.

However, the applicant is applying for an open A1 permission not dependent upon the end-user. This does raise concerns regarding the ongoing control of the new premises, particularly in a scenario where Sports Direct were to vacate the premises. On this basis, and in order to secure any subsequent user would not have a significant adverse impact on the New Riverside proposal, it is

recommended that a condition be applied restricting the end user to Sports Direct or to a bulky goods use. Ahead of the delivery of the New Riverside scheme, it is considered such a condition is necessary in order to allow the Council sufficient control over the ongoing use of the premises. It is understood the specifications of the proposed unit have been designed to the specific requirements of Sports Direct, and on this basis it is considered a restrictive condition would be reasonable.

**4.1.3 Highways** – I write with reference to the above planning application and following previous highway comments/advice on the development proposals.

The applicant/agent has now clarified its position in terms of the measures being promoted as part of this specific application but also in respect of the wider context of the operation of the retail park and its impact upon the public highway. In terms of the later point, the highway authority recognise that traffic issues surrounding the retail park relate also to the major Sainsbury's store and other developments on the site.

Drawing No.1656-01 shows the measures being promoted which consist of:-

- Increasing the circulatory width of the 2nd internal roundabout (which also provides access/egress to MacDonald's/Sainsbury's and Pizza Hut).
- 2 lane approach to the roundabout listed above.
- Removal of 2 speed humps either side of the 3rd internal roundabout.
- At the 3rd internal roundabout current One Way exit to make this 2 way entry and exit.

In addition to the above the applicant is to carry out further investigative work to assess the traffic issues surrounding the supermarket/retail park and impact on the highway with traffic and parking surveys. This will be carried out independently of this application. Furthermore, the applicant will also consider the formalising of pedestrian/cycle routes from Meole Brace traffic island, however again this is to fall outside the scope of this application.

The list of measures highlighted above have been discussed and agreed and are considered to provide a degree of betterment to the internal traffic flow within the site. These measures can be implemented within the land controlled by the applicant and are considered to be beneficial in the context of the development proposal which essentially introduces a single retail unit into the remaining land available within the retail frontage around the car park. It is recognised at the outset however that at times the sheer volume of traffic trying to get into the site and back out onto Hereford Road will result in traffic issues, particularly those at peak shopping times and seasonal occasions.

Comment has been raised regarding the removal of the southern speed hump and loss of a zebra type pedestrian crossing facility. I would agree that the zebra type markings etc should remain but the speed hump removed. The northern speed hump however provides no desired crossing point that isn't in actual fact picked up further to the north prior to the access/exit entry point serving M&S and Halfords. The issue surrounding the current exit only onto the 3rd internal roundabout is that



fact that there is no rationale for restricting this leg to exit only where there is sufficient width to allow entry and exit. This therefore would allow 2 entry points into the retail park car park. Customers would therefore tend to use either entry point relative to where they would wish to shop and park within the large car parking area.

It is considered that the measures being put forward are of benefit and in terms of mitigating the impact of the development, which it is acknowledged is the planning test to be applied. Moreover, the highway authority would contend that a highway objection on the grounds of adverse highway impact is not sustainable.

The highway authority are supportive of the applicant towards considering the wider highway implications of the development on Hereford Road and potential to look at more robust measures. This can only be considered with the appropriate evidence base. The lack of consideration by the applicant to formalise the pedestrian/cycling desire lines towards Meole Brace signal roundabout is however disappointing and this has been expressed by the highway authority in discussions held with the applicant's agent.

- 4.1.4 **Drainage** – The proposed drainage details should be conditioned if planning permission were to be granted.

The Drainage Strategy Report state that the proposed surface water drainage system for the development will incorporate below ground attenuation with flow control to provide a 50% reduction in discharge rates from the new building is acceptable.

Initially also requested a flood risk assessment as the site was given to be within flood zone 2. Following further information from the agent providing greater detail of the flood zone has confirmed that a FRA is not required.

- 4.1.5 **Public Protection** – Having considered the proposal I have no objections to the proposed unit. I would encourage any conditions that are consistent with other units in relation to delivery times and opening hours.

## 4.2 **Public Comments**

- 4.2.1 12 letters of representation have been received, 11 in objection and 1 in support.

The letters of objection raise the following concerns:

- Increase in traffic
- Access is not sufficient for existing units
- Traffic queues to get in and out
- Existing car park and estate roads in poor condition
- Site is furthest away from access and therefore hardest for customers to get to and from during heavy traffic periods
- Should provide access off Oteley Road, vehicular and especially pedestrian

- 4.2.2 Following the receipt of amended plans the following concerns have been raised:

- Changes to road layout will not improve traffic flow and causes obstructions
- Removal of pedestrian crossings disregards pedestrians

4.2.3 Objection letters have been received from Deloitte LLP on behalf of the trustees of the Riverside Mall, Darwin and Price Hill Shopping Centres objecting to the proposal on the basis that new retailers should be accommodated within the town centre, the proposal will have an impact on the vitality and viability of the town centre and specifically the planned investment into the redevelopment of Riverside. Deloitte also raised concerns about delegated determination of the application considering the scheme should be decided by members and suggested a condition restricting the end user.

4.2.4 Shrewsbury Business Improvement District (BID) has objected on the grounds of competition with the town centre; the proposed retailers are high street retailers; will reduce demand in the town centre; there is space in the town centre and the proposal will impact on the vitality of the town centre.

4.2.5 John Tandy, who was the local member at the time the application was submitted, also wrote in providing the following comments:

*I have to object to this application. The proposed extension will worsen current access difficulties at Meole Brace retail park and rule out the one effective solution. At the same time, it risks harm to the town centre. We have crowds trying to get out of the retail park at weekends, sometimes taking as long as 30 minutes to get out of the car park. Everyone who uses the park says another access is needed, and the only place for it would be blocked by this new extension. It is hard to see how another feeder road for the current access can help.*

*To an observer, the majority of those leaving the park appear to be heading back towards Shrewsbury, which tells us where Meole Brace is taking its shoppers from.*

*We cannot risk further detriment to Shrewsbury town centre. Officers must carry out an up-to-date assessment of impact on the town centre – or insist on one from the applicants.*

*Shrewsbury bucks the national trend with the quantity of independent shops it offers throughout the town. We have very few vacant shops. That creates a retail experience that draws people from all over the West Midlands.*

*I see too many towns across the UK ruined by out-of-town retail. We cannot afford to let that happen to Shrewsbury.*

## 5.0 THE MAIN ISSUES

- Policy & principle of development
- Sequential site assessment
- Impact assessment
- Layout of site, scale and design of store
- Access, car parking and accessibility to town centre
- Flooding, drainage and contamination

- Other matters

## **6.0 OFFICER APPRAISAL**

### **6.1 Policy & principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes Government policy and is a material consideration to be given significant weight in determining applications.
- 6.1.2 The Shropshire Core Strategy was adopted in February 2011. Policies CS1 (Strategic Approach) and CS2 (Shrewsbury – Development Strategy) aim to encourage the continued sustainable growth of Shrewsbury as the County town. Shrewsbury is noted in CS1 as being the focus for significant retail, office, employment and residential development. CS2 goes on to provide more detail to CS1 in providing higher level policy guidelines to enable the town to achieve economic growth whilst protecting and enhancing the town's role, character and unique qualities of built and natural environment. CS2 provides for development of the retail centre role of the town and also provides for the two urban extensions. In regard to Meole Brace, CS2 advises that the importance of the retail park is recognised and that there is scope for enhancement and expansion, if required. With regard to retail uses policy CS15 (Town and Rural Centres) encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within the identified town centres as a 'town centres first' approach, however it does acknowledge the NPPF sequential and impact tests where no town centre sites are available. Furthermore, at paragraph 6.25 of the explanatory text this policy advises that in supporting Shrewsbury's wider growth priorities and where sequentially acceptable, development which supports the enhancement and expansion of the existing retail parks at Meole Brace and Sundorne will be favoured in fulfilling a proportion of the overall comparison retail target.
- 6.1.3 The SAMDev for Shrewsbury, policy S16, follows from the principles set in the Core Strategy policy CS2 encouraging sustainable economic growth. S16A deals specifically with the town centre and edge of centre areas and follows the town centre first approach of the NPPF and CS15. This part of the policy, amongst other things, seeks to ensure that the town centre retail offer is enhanced whilst ensuring that the independent sector is retained and developed; seeks to unlock the potential of vacant and underused buildings; but also with an underlying aim of reducing the impact of traffic and congestion in the town centre. Within S16 there is one specific retail allocation, S16.1c, Riverside Shopping Centre which proposes the redevelopment of the existing shopping centre, night club and medical centre with a new shopping centre providing a department store, improved connections to

Pride Hill and Darwin Centre and an active frontage onto Smithfield Road. This allocated site had planning permission but work had not started. S16 also includes smaller retail uses within allocated housing sites at the Flaxmill and both Sustainable Urban Extensions (SUE). Paragraph 3.98 of S16 does provide a small part of advice on Meole Brace in that it comments that, where required, the retail park can continue to offer a complementary role to the town's overall retail offer.

- 6.1.4 Also of relevance are policies MD10a – Managing Town Centre Development and MD10b – Town and Rural Centre Impact Assessments of the SAMDev. Policy MD10a defines Shrewsbury as a category 'C' town where there are primary and secondary frontages. In the two category 'C' towns (Shrewsbury and Oswestry) there are different levels of protection to the primary and secondary frontages and also a presumption in favour of town centre uses within the wider town centre. Policy MD10b sets local thresholds for impact assessments depending on the town. Developments located outside of the defined town centre and which have a gross floor space of over 500sqm in Shrewsbury will require an impact assessment to be undertaken and submitted with the application. Policy MD10b also advises that developments which have a significant impact on town centres, or where the impact assessment is insufficient, will not be permitted. The policies within the Core Strategy and the SAMDev are considered to be consistent with the requirements of the NPPF as detailed in the following paragraphs.
- 6.1.5 At a national level the NPPF, section 2, sets out the national policy for determining planning applications for retail and other town centre uses. It seeks to be positive and promote competitive town centres but does acknowledge that policies will be required to consider main town centre uses which cannot be accommodated in or adjacent to town centres. Paragraph 24 requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. This test is the "town centre first" approach where out of town sites should only be considered where there are no sites within or on the edge of centres. Preference should be given to accessible out of town sites that are well connected to the town centre.
- 6.1.6 Paragraph 26 of the NPPF also requires out of town retail applications to be submitted with an impact assessment to show the impact of the proposal on existing, committed and planned public and private investment in the town centre; and the impact on the vitality and viability of the town centre. Where an application fails the sequential test or is likely to have a significant impact it should be refused. Where no significant adverse impacts have been identified, and where the application also satisfies the requirements of the sequential test, a decision should be taken by balancing the positive and negative impacts of the proposal and other material considerations, and also the likely cumulative effect of recent permissions. These two issues of sequential and impact assessments are highly important in determining this application but do not set aside the overall planning balance.
- 6.1.7 As noted above there is policy support in CS2 and CS15 of the Core Strategy and S16 of the SAMDev for the principle of additional retail at Meole Brace, subject to the sequential test and impact test. Therefore the key issues are firstly,

determining whether there are any sequentially preferable sites available and suitable, or likely to become so within a reasonable period of time; and secondly whether the proposed retail development would result in a significant adverse impact on the existing town centre. These are the two tests within the NPPF, policy CS15 and policy MD10b. The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. PPS4, the national retail policy prior to the NPPF, removed the requirement for applicants to satisfy a test of “need” in justifying proposals for town centre uses and as such whether there is a need for the retail units proposed is given less weight but can still inform the conclusions reached in terms of the impact test.

- 6.1.8 In order to consider these issues the application has been submitted with Planning Statement which includes a Retail Statement and the required sequential and impact assessments.
- 6.2 **Sequential site assessment**
- 6.2.1 Policy CS15 of the Shropshire Core Strategy seeks to maintain and enhance the vitality and viability of existing town and rural centres identifying town centres as the preferred location for new retail development but acknowledging the sequential and impact assessments. Paragraph 24 of the NPPF requires developments in ‘out of centre’ locations to demonstrate that there are no sequentially preferable sites suitable or available to accommodate the proposed development within the town centre or on the edge of the town centre. The sequential assessment should also take into account other out of centre sites which are accessible and well connected.
- 6.2.2 Paragraph 6.2 of the Practice Guidance on Need, Impact and the Sequential Approach states that:  
*“the sequential approach is intended to achieve two important policy objectives:  
- Firstly the assumptions underpinning the policy is that town centre sites (or failing that well connected edge of centre sites) are likely to be the most readily accessible locations by alternative means of transport and will be centrally placed to the catchments established centres serve, thereby reducing the need to travel.  
- The second related objective is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to provide for improved consumer choice and competition. In this way, the benefits of the new development will serve to reinforce the vitality and viability of the existing centre.”*
- 6.2.3 As noted above all of the information submitted with the application suggests that Sports Direct will occupy the new unit. This retailer is currently operating from the retail park in a unit which has a floor area of 930sqm. The submitted Retail Statement comments that the proposal is seeking to increase trading space and therefore units smaller than the operators existing store have not been considered in the sequential assessment.
- 6.2.4 The sequential assessment submitted with the application has considered the Riverside shopping centres (Darwin/Pride Hill and Riverside) and Raven Meadow (Gap) site and discounted both. The agent considers that the Riverside does not have any units that are of sufficient or comparable size currently available and the

redevelopment of the shopping centres has stalled with the 2012 outline consent now expired.. The Raven Meadows gap site is not available within the timescale sought by Sports Direct and is currently in use as a car park. As such the agent suggests that there are therefore no sequentially preferable sites within or on the edge of the town centre. Furthermore, they comment that Meole Brace is recognised in policy as an area suitable for retail development.

- 6.2.5 Objections have been received on behalf of the town centre Shopping centres raising concern about the sequential test and the impact test. The objection suggests that there is space within the town centre which could accommodate the end user. The objection has accepted that the full redevelopment of Riverside shopping centres is not coming forward within what could be considered a reasonable timeframe as required by the applicant. Furthermore, the objection identified units in the existing shopping centres which could be combined to provide larger floor spaces closer to the space being proposed at Meole Brace. The applicant's agent has responded to the town centre objection confirming that there are no suitable existing units in the town centre which would provide similar sized development to the current proposal. It is officer's understanding that the town centre objection is referring to units which could become available rather than units which are currently available.
- 6.2.6 The town centre objection also raises concerns about the proposal for Outfit to occupy the existing Sports Direct unit and questioned whether the applicant has considered combining existing units at Meole Brace. The objection to Outfit is an objection to potential competition with the town centre. The units on Meole Brace retail park are open A1 retail use with no restriction as to who can occupy the units. The Council would therefore have no control over Outfit taking on any of the units on Meole Brace as this would not require planning permission and there is already a vacant unit within Meole Brace Retail Park previously occupied by Next.
- 6.2.7 The sequential test in regard to the proposed scheme should consider whether there are any sequentially preferable sites within or on the edge of the town centre which could accommodate the proposed development, for 3,000sqm of new retail floor space for a single user. The sequential test needs to consider some level of flexibility in terms of sites around the size of the unit being proposed or sites which could provide similar floorspace over more than one floor. However, the sequential assessment does not need to consider sites which are significantly different to the proposal.
- 6.2.8 The Council's Policy Officer's comments are provided in full in section 4 above, these provide detailed advice on the consideration of the sequential and impact tests. With regard to the sequential test, and having regard to the objections received, the Policy Officer advises that it is an established position that LPAs should consider only 'real world' options for disaggregation, i.e. not requiring a developer to artificially disaggregate a proposal so it would 'fit' a town centre site to such an extent it would have a negative impact on the developer's established business model. Although units have been identified by the objection none of these are of a sufficient scale to accommodate the proposed Sports Direct even when factoring in a reasonable degree of flexibility.

- 6.2.9 Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test and the impact test (considered below), it should be refused, however this paragraph does not extinguish the requirement to take into account all other material considerations in assessing the planning balance. It is officer's opinion that the applicant has undertaken an appropriate sequential assessment for a site for Sports Direct and that, for this specific end user, there are no sequentially preferable sites and as such the application is considered to comply with the sequential test.
- 6.2.10 However, during the consideration of the application the agent has advised officers that the application is seeking an open A1 retail use, i.e. not restricting the end user to Sports Direct or to any other general retail use such as bulky goods. It is officer's opinion that this has not been sufficiently considered in sequential terms. The requirement for nearly 3,000sqm is based on Sports Direct wanting a larger store. There is no evidence of other end users wanting this scale of store and officer's opinion is that if there were other end users wanting new retail units for a general A1 use they should be considering the town centre first.
- 6.2.11 This is also a relevant point to whether the proposed unit should be allowed to be subdivided in the future. The sequential assessment has been carried out on the basis of the size of the building being proposed. Smaller units may be able to be accommodated in the town centre and as such it is considered that subdivision should be restricted. It is considered that planning permission should be required to permit any future subdivision so that the impact could be considered.
- 6.3 **Impact assessment**
- 6.3.1 Paragraph 26 of the NPPF requires out of centre developments to also assess the impact on existing, committed and planned investment and the impact on the vitality and viability of the town centre and wider area, up to five years from the time the application is made. Only where the impact is significant should this be used as a reason to refuse.
- 6.3.2 The Practice Guidance on Need, Impact and the Sequential Approach also comments on impact recognising that new retail developments will have an impact but this is not always a bad thing as new development often enhances choice, competition and innovation. The NPPF seeks to prevent significant adverse impact which would undermine the vitality and viability of the town centre and not to prevent competition or increased choice.
- 6.3.3 As detailed in section 6.1 above policy MD10b of the SAMDev sets a local threshold for impact assessments of 500sqm for out of centre uses in Shrewsbury. The Planning and Retail Assessment includes this impact assessment. The report notes that the Shrewsbury Retail Study is from 2014 and confirms that the town centre is healthy and performing well. There are a mix of national and independent store operators and the town centre also has historical and tourist interest and a good level of residential properties within the town. Officers acknowledge that the 2014 information is now 3 years old and that other out of centre retail developments have been carried out in that time. The town centre shopping

centres redevelopment has not happened and there are some empty units which may not have been empty in 2014. However, it is officer's opinion that the town centre continues to be healthy and viable

- 6.3.4 The agent considers that Meole Brace will not compete with the town centre, including the proposed redevelopment and investment of the existing shopping centres as the town centre investment is focused on mid to high end fashion retailing. The agent comments that Meole Brace complements existing retail facilities and the town centre redevelopment is intended to deliver a step change in the town centre offer. This is the agent's view but is not wholly clear, both Meole Brace and the town centre offer fashion retailing. Officers accept that Meole Brace provides a different offer for retailers and shoppers in that it provides large format units, however the existing open A1 units permit fashion retailing and there is no guarantee that the town centre redevelopment will be able to provide for mid-high end fashion. As such officers consider it is highly important for Meole Brace to continue to provide a different scale of retail units to the town centre.
- 6.3.5 Included in the impact assessment is an expenditure growth calculation, based on Experian data, which suggests sufficient growth in 2017-2022 to accommodate the proposed retail unit at Meole Brace and the redevelopment of the Riverside. Given all of the above the agent concludes that the trade diversion from the town centre will be minimal, the proposed unit at Meole Brace will not have a significant impact and will improve the overall retail offer across the town.
- 6.3.6 Objections have been received on behalf of the owners of the town centre shopping centres, Shrewsbury Business Improvement District and the previous local member, Councillor John Tandy (objecting when he was local member). The concerns raised are about the retail impact of the proposed development on the town centre. The objections relate to the impact on the existing town centre currently and the impact on the future redevelopment of the town centre. The objection on behalf of the town centre considers that another open A1 unit on Meole Brace would have an adverse impact on the planned and committed investment into the town centre redevelopment, which is allocated within the local plan, and also on the overall vitality and viability of the town centre.
- 6.3.7 The agent's response questions the deliverability of the Riverside redevelopment and therefore whether it should be considered as a committed development but also comments that Meole Brace does not compete with the town centre and that this is evidenced by the number of operators in both locations. The agent considers that their submitted retail statement clearly shows that there would not be a significant adverse impact.
- 6.3.8 However, as noted above the retail impact assessment, as with the sequential test, is heavily geared around the size of the unit and the end user being Sports Direct. It is clear within the retail statement that the agent states this application is for a specific need not a speculative proposal. Although during the consideration of the application the agent has sought to argue that the proposal should be allowed for open A1 retail use officers do not consider that the impact assessment, or sequential test, is passed for an open A1 use. The agent seems to be trying to



argue that there isn't an impact because the new unit is for Sports Direct who need a larger store and that this would not compete with the town centre, whilst also seeking to argue that the permission should allow any retailer to occupy the unit and even for the retail park owner to subdivide the unit.

- 6.3.9 As with the sequential test issue the Council Policy Officer has provided advice on the impact assessment (detailed in section 4 above). The Riverside scheme is allocated in the Development Plan, and is therefore a planned private investment within the context of NPPF paragraph 26. When developed it will support the ongoing vitality and viability of Shrewsbury Town Centre. The impact on the delivery of the allocated Riverside site is therefore of significant importance when assessing the proposal. The Policy Officer has raised concerns that an open A1 permission would not allow the Council to consider the impact of any future occupier, beyond Sports Direct, on the town centre and Riverside redevelopment.
- 6.3.10 It is officer's opinion that the retail impact of an open A1 use or potential subdivision of the proposed unit have not been fully assessed and are likely have a greater impact on the planned town centre redevelopment than has been considered. It is acknowledged that the Riverside redevelopment consent previously granted has now lapsed, however this is still a planned development within the SAMDev Plan. The consent was granted at a time when the Country was only just emerging from a period of significant economic uncertainty. There was clearly a hope that the planning permission would be developed and end users were identified. However, the economic recovery has not developed as quickly as anticipated and this may have influenced the redevelopment and been the reason for the delay.
- 6.3.11 Notwithstanding the fact that the previous consent has now lapsed officers are aware that discussions regarding redevelopment of the town centre shopping centres have been ongoing. A redevelopment scheme which provides additional floor space within the town centre is still a Council priority and allocated development in the SAMDev Plan. The NPPF requires the impact assessment to consider existing, committed and planned investment in the centre and although the expiry of the planning permission means this development is no longer committed it remains a planned proposal. The site's owners UKCPT continue to be committed to the site's redevelopment in the medium term. The New Riverside scheme should therefore continue to be considered a major town centre investment opportunity and therefore requires suitable and appropriate protection.
- 6.3.12 Restricting the use of the new unit at Meole Brace would allow for the construction of a new unit without harming the potential for the future redevelopment of the Riverside. As such officer's recommendation is that the new unit should be restricted to Sports Direct and after that it should be restricted to bulky goods retail only. Obviously Sports Direct may keep it for longer, however if they don't this would prevent any other retailer except bulky goods retailers from occupying the unit without further planning consent. This would allow the unit to be used by retailers such as a DIY store or white goods sales without consent but also allow for other users to apply for planning consent and for the impact on the town centre and Riverside to be reconsidered.

- 6.3.13 Officers acknowledge that the existing units are in the main open A1 but this does not mean that any new units should automatically also be open A1. The recent consents for mezzanine floors on Meole Brace have been restricted to bulky goods use and any new retail park development elsewhere in the County have been restricted to bulky goods. Meole Brace has open A1 due to its age. However the focus is for town centre first retail and therefore out of town retail should not prejudice the town centre. Without a restriction on the use the unit proposed could have a significant adverse impact on the vitality and viability of the town centre.
- 6.3.14 The applicant's agent has objected to the proposed restrictive condition on the basis that it is not acceptable to the site operator or Sports Direct. They have advised that the draft lease does not allow for personal consents or restricted goods. However, this is a matter of a lease between the site owner and the operator and not necessarily a material planning consideration. Obviously the operator would prefer an open A1 permission as this opens the unit to more potential end users. However, as noted above it is officer's opinion that the information submitted does not clearly show that an open A1 use would be acceptable as it is framed around the noted first user, Sports Direct.
- 6.3.15 The applicant's agent has also argued that their retail statement does assess the proposal as an open A1 use and concludes that there would not be a significant adverse impact on the town centre or on the planned investment of the Riverside redevelopment. Officers do not agree that the retail assessment does sufficiently assess the site for open A1 use and it is therefore officer's strong opinion that a restrictive user condition is required.
- 6.3.16 The applicant would have the opportunity to either apply to remove the condition, at which time they could submit further information, or they could appeal the condition. There is a risk of an award of costs if the Inspector found the Council had behaved unreasonably. However, officers consider that the condition is necessary given the potential for a significant adverse impact on the vitality and viability of the town centre and the planned redevelopment of Riverside.
- 6.4 **Layout of site, scale and design of proposed store**
- 6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.4.2 The Design and Access statement submitted with the application acknowledges that the site is challenging as it sits between existing retail units which have a specific design character. The proposed unit, due to wanting a full first floor, will be higher than the existing units and therefore the challenge has been fitting a new building in to the existing design. However, the agent also comments that the site has limited public frontage and therefore only the short section of the front visible to the car park will have any design features with the remainder of the building clad in

composite cladding.

- 6.4.3 The design as submitted with the application proposed a two storey building with a predominately glazed front elevation with the glazing set between brick pillars and under a brick plinth. A shallow pitched roof sits behind the brick plinth. Concerns were raised by officers that the design did not reflect the designs of the existing retail units as the roof shape is significantly different and the full height two storey proposal does not allow for the same pitch of roof as the existing buildings. Officers suggested that the design should either fit it better, by designing an elevation with a similarly pitched section of roof, or be more modern in appearance by being finished in different materials.
- 6.4.4 Negotiations between the case officer and the agent have resulted in a design which provides a pitched roof and also different materials between the glazing on the front elevation. The roof, due to the full floor two storey proposal, is not the same height as the buildings either side, it is now proposed with matching materials and a matching pitch but does not extend to the eaves of the existing buildings either side.
- 6.4.5 It is considered that the amendments to the roof and the materials, along with the acknowledged limited frontage, will reduce the impact of the design of the proposed unit on the overall character of the retail park. The design is not exceptional or innovative or matching the existing retail park and as such it is considered that the design could be better. However, officers accept the constraints imposed by the site and the requirement of the site operator to provide a full two storey retail unit.
- 6.4.6 Officers therefore consider that the amended scheme is appropriate and acceptable for the site and the wider area and will result in a scheme which is not visually intrusive or harmful to the character or amenity of the area and as such complies with the policies of the Core Strategy and SAMDev.
- 6.5 **Access, car parking and accessibility to town centre**
- 6.5.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced.
- 6.5.2 The NPPF states that when considering out-of-centre locations for retail development “preference should be given to accessible sites that are well connected to the town centre”. Therefore, in assessing the relative merits of the site it is also necessary to look at accessibility and connection to the town centre. This can include the potential for linked trips through a range of potential sustainable transport modes, not just by foot. The policy is not a simple presumption in favour of the site which is closest to the town centre or even to the most accessible site but enables local authorities to give weight to sites which are accessible and well connected.

- 6.5.3 There are three issues to be considered: the technical acceptability of the access and parking arrangements within the site; the capacity of the local highway network, junctions and traffic movements; and the accessibility of the site by means other than the private car. Shrewsbury Town Council has no objection in principle to the proposal but have raised concerns about the traffic impact. However, the town council comments appear to acknowledge that the issue already exists. Local residents also have objected on the basis of increase in traffic; queueing traffic; that the access is not sufficient; and that the existing car park and roads are in poor condition. Local residents have suggested a new access should be provided off Oteley Road for vehicles and pedestrians and this is also reflected in the comments from John Tandy, the previous local member for the area.
- 6.5.4 Access to site and parking. The application site is within the Shrewsbury development boundary, within the A5 bypass and also within the existing Meole Brace retail park. Access is via an existing roundabout on the A5112 which connects to the A5 at Dobbies roundabout. Oteley Road runs to the south of the site and the railway to the east with pedestrian access available under the railway line but no formalised pedestrian access off Oteley Road.
- 6.5.5 Improvements are proposed within the retail park. A separate application was submitted, and has been approved, to provide a left turn only lane from the retail park onto the A5112 roundabout and also to provide two lanes on the approach to the Sainsbury/ Pizza Hut roundabout to provide a right turn lane into Sainsbury. The agent considers that these two improvements will increase capacity on the internal road network and therefore improve traffic flow and reduce queuing and delays.
- 6.5.6 The above works are all within the retail park and are intended to improve traffic flow. The TA comments that the improvements are not a requirement of this application for a new unit on the retail park. They are proposed as stand alone improvements as there is no evidence that the proposed new retail unit would result in a pro-rata increase in traffic numbers.
- 6.5.7 Following the receipt of objections and concerns raised by the Council Highway Officer further amendments have been sought. It is officer's opinion that additional improvements to the existing road layout within the retail park would help to increase traffic flows around the park and also to get traffic into and out of the park. The Highway Officer met with the applicant's highway consultant on site and discussed a number of different parts of the site. The results of the discussions are shown on the latest amendments.
- 6.5.8 The amendments remove one of the three raised pedestrian crossing points. This has been raised as a concern locally. Officers accept that the removal of the raised platform, which is currently a traffic calming measure, will improve traffic flow but is not considered to increase risk of speeding within the site as the other two platforms remain as do the roundabouts which also calm traffic. A further raised platform, which does not provide a pedestrian crossing, is also to be removed. The assessment carried out as part of these recent amendments advises that the traffic

speed at the point of these platforms is unnecessarily slow and therefore the removal of these two would be beneficial. However, it is officer's opinion, as reflected in the local objections, and the Highway Officer's advice that the pedestrian crossing point should be re-instated after the removal of the raised platform to provide safe crossing point for pedestrians.

- 6.5.9 Also proposed is the creation of two lanes at the roundabout adjacent to Marks and Spencer and the creation of an entrance to the main car park, as well as the existing exit, at this roundabout. This is also intended to improve traffic flows around the car park and was suggested by the Council Highway Officer.
- 6.5.10 As noted above the proposal does not propose to provide any additional car parking spaces and seeks to rely on the car park already available at the retail park. The only changes proposed within the car park are to ensure that a level access is provided to the store door. The TA confirms that the applicant has carried out a review of the car parking and traffic flow and recommendations are made to improve efficiency and capacity. The improvements are to the internal road network rather than car parking space capacity. As detailed in section 4 above the Council Highway Officer has confirmed that the proposals provide a degree of betterment to internal flows and that a highway objection could not be sustained. It is unfortunate that alternative access points are not being considered at present but the current proposal would not justify requiring additional access points, on the basis of the traffic increase from the proposed unit. It would not be reasonable or relevant to the current application to either refuse consent on the basis of the proposal not providing an additional access.
- 6.5.11 With regard to parking, the current planning policies do not include any parking standards. Parking has to be provided at a level which is appropriate for the development; however there are no set minimums or maximums. The previous Shrewsbury and Atcham Borough Council policies did include parking standards. For this form of development the parking requirement would be 1 space per 20sqm which would therefore require 139 parking spaces. However, the agent, within the TA suggest that the increase in customer numbers will be less than the increase in the floor space due to linked trips (existing shoppers visiting the new unit on the same trip as visiting other units). The TA comments on other appeal decisions across the Country where a 100% increase in floor area have resulted in a 19% increase in traffic. The current proposal is for 2,788sqm on a retail park with 13,023sqm existing floor space, this therefore equates to a 21.4% increase in floor space and, using the above appeal, an estimated 4.1% increase in traffic.
- 6.5.12 Using the survey data carried out by the applicant this would equate to an additional 55 two way movements during the Saturday peak hour. Given the surveyed traffic movements are 1,353 during this peak hour, in July, the applicant considers that an additional 55 movements will have a minimal impact. It has been accepted that there are currently empty units on the retail park and also that traffic will increase during the Christmas period, however the TA suggests that even with full occupancy of the units there would be space capacity in the car park. The Council Highway Officer has accepted this conclusion and it is considered that the existing car park is sufficient to provide for the new unit.

- 6.5.13 Highway network, junctions and traffic. A Traffic Assessment (TA) has been submitted with the application. The TA advises that, on the basis of the assessments undertaken, Meole Brace roundabout carries high volumes of traffic due to the number of connecting arms linking to residential areas, the A5 and the town centre. However, the TA advises that the predicted increase in traffic, as noted above, would not have a severe impact on the highway network. Many of the traffic issues on the highway network, junctions and traffic volumes are existing issues not created by the proposed development and the evidence submitted shows that the proposed development will not exacerbate the existing issues to a degree which would warrant refusal of the current application.
- 6.5.14 Taking into consideration the objections from the local community noted above the Council Highway Officer has agreed with the conclusions of the TA with regard to traffic movements off-site. The issue is existing, there is a high level of traffic on the surrounding road network. The alterations recently completed to the Meole roundabout have alleviated some of the queueing. The amendments to the internal layout of the site and the previously approved left-turn exit lane will help to alleviate traffic within the site and therefore will have a positive knock-on effect to the surrounding roads by getting traffic into the retail park quicker.
- 6.5.15 Accessibility. The TA comments that the main pedestrian access to the retail park is from the vehicular access roundabout on the A5112 with a secondary pedestrian access adjacent to the pedestrian crossing over the A5112. The TA also notes that there is an off road pedestrian and cycle route along the A5112 and therefore suggests that there is a safe pedestrian and cycle access into the site. Comments from local residents differ in that residents consider that the pedestrian access from the crossing over the A5112 is the main point of pedestrian access.
- 6.5.16 The scheme does not propose any changes to the pedestrian/ cycle access into the site. Although the internal layout changes detailed above remove two of the raised platforms from within the site and one of these currently holds a pedestrian crossing it is officer's opinion that the pedestrian crossing should be provided across the level access road. This can be achieved through an appropriately worded condition.
- 6.5.17 As with traffic and parking the proposed new unit will not significantly increase pedestrian and cycle movements. As such, as with traffic access, although a new pedestrian access may be beneficial for the retail park and accessibility for pedestrians and cycle traffic, it is not necessary to make the development acceptable and therefore the Council could not insist on a new pedestrian access point.
- 6.5.18 The site is accessible on foot and by cycle, it will remain accessible after the development. The development will not significantly increase pedestrian or cycle movements.
- 6.5.19 Conclusion. Overall it is considered that satisfactory access for vehicles, pedestrians and cycles is already available, it is acknowledged that there are

existing issues on the retail park and the surrounding highway network, however the current proposal would not significantly increase traffic movements. The proposed enhancements within the retail park will improve traffic flows within and around the site. Officers accept that a further new access to the retail park would also improve flows but the scale of the current proposal is not such that would justify requiring the construction of a new access. This matter needs to be considered separate to the current application. The site is considered to be in an appropriate location to promote sustainable means of transport, especially for staff but also for some of the customer movements. As such officers consider that it is concluded that there are no highway grounds on which to refuse the application and it is considered to comply with the relevant parts of the NPPF and the local policies.

6.5.20 The applicant has also committed to undertake a study of vehicle and pedestrian flows within the retail park and consider further improvements. Additional pedestrian access may be provided, subject to this further survey work, adjacent to Costa coffee to connect to the improved pedestrian route crossing the Meole roundabout. However, this is to be dealt with outside of the scope of this planning application and is not a matter that can be controlled by condition as, as noted above, are not necessary to make the current application acceptable in planning terms.

## 6.6 **Flooding, drainage and contamination**

6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Policy CS6 'Sustainable Design and Development Principles' also requires all developments to consider ground conditions including potential contamination.

6.6.2 The application has been submitted with a drainage strategy report which advises that the proposed development does not increase the catchment area in that the proposed building will replace existing drained hard standing whilst also acknowledging that the development of the site will need to provide 50% betterment to the existing discharge rate for surface water run off. This will be done through a sustainable drainage system and using below ground attenuation and flow control to restrict the discharge rates.

6.6.3 Foul drainage is to be connected to the existing drainage system which links to the public sewer system outside the site. This is the preferred method of dealing with foul drainage and is considered to be acceptable.

6.6.4 The Council Drainage Consultant has confirmed that the proposals are acceptable and recommends that the details should be the subject of a planning condition should permission be granted. In principle the site is capable of being developed with a suitable drainage system which would meet the requirements of CS18 and also the betterment requirements of the council.

## 7.0 **CONCLUSION**

- 7.1 The proposed development has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of a restricted A1 retail unit on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable sites. However, both the sequential assessment and impact assessment are only passed on the basis of the unit being restricted to sports goods or bulky goods.
- 7.2 It is also considered that the layout, scale and design of the proposed building, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; and the improvements to the internal access routes will mitigate the additional traffic flow and provide enhancements to the existing situation.
- 7.3 Accordingly, subject to the conditions listed, the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Shrewsbury Town Centre. The scheme is also in accordance with policies MD1, MD2, MD10a, MD10b and S16 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

Both of these risks need to be balanced against the risk of not proceeding to



determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

## 8.2 **Human Rights**

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

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

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

## 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10. **Background**

### Relevant Planning Policies

MD10A - Managing Town Centre Development

MD10B - Impact Assessments for Town and Rural Centres

Settlement: S16 - Shrewsbury

National Planning Policy Framework

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

## 11. **Additional Information**

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

Cabinet Member (Portfolio Holder)  
Cllr R. Macey

Local Member  
Cllr Ted Clarke  
Cllr Jane Mackenzie  
Cllr Tony Parsons

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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

3. Prior to the development being first opened to trading the internal highway measures, as shown on Drawing No.1656-01, shall be implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority. As part of these works the pedestrian crossing on the southern raised platform shown to be removed shall be re-instated at highway level and maintained as such in perpetuity.

Reason: In the interests of highway safety.

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

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

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

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any subsequent re-enactments, the retail unit hereby approved shall only be used for the sale of sports goods by Sports Direct or for the sale of the following non-food bulky goods:

- DIY, bulky furnishing and major household appliances
- pet foods and pet supplies
- motor parts and accessories
- bicycles and cycling accessories
- drinks sold in bulk
- kitchen and cookware items

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

6. The retail unit hereby approved shall be occupied as either one single unit or as two units and not be subdivided to more than two units.

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

-



<u>Committee and date</u>
Central Planning Committee
21 December 2017

<u>Item</u>
6
Public

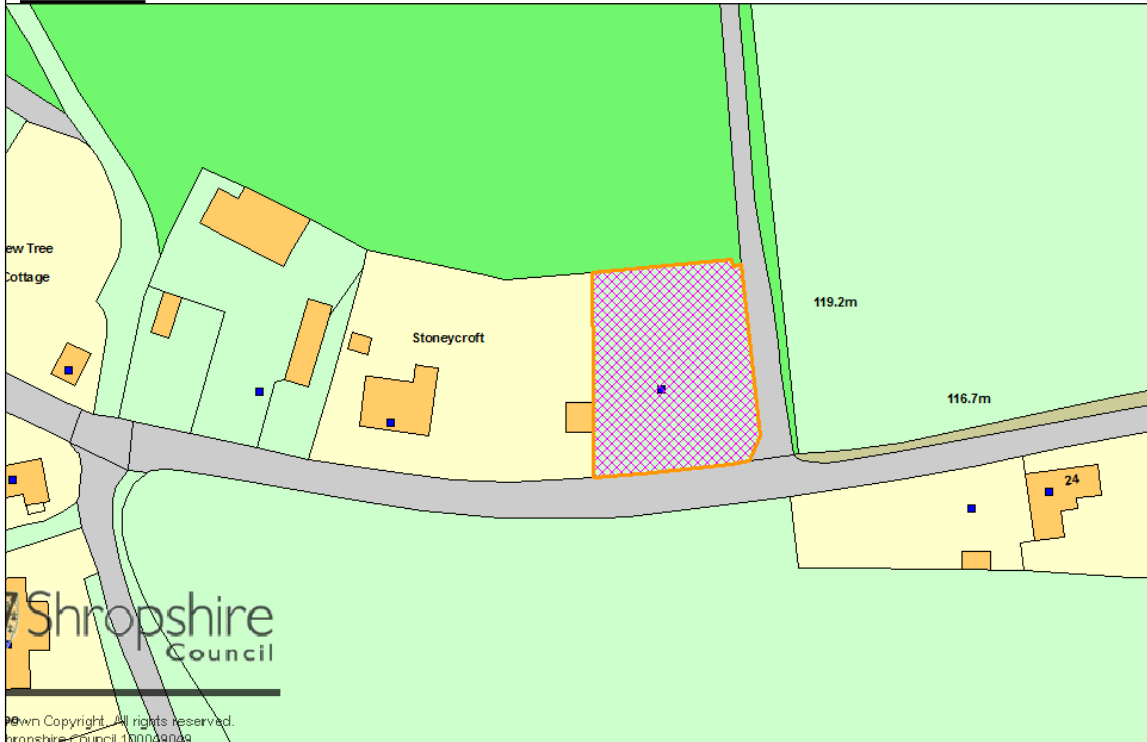
## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 17/04319/REM	<b>Parish:</b>	Little Ness
<b>Proposal:</b> Approval of reserved matters (access) pursuant to permission 15/00560/OUT for the erection of one dwelling		
<b>Site Address:</b> Development East Of Stoneycroft Valeswood Little Ness Shrewsbury Shropshire		
<b>Applicant:</b> Mr & Mrs Robinson		
<b>Case Officer:</b> Sue Collins	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 339406 - 320335



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

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks the approval of reserved matters for the access to serve a dwelling on the site east of Stoneycroft, Valeswood, Little Ness, Shrewsbury.
- 1.2 Outline planning permission was granted on the 17<sup>th</sup> June 2016 for a dwelling on the site with all matters reserved. This application is only considering the access to the site. All other matters remain reserved and additional applications will be required to deal with the matters of scale, appearance and landscaping.
- 1.3 Initially when submitted the proposed access was located approximately 9 metres up the adjacent bridleway from Valeswood Lane. Following the receipt of comments and responses from contributors and consultees the access has been relocated to the corner of the field where the existing access is located. This is similar to the indicative block plan provided with the outline application. The report and recommendation are made on the basis of the amended plan.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is situated within the Community Cluster of Valeswood, approximately 2km north east of the Community Hub of Nescliffe.
- 2.2 The site is located on the edge of the cluster of the dwellings in the part of the village, and is well contained by matures hedgerow and trees and is currently used to farm Christmas trees. To the west of the site lies Stoneycroft a recently constructed two storey dwelling and to the east there is an access track which is also a bridleway. There is an agricultural access gate leading into the site at the junction of the track with the public highway that passes to the south. To the North of the site there is a large expanse of woodland.
- 2.3 There are other dwellings within close proximity of the site in an easterly direction where the main part of the cluster can be found. In addition there are other dwellings located on the south side of Valeswood Lane in an easterly direction.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council has objected to the proposal and as this is contrary to the recommendation of Officers, the matter has been referred to the Local Member. It was requested that as the response raised material planning considerations in relation to the access that the application should be referred to the Planning Committee for determination.

**4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online****4.1 Consultee Comments****4.1.1 Parish Council:**

Response received 09.11.17

The parish council requests that the access is onto the road not the bridleway. This would also enable more passing places.

Response received 03.10.17

The Parish Council objects to this proposal as the access goes along part of the bridleway over which there is no vehicular right of access. The Parish Council is aware of the concerns raised by the Bridleway Association and shares these concerns.

4.1.2 **Affordable Housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance

4.1.3 **Highways:** No objection - subject to the development being constructed in accordance with the approved details, and the following conditions and informatives.

Shropshire Councils Outdoor Recreation Team should also be consulted as the access opens directly onto a definitive right of way with the status of bridleway.

Observations/Comments: 02/11/2017

Planning Application 15/00560/OUT for development of a single dwelling on the site was approved on 17th June 2016 with all matters reserved. The current application seeks reserved matters approval for the access with approval for all other matters to be made under a separate application.

The proposed access has now been amended to utilise the existing access at the bottom of the public right of way close to the public highway. The approval of Shropshire Councils Outdoor Recreation Team should be sought.

4.1.4 **Outdoor Recreation:** No objection – it is confirmed that Outdoor Recreation have no objection to the revised access position at the bottom of the bridleway track on to the Cliffe from Valeswood, as per the amended drawing PO2A dated 23 Oct 17.

4.1.5 **Nesscliffe Hills & District Bridleway Association:** Objection - the Amended Block Plan drawing PO2 A is noted.

The new plan shows that it is planned to remove 2m of the hedge adjoining the bridleway, and for the current access in to the field on the corner with the road, to be extended up the bridleway. There is no legal prescriptive right to extend the vehicular access up the bridleway.

Any removal of a section of hedge should be on the road side of the entrance, not up the bridleway. That could give better access to the road, and better visibility down the road when turning out of the proposed property.

4.1.6 **Ecology:** A landscaping scheme needs to be submitted in support of this REM (under condition 5).

4.1.7 **SUDS:** Drainage Condition 4 should not be discharged. No drainage details have been provided as detailed in our comments for 15/00560/OUT.

4.2 **Public Comments**

4.2.1 One letter of representation has been received. The areas of concern relate to:

- Right of access over the right of way
- Unauthorised parking on the right of way restricts authorised access
- Access should be off Valeswood Lane

## 5.0 THE MAIN ISSUES

- Principle of Development
- Highways and Impact on Right of Way
- Impact on Residential Amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The principle of a dwelling on the site together with the issue of affordable housing was dealt with and approved as part of the outline planning permission granted on 17<sup>th</sup> June 2016 reference 15/00560/OUT. This application only seeks approval for the access arrangements to the site. The issues regarding landscaping and drainage matters will be dealt with in subsequent applications for the remaining reserved matters ie, appearance, layout, scale and landscaping.

### 6.2 Highways and Impact on Right of Way

6.2.1 Concerns have been raised by the Parish Council, the Nesscliffe Hills and District Bridleway Association and a local resident regarding the means of access to the site. In particular the issues relate to highway safety and the right of access across the right of way.

6.2.2 The access is proposed to be in the south eastern corner of the field where there is an existing vehicular access. This will lead to the junction of the Bridleway with Valeswood Lane. As part of the process a 2 metre section of hedgerow will be required to be removed to enable appropriate access.

6.2.3 The amended plan has been assessed by the Council's Highways Development Control Officer who has raised no objection to the proposed access arrangements. Conditions have been recommended for inclusion on any approval of reserved matters to ensure that appropriate visibility splays are maintained together with the parking and turning spaces. This will ensure a safe access is provided and that vehicles will be able to enter and leave the site in a forward gear. In addition the very short distance between the driveway and the junction with Valeswood Lane will restrict any vehicles from gaining any significant speed and as such would not present a problem to other users of the Bridleway.



- 6.2.4 With regard to the right to cross the right of way, the applicant and agent have been made aware of this situation. The Case Officer has been told that they have been in discussion with the Council's Outdoor Recreation Team and this matter is being dealt with. In addition the comments from the Outdoor Recreation Officer indicate that they are in agreement to the latest proposal.
- 6.2.5 With regard to the suggestion of the Parish Council regarding an access onto Valeswood, Officers must consider the proposal as submitted by the applicant. As the amended scheme has met with the criteria required by the Highways Development Control Officer there was no need to request a further amendment. Any such amendment would be subject to further consultations with the Highways Development Control Officers as to its suitability.
- 6.2.6 It is noted that the applicant currently does not have a right of access over the bridleway. However if the reserved matters were to be approved this would not absolve the applicant from requiring a legal right of access and therefore the consent could not lawfully be implemented until the situation is resolved through legal process.
- 6.2.7 While the comments received have been considered by Officers, it is noted that no objection has been raised to the proposal by Highways or Outdoor Recreation Teams. On this basis it would be difficult to justify a refusal of the application on these grounds. Furthermore on this basis the proposal would be compliant with the NPPF and policy CS6 of the Shropshire Core Strategy.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 There are no residential properties within close proximity of the proposed access and therefore it would not result in any loss of privacy or light.
- 6.3.3 Some concerns have been raised regarding vehicles being parked on the bridleway and causing an obstruction. While the inconvenience of this is appreciated, the issue cannot be resolved through the planning system. The matter should be raised with the Outdoor Recreation Team who have other legislation available to them to potentially deal with the matter.
- 6.3.4 Overall it is the opinion of officers that the proposed access will not impact on residential amenities of the area.
- 6.4 **Other Matters**
- 6.4.1 A request has been made that the hedgerow along the bridleway should not be removed and that it should be removed from the Valeswood Lane side. This would not achieve the level of visibility required from the access to the site to maintain safety levels. Landscaping will be the subject of a further reserved matters application and it would be possible at this point to encourage planting elsewhere on the premises to compensate for the small loss of hedgerow to the bridleway.

## **7.0 CONCLUSION**

7.1 The comments of local residents, Parish Council and the Nesscliffe Hills and District Bridleway Association have been taken into consideration by Officers. However, it is the opinion of officers that the proposal is acceptable and will not cause detriment to highway safety. As such the proposal would be considered to be in accordance with the NPPF and policy CS6 of the Shropshire Core Strategy.

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

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the

public at large, rather than those of any particular group. Equality will be one of a number of ‘relevant considerations’ that need to be weighed in planning committee members’ minds under section 70(2) of the Town and Country Planning Act 1970.

**9.0 FINANCIAL IMPLICATIONS**

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

**10. Background**

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework  
 CS6 - Sustainable Design and Development Principles

RELEVANT PLANNING HISTORY:

PREAPP/10/01498 Overhead service lineS REC  
 15/00560/OUT Outline application for the erection of one dwelling (all matters reserved)  
 GRANT 17th June 2016  
 17/04319/REM Approval of reserved matters (access) pursuant to permission 15/00560/OUT  
 for the erection of one dwelling 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)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member  Cllr Ed Potter
Appendices APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

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

1. A visibility splay across the highway frontage of the property in a westerly direction, measured from a point 2.4 metres back into the track extending to the western boundary of the property shall be provided prior to the first occupation of any dwelling or building on the site and such splay shall thereafter be maintained at all times free from any obstruction exceeding 800mm above the level of the adjacent highway carriageway.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

2. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking 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.



Committee and date  
 Central Planning Committee  
 21 December 2017

Item  
**7**  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 17/05153/FUL	<b>Parish:</b>	Alberbury With Cardeston
<b>Proposal:</b> Application under Section 73A of the Town and Country Planning Act 1990 for the change of use of agricultural land to secured compound area for storage of caravans and container storage		
<b>Site Address:</b> Proposed Caravan Storage Land NW Of Whiston Farm Cardeston Ford Shropshire		
<b>Applicant:</b> Mr & Mrs Nick Challenor		
<b>Case Officer:</b> Aileen Parry		<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 340389 - 312512



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

**Recommended Reason for refusal**

1. The proposal will have a significant detrimental visual and landscape impact on the surrounding countryside, which cannot be adequately mitigated by means of additional planting. It is considered that development on this site has a significant detrimental visual impact when viewed from the A458 public highway and surrounding public footpaths. As such the proposal is considered contrary to Policies CS5, CS6, and CS17 of the Shropshire Core Strategy, Policies MD2, MD7b and MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.
2. The proposal does not constitute farm business diversification, and it is considered that the significant detrimental visual and landscape impacts do not outweigh any economic benefits as a result of the development. As such the proposal is considered contrary to Policies CS5, CS13 and CS17 of the Shropshire Core Strategy and Policies MD2, MD7b and MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks retrospective change of use of agricultural land to secure a compound area for storage of caravans and container storage, including landscaping measures.
- 1.2 An indication of the number of caravans is stated as a maximum of 30 but no indication on the number of containers has been provided within the application documentation. However the proposed site plan and landscape proposals referenced NC\_006 and LD07 - 001 rev02 respectively provide an indicative layout.
- 1.3 As part of the application, landscape proposals have been included under drawing reference number LD07-001 REV 02; a background paper entitled Whiston Farm Landscape Appraisal dated August 2017; and a planting schedule dated October 2017.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Whiston Farm extends to 6 acres (2.4ha), and is situated in an elevated location at the end of a private drive off the A458 Shrewsbury to Welshpool Road approximately 8 miles from Shrewsbury and 14 miles from Welshpool. The property is no longer a working active farm but is surrounded by farmland in the control of another nearby farm.

For policy purposes the application site is within open countryside.

- 2.2 The D&A Statement states that Whiston Farm serves as a base for the applicant's agricultural business (ND Challenor Livestock Services), which includes foot trimming, branding and hiring out mobile livestock handling equipment, serving farms within the surrounding local area and further afield.
- 2.3 Site History

- 2.3.1 Presently on site there is indoor storage of caravans within former agricultural buildings which was granted planning permission under planning reference 17/01638/FUL on 08.06.17.

It was noted on a site visit undertaken for the current retrospective application by officers on 16.11.17 that caravans are being stored outside of the area stipulated within condition 3 of planning permission reference 17/01638/FUL and outside of the red line area of the current application. This observation was drawn to the attention of the agent.

- 2.3.2 An application under planning reference 16/05816/COU was received in December 2016 for the change of use of agricultural land to secured compound area for storage of caravans and container storage. The application it was considered would have a significant detrimental visual and landscape impact on the surrounding countryside and contrary to the LDF and refused on 27.04.17.
- 2.3.3 An application under planning reference 15/04600/FUL was received in October 2015 for the change of use of land to provide an outdoor caravan storage facility for up to 40 caravans. Officers advised that the proposal was unacceptable and were minded to recommend refusal. The application was withdrawn in January 2016 with the agent advising officers that their client would like to withdraw the application and take time to re-evaluate their options.
- 2.3.4 An application under planning reference 15/01270/FUL was received in March 2015 for the change of use of agricultural land to outdoor caravan storage facility for up to 50 caravans. Officers advised that the proposal was unacceptable and were minded to recommend refusal. An alternative area was suggested by officers to the agent and applicant but the applicant did not want to store caravans on land nearer their dwelling. The application was withdrawn in July 2015.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 No response has been received from Alberbury With Cardeston Parish Council at the time of writing this report but officers have sort the views of the Local Councillor who has requested that the application should be placed on the Central Planning Committee agenda; the application was placed on the Central Planning Committee draft agenda and the Area Manager in consultation with the committee chairman and vice chairman agreed that the application should be determined by committee. A copy of the draft agenda has been placed on the planning record.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

##### **4.1.1 Ecology**

No objection. Informative recommended.

##### **4.1.2 Drainage**

No objection. Informative recommended.

##### **4.1.3 Rights Of Way**

No comment.

4.1.4 Highways

No Objection subject to the development being carried out in accordance with the approved plans. Condition recommended.

4.1.5 Archaeology (Historic Environment)

Have no comments to make on this application with respect to archaeological matters.

4.1.6 Trees

No objection. Condition recommended.

4.2 Highways England

No objection.

4.3 Councils Landscaping Consultant

Whilst the Landscaping Appraisal (LA) has correctly described the landscape and visual baseline, it has not adequately assessed the likely effects, and as such, does not provide sufficient information to judge the degree of potential adverse landscape or visual effects of this development.

4.4 Parish Council

No comments have been received from Alberbury With Cardeston Parish Council at the time of writing this report.

4.5 Cllr Potter Member for Loton

I would be very great full if this could be placed on the agenda for the central planning committee please. As I have said before I support this application.

4.6 Public Comments

Four neighbours have been consulted; and a site notice was placed by officers on 03.11.17. Two neighbour objections have been received. And a letter of support from a resident in Halfway House.

Letter of support comments include:

- ☐ True farm diversification with no impact on local residents or communities;
- ☐ It is not noticeable from the road.

Neighbours objections include:

- ☐ Unsightly;
- ☐ Detrimental to local area;
- ☐ Unsuitable location;
- ☐ An eyesore and unsympathetic development;
- ☐ Obtrusive;
- ☐ Unsuitable for open countryside;



- ☐ Lack of screening / inadequate screening
- ☐ In full view of A458 (Welshpool Road) and layby
- ☐ Slope of land increases visibility of sight
- ☐ Site can be seen clearly from the nearby Humphrey Kynaston Way (a long distance footpath)
- ☐ Visual impact on both public footpath and bridleway
- ☐ Shipping type containers are not appropriate for the site
- ☐ Risk of soil contamination from oil leaks of motor vehicles stored on site
- ☐ Previous ecological advice has not been followed
- ☐ Circumvention of planning policy
- ☐ Unsuitable development in a rural setting
- ☐ Now dealing with a fait accompli.

Also as part of the planning application the agent has submitted a document containing letters and emails from clients of the applicant providing support for the facility they use.

## 5.0 THE MAIN ISSUES

Principle of development  
Siting, scale and visual impact  
Landscaping

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The NPPF requires Local Planning Authorities to encourage economic development in rural areas through the support of sustainable growth and expansion of existing businesses together with support for sustainable tourism and leisure development that benefit businesses, communities and visitors. It should be ensured that these are appropriate in terms of location and that they respect the character of the countryside.

6.1.2 Shropshire Core Strategy Policy CS13 supports rural enterprise provided schemes accord with CS5 which seeks to retain and permit appropriate expansion of existing established business in the countryside (unless relocation to a suitable site within a settlement would be more appropriate) provided they maintain and enhance countryside vitality and character.

6.1.3 It is also necessary to ensure that the additional facilities proposed would comply with policy CS17 and ensure “developments identify, protect, enhance, expand and connect Shropshire’s environmental assets, to create a multifunctional network of natural and historic resources”.

6.1.4 Shropshire Core Strategy Policy CS5: Countryside and Green Belt states that new development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they

improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to small- scale new economic development diversifying the rural economy, including farm diversification schemes. Development will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate.

- 6.1.5 MD7b - General Management of Development in the Countryside states that planning applications for agricultural development will be permitted where it can be demonstrated that the development is:
- a. of a size/ scale and type which is consistent with its required agricultural purpose and the nature of the agricultural enterprise or business that it is intended to serve;
  - b. Well designed and located in line with CS6 and MD2 and where possible, sited so that it is functionally and physically closely related to existing farm buildings;
- and,
- c. There will be no unacceptable impacts on environmental quality and existing residential amenity.
- 6.1.6 MD7b also states that in order to promote a sustainable approach to development, proposals which minimise the impacts of new development, appropriately conserve the existing historic and landscape resource, and/or provide environmental amelioration are encouraged. This will include the appropriate re-use of existing suitable buildings and previously developed land.
- 6.1.7 Shropshire's high quality natural and built environment is one of its greatest assets. Protecting and enhancing the material, natural and historic resources which make Shropshire special is central to the role of the Local Development Framework.
- 6.1.8 CS13 : Economic Development, Enterprise and Employment states that Shropshire Council, working with its partners, will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities. In doing so, particular emphasis will be placed on:
- ② Promoting Shropshire as a business investment location and a place for a range of business types to start up, invest and grow, recognising the economic benefits of Shropshire's environment and quality of life as unique selling points which need to be valued, conserved and enhanced;
  - ② In rural areas, recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with agricultural and farm diversification, forestry, green tourism and leisure, food and drink processing, and promotion of local food and supply chains. Development proposals must accord with Policy CS5.
- 6.1.9 CS16 supports the delivery of high quality, sustainable tourism, and cultural and leisure development, which enhances the vital role that these sectors play for the local economy, benefits local communities and visitors, and is sensitive to Shropshire's intrinsic natural and built environment qualities.
- 6.1.10 Policy MD11 supports delivery of Core Strategy Policy CS16 which sets out a positive approach to tourism, leisure and recreation development that balances the benefits to the economy with the need to protect the qualities of Shropshire in line with the aims of the

National Planning Policy Framework (NPPF). All proposals in the countryside must also meet relevant considerations within Policies CS5, CS16 and MD7b.

- 6.1.11 MD11 also seeks to limit the effects of new and extended sites in areas where cumulatively the impacts would outweigh any potential economic benefits.
- 6.1.12 Officers consider that the proposal does not comply with the above policies and specifically for the following reasons:
- 6.1.13 Policy CS13 supports rural enterprise provided schemes accord with CS5 which seeks to retain and permit appropriate expansion of existing established businesses in the countryside (unless relocation to a suitable site within a settlement would be more appropriate) provided they maintain and enhance countryside vitality and character. Officers consider that the harm to the environment and visual amenity of the area significantly outweighs the benefits of the proposed scheme;
- 6.1.14 The proposal is not considered to be agricultural in nature or a farm diversification scheme; neither is it a well designed scheme or located in line with CS6 and MD2 as it is not sited so that it is functionally and physical located in relation to existing farm buildings and that the land was previously not developed land being agricultural land; neither does the scheme afford protection to the environment as it is considered that there will be unacceptable impacts on environmental quality and existing residential amenity. The proposal therefore does not accord with MD7b;
- 6.1.15 CS17 states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. Shropshire's high quality natural and built environment is one of its greatest assets. As stated in section 6.1.7 above, protecting and enhancing the material, natural and historic resources which make Shropshire special is central to the role of the Local Development Framework;
- 6.1.16 In addition SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets. Policy MD12 also sets out in detail the level of protection offered to Shropshire's natural assets which include: biodiversity and geological features; trees, woodlands and hedges in both rural and urban settings; the ways in which the above combine and connect to create locally distinctive and valued landscapes, including the Shropshire Hills Area of Outstanding Natural Beauty and the contribution all of the above make to visual amenity.
- 6.1.17 Officers consider that the proposal does not meet the relevant criteria within CS17 and MD12 and in particular the requirement that development does not adversely affect visual amenity.
- 6.1.18 Officers appreciate that the provision of caravan storage at the site is a growing business, and that the caravans are a part of the tourism business for Shropshire and surrounding areas but the site is purely for the storage of the caravans associated with tourism and not tourism directly. Officers consider that the proposal therefore does not meet the relevant criteria within CS16 or MD11.
- 6.1.19 The proposal also includes the placing of storage containers which according to the

supporting information is for the storage of equipment for local businesses. As with the storage of the caravans on this site, the change of use from agricultural land to an outdoor compound area for storage of containers is considered to be unacceptable due to its separation from the existing buildings, dominance in the landscape and the impact on visual amenity.

6.1.20 Officers appreciate that the application now has the support of a landscaping plan which includes native species some which will eventually be of a size that may potentially provide screening to some degree to parts of the site but not the whole site. The landscaping may during spring and summer months afford substantial screening. However, it is considered that the existing and proposed landscaping measures do not and will not provide adequate screening during what is assumed is the main time of year for the storage of the caravans i.e. during the autumn and winter months or due to the topography during the whole calendar year to the higher levels of the site.

6.1.21 It is noted that the number of caravans has been reduced in number from 50 and 40 caravans from the previous applications to 30 for this application but, from the revised block plan provided, officers consider that adequate screening will not be possible due to the landscape and topography of the site. It is clearly visible from the nearby A458, layby and rights of way that pass near to the site.

## 6.2 Siting, scale and visual impact

6.2.1 Officers note and appreciate that the applicant has, in starting development without planning permission, spent money in providing improved security, signage, fencing, non-native planting and the laying of hard-core material on the land being assessed within this application. However this is at the applicants own risk as he has ben made aware.

6.2.2 The proposed storage is not immediately adjoining or to the rear of the existing former farm buildings, and farmstead, and is considered not to be sufficiently screened from the highway by the existing screening and planting.

6.2.3 Officers acknowledge that the applicant has provided landscaping proposals and appraisals (the specifics of which are discussed further in section 6.3 below) to try and avert the visual impact of the development, but it is officers opinion that although native species are proposed and some which will eventually be of a size that may potentially provide screening to some degree of parts of the site, which would afford some screening during spring and summer months, would not provide adequate screening during what is assumed is the main time of year for the storage of caravans during the autumn and winter months.

6.2.4 As stated above, it is officers' opinion that adequate screening will not be possible due to the landscape and topography of the site. The proposal site is clearly visible from the nearby A458, layby and rights of way that pass near to the site.

6.2.5 It is acknowledged that the proposed landscaping would afford some screening to the lower edge of the storage area, but this will take sometime time to mature.

6.2.6 It is therefore judged that the caravans to be stored are and would be very visible from the A458 and the nearby bridleway and public footpath. In terms of the wider landscape impact

the caravan storage would not be viewed alongside the existing built development at this site but as a very separate entity. The caravans and the containers are considered do have and will have an impact on the view of this site and would significantly increase the prominence of the development within the wider landscape.

- 6.2.7 Officers consider that the proposal does not constitute farm specific diversification and appears as an unacceptable encroachment into the rural landscape.

The proposal is not sited within the existing farm building structures envelope and away from nearby roads with the potential for overlooking and observed visual intrusion and in particular from nearby rights of way.

- 6.2.8 Officers note that there is storage of caravans and trailers within some of the existing buildings which now has planning permission under planning reference 17/01638/FUL. This is considered an appropriate re-use of these former farm buildings, however the area subject to this application is clearly separated from the former farmstead associated with caravan and container storage and use of the field for further storage and any economic benefits do not outweigh the considerable and significant visual and landscape impacts.

- 6.2.9 Officers have previously been advised by the applicant on the site visit that the buildings closer to the house are utilised for storage of equipment and kit for the applicant's agricultural business specialising in foot trimming, branding and hiring out mobile livestock handling equipment.

- 6.2.10 Officers appreciate that the proposal is considered would aid the retention of a new business to and in the area, which in turn would provide secure storage for caravan owners.

- 6.2.11 However, and as stated above, the proposal does not constitute farm diversification, is considered to be an unacceptable encroachment into the countryside and unacceptable in terms of visual amenity to the surrounding area and detrimental in character and appearance to the locality and wider countryside setting.

- 6.2.12 In addition, the business does not bring any substantial local economic benefits to the area as the benefits are considered to be solely for the applicants; the site is not within a recognisable named settlement but is sited away from the settlement of Ford which for policy purposes is open countryside. The site is also not within SAMDev Schedule S16.1e: Committed Rural Employment Sites where land adjoining the Poultry Unit, Ford is committed for employment uses and capable of accommodating the development of recycling and environmental industries.

- 6.2.13 It is concluded that the significant detrimental impacts cannot be adequately mitigated in consideration of information as contained within the applicants Landscape Assessment. It is also considered that development on this site has a significant detrimental visual impact when viewed from the surrounding landscape which includes the nearby A458 public highway and surrounding public footpaths.

- 6.2.14 The proposal as such is not in accordance with the overall aims and objectives of the NPPF in relationship to sustainable development and policies CS5, CS6, CS13, CS16 and CS17 of the Shropshire Core Strategy and MD2, MD7b, MD11 and MD12 of SAMDev.

### 6.3 Landscaping

- 6.3.1 Officers consulted the Councils Landscaping Consultant to undertake a Quality Assessment Review of the landscaping appraisal (LA) submitted with this application to provide the Council with technical support and information to inform the Councils considerations of the application.
- 6.3.2 The conclusions and recommendations contained within the review are as follows:
- 6.3.3 In general, the LA does not follow current published good practice advice. An assessment in line with current guidance would improve the transparency of the assessment, and provide a clear understanding of the adverse landscape and visual effects likely to arise from this development.
- 6.3.4 There is no description of the predicted cumulative landscape and visual effects.
- 6.3.5 The LA has produced a landscape strategy as part of the mitigation measures, but this is not founded upon a transparent assessment of potential landscape effects.
- 6.3.6 Whilst the LA has correctly described the landscape and visual baseline, it has not adequately assessed the likely effects, and as such, does not provide sufficient information to judge the degree of potential adverse landscape or visual effects of this development. It is recommended that the Applicant prepares a Landscape and Visual Appraisal in line with Table 3.1 of GLVIA3.
- 6.3.7 From the review and the advice contained within, officers consider that the LA does not comprehensively mitigate the likely adverse landscape and visual effects of this retrospective planning application and is therefore unacceptable.

### 7.0 **CONCLUSION**

**Although the development will help to sustain and expand an existing rural business, to which the development as proposed does not have planning permission, the proposal it is considered is detrimental to the character and appearance of the locality and the wider countryside setting, in relationship to both landscape and visual impact. The unauthorised development is not in relation to appropriate farm diversification. Any economic benefits are outweighed by these impacts.**

**The LA does not comprehensively mitigate the likely adverse landscape and visual effects of this retrospective planning application and is therefore unacceptable.**

**Of particular concern is the location of the outdoors storage which is on a site divorced from the former farmstead, to which it is considered does not assist as a backdrop or a screen or mitigate the development into the local landscape, on a site surrounded by agricultural land onto which there is significant views into the site, and to which there is insufficient screening both currently and as proposed in order to mitigate the development into the surrounding landscape.**

**Therefore the proposal is considered not to be in accordance with the overall aims and objectives of the NPPF in relationship to sustainable development**

**and policies CS5, CS6, CS13 and CS17 of the Shropshire Core Strategy and MD2, MD7b and MD12 of SAMDev.**

**Officers recommend that planning permission is refused for the reasons as discussed above.**

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

② As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

**9.0 FINANCIAL IMPLICATIONS**

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

**10. BACKGROUND**

Relevant Planning Policies

Central Government Guidance:  
NPPF

Core Strategy and SAMDev:

- CS5 - Countryside and Greenbelt
- CS6 - Sustainable Design and Development Principles
- CS13 - Economic Development, Enterprise and Employment
- CS16 - Tourism, Culture and Leisure
- CS17 - Environmental Networks
- MD2 - Sustainable Design
- MD7B - General Management of Development in the Countryside
- MD11 - Tourism Facilities and Visitor Accommodation
- MD12 - Natural Environment

Relevant Planning History:

- 15/01270/FUL Change of use of agricultural land to outdoor caravan storage facility WDN 1st July 2015
- 15/04600/FUL Change of use of land to provide an outdoor caravan storage facility WDN 11th January 2016
- 16/05816/COU Application under Section 73a of the Town and Country Planning Act 1995 for the change of use of agricultural land to secured compound area for storage of caravans and container storage REFUSE 27th April 2017

**11. ADDITIONAL INFORMATION**

View details online:

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



Appendices  
APPENDIX 1 - Conditions

**APPENDIX 1**

**Conditions**

**STANDARD CONDITION(S)**

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

**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**

**Informatives**

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 187, the proposed development is contrary to adopted policies as set out in the officer report and referred to in the reasons for refusal, and it has not been possible to reach an agreed solution.

-



<u>Committee and date</u>
Central Planning Committee
21 December 2017

<u>Item</u>
8
Public

## Development Management Report

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

<b>LPA reference</b>	17/02286/FUL
<b>Appeal against</b>	Appeal Against Conditions Imposed
<b>Appellant</b>	Mrs S Lee
<b>Proposal</b>	Installation of (fire) escape doors to first floor rear elevation; reinstatement of flat roof with installation of balustrade
<b>Location</b>	18 Belmont Shrewsbury
<b>Date of application</b>	15.05.2017
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	28.06.2017
<b>Date of appeal</b>	18.09.2017
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>WITHDRAWN</b>
<b>Details</b>	

<b>LPA reference</b>	17/02287/LB
<b>Appeal against</b>	Appeal Against Conditions Imposed
<b>Appellant</b>	Mrs S Lee
<b>Proposal</b>	Works to facilitate the installation of (fire) escape doors to first floor rear elevation; reinstatement of flat roof with installation of balustrade
<b>Location</b>	18 Belmont Shrewsbury
<b>Date of application</b>	15.05.2017
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	28.06.2017
<b>Date of appeal</b>	18.09.2017
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>WITHDRAWN</b>
<b>Details</b>	

<b>LPA reference</b>	17/01920/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr David Gill
<b>Proposal</b>	Erection of a three bedroom bungalow
<b>Location</b>	Proposed Dwelling To The South Of Stapleton Shrewsbury
<b>Date of application</b>	03.05.2017
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	28.09.2017
<b>Date of appeal</b>	07.10.2017
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	16/02691/CPL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr C Nedic
<b>Proposal</b>	Application for Certificate of Lawfulness for the proposed use of land for up to 12 No caravans for the purposes of human habitation throughout the year
<b>Location</b>	Pool View Caravan Park Much Wenlock Road Buildwas Telford
<b>Date of application</b>	17.06.2016
<b>Officer recommendation</b>	Certificate Not Lawful
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	09.09.2016
<b>Date of appeal</b>	23.11.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	08.08.2017
<b>Date of appeal decision</b>	29.11.2017
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	16/02745/CPL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr C Nedic
<b>Proposal</b>	Application for Certificate of Lawfulness for the proposed use of land for up to 20 No caravans for the purposes of human habitation throughout the year
<b>Location</b>	Pool View Caravan Park Much Wenlock Road Buildwas Telford
<b>Date of application</b>	21.06.2016
<b>Officer recommendation</b>	Certificate Not Lawful
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	09.09.2016
<b>Date of appeal</b>	23.11.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	08.08.2017
<b>Date of appeal decision</b>	29.11.2017
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	16/04668/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Messrs Brassington
<b>Proposal</b>	Outline application (all matters reserved) for mixed residential development
<b>Location</b>	Land South Of B4380 Buildwas Shropshire
<b>Date of application</b>	12.10.2016
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	15.02.2017
<b>Date of appeal</b>	10.08.2017
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	20.11.2017
<b>Date of appeal decision</b>	29.11.2017
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

**From:** [Martin Parrish](#)  
**To:** [West1](#); [Celia Kilgannon](#)  
**Subject:** RE: APP/L3245/W/17/3184597 & PP/L3245/Y/17/3184599  
**Date:** 06 December 2017 13:53:20  
**Attachments:** [image003.jpg](#)  
[image004.jpg](#)

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Dear Dan

We confirm withdrawal of the above appeals.

Regards

MWP 001



Martin W Parrish FPCS MIED

Managing Director

Unit D1, Pimley Barns  
Pimley Manor  
Sundorne Road  
Shrewsbury  
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**From:** West1 [mailto:West1@pins.gsi.gov.uk]

**Sent:** 04 December 2017 10:55  
**To:** Celia Kilgannon <celia.kilgannon@shropshire.gov.uk>  
**Cc:** Martin Parrish <martin@planning-group.co.uk>  
**Subject:** RE: APP/L3245/W/17/3184597 & PP/L3245/Y/17/3184599

Thank you Celia.

Mr Parrish - If you could confirm that these appeals are to be withdrawn at your earliest convenience I will close the case and issue the withdrawal confirmation letters.

Kind regards

Dan

**Dan Cardy**  
**Planning Casework**  
**Room 3P, Kite Wing**  
**Temple Quay House, 2 The Square**  
**Temple Quay, Bristol, BS1 6PN**

 [West1@pins.gsi.gov.uk](mailto:West1@pins.gsi.gov.uk)

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**From:** Celia Kilgannon [<mailto:celia.kilgannon@shropshire.gov.uk>]  
**Sent:** 01 December 2017 18:48  
**To:** West1  
**Subject:** APP/L3245/W/17/3184597 & PP/L3245/Y/17/3184599

Dear Dan

The appellants two applications relating to the removal of condition 3 have today been approved by the council

As these conditions were the subject of this appeal, the appellant has informally advised the council that they will be withdrawing the appeal and the cost application.

In the light of this information, the council does not wish to submit comments regarding the appellants cost application

Thank you for allowing the extension of time for comments and your consideration in this matter and we will wait to receive a formal confirmation from yourselves.

Thank you

Celia

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## Appeal Decisions

Site visit made on 8 August 2017

by **C Sherratt DipURP MRTPI**

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

Decision date: 29 November 2017

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### **Appeal A - Ref: APP/L3245/X/16/3163851**

#### **Pool View Caravan Park, Much Wenlock Road, Buildwas, Telford, TF8 7BS**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr C Nedic against the decision of Shropshire Council.
  - The application Ref 16/02691/CPL, dated 9 September 2016, was refused by notice dated 9 September 2016.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is use of land for up to 12 caravans for the purposes of human habitation throughout the year.
- 

### **Appeal B - Ref: APP/L3245/X/16/3163852**

#### **Pool View Caravan Park, Much Wenlock Road, Buildwas, Telford, TF8 7BS**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr C Nedic against the decision of Shropshire Council.
  - The application Ref 16/02745/CPL, dated 16 June 2016, was refused by notice dated 9 September 2016.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is use of land for up to 20 caravans for the purposes of human habitation throughout the year.
- 

### **Decisions**

1. The appeals are dismissed.

### **Main Issue**

2. The main issue is whether the proposed use of land for up to 12 or 20 caravans in the areas identified on the respective applications for human habitation would have been lawful on the date of the applications for certificates of lawfulness.

### **Reasons**

3. Two planning permissions are relevant to the certificates. Case law has established that in the case of a permission limited by the description of development, the use of the land could subsequently be changed without any breach of planning control so long as the change is not material. But in the

case of a condition, a change of use in breach of a condition could be a breach of planning control whether or not the change of use was material.

4. There is no suggestion that the stationing of caravans for human habitation would constitute a material change of use of the land. The appeals therefore turn on whether the occupation of up to 12 or 20 caravans respectively, stationed on the area of land identified on the plan that accompanied the applications, for human habitation throughout the year would be in breach of any conditions imposed on the relevant permissions.

#### Appeal A

5. In relation to Appeal A, planning permission was granted on 5 December 2007 for the "change of use of grassed area into land for siting of 12 mobile homes for holiday purposes, formation of access track and car parking area and installation of footbridge" (reference 07/01586/F) ('the 2007 permission'). The description of the development permitted is, in my view, unambiguous and the permission is clear on its face. It permits the use of land as a caravan site. It relates to the area of land identified in the application that is the subject of Appeal A. The planning permission is subject to a number of conditions.
6. Condition 2 of the 2007 permission requires that the development shall only be carried out in complete accordance with the submitted and approved plans. Condition 2 is not a condition that, in my view, is capable of restricting the use of the site – it only concerns the approved plans which show a layout accommodating 12 pitches. The Council relies on condition 2 as restricting the number of caravans that can be accommodated and the layout. The LDC is only for the stationing of 'up to' 12 caravans in any event and so is not seeking any additional pitches. It is not necessary for the purposes of this appeal to consider if an increase in caravans stationed on the site would constitute a material change of use.
7. I do not accept the Council's proposition that condition 2 can be interpreted as preventing alterations to the approved layout once the development has been carried out in accordance with it, if those alterations would not constitute development requiring separate planning permission or be in breach of other conditions. Condition 2 does not prevent the use of land for up to 12 caravans for the purposes of human habitation throughout the year.
8. Condition 6 states:
  - a) The chalets / log cabins shall be occupied for holiday purposes only;
  - b) The chalets / log cabins shall not be occupied as a person's sole, or main place of residence;
  - c) The operators of the site shall maintain an up-to-date register of the names of all owners of individual chalets / log cabins on the site, and of their main home addresses etc;
  - d) There shall be no –sub-letting etc.The reason for the condition was to ensure the approved holiday accommodation is not used as permanent residential accommodation.
9. It is not clear why this condition uses the words chalets / log cabins rather than caravans referred to in the description of development. Given the permission

is clearly for the use of land and not buildings, I consider nothing turns on the different terms used and whether best described as the stationing of a mobile home, chalet or log cabin the permission is clearly for the use of land and not buildings. Accordingly any chalet / log cabin would have to meet the definition of a caravan to fall within the terms of the permission.

10. The appellant asserts that whilst condition 6 controls how holiday caravans are occupied, it does not however extend to limiting that there may only be holiday caravans on site. The implication being that non-holiday caravans can be stationed on the site and occupied without restriction. In support of that proposition the judgement of Cotswold Grange is cited by the appellant<sup>1</sup>.
11. The application in that case was for a certificate of lawfulness for the siting of six additional caravans on the site for residential use. The condition at issue read: *The re-sited 40 static caravans and additional 14 static caravans shall be occupied for holiday purposes only and shall not be occupied as a person's sole, or main place of residence.....* It was found that the Inspector had failed to respect the difference between a limitation of numbers of caravans in the description in the grant (present in that case) and a limitation of such numbers in the form of a condition (not present). Only the latter was capable of imposing a limitation in law. An earlier permission was said by the judge to be an appropriate condition to restrict the number of caravans. It read "The land shall not be used for more than 30 static holiday caravans."
12. Following established principles derived from *I'm Your Man* and the Cotswold Grange judgement, the grant of a permission identifies what can be done – what is permitted – so far as the use of land is concerned; whereas conditions identify what cannot be done – what is forbidden. Simply because something is expressly permitted in the grant does not mean that everything else is prohibited. Unless what is proposed is a material change of use – for which planning permission is required, generally, the only things which are effectively prohibited by a grant of planning permission are those things that are the subject of a condition, a breach of condition being an enforceable breach of planning control.
13. I consider the development for which a certificate of lawfulness is sought in this case can be distinguished from that in Cotswold Grange in that the condition at issue in that case clearly only controlled the occupation of the re-sited 40 static caravans and additional 14 caravans. In the absence of a condition that similarly restricted the use of the site to the stationing of no more than 56 caravans and so controlled the number, those same restrictions on occupation could not apply to any additional caravans.
14. In contrast, in the current appeal, condition 6 relates to 'the' unspecified number of chalet / log cabins for which planning permission is granted and requires them, in sub-section (a), to be occupied for holiday purposes only. It clearly prevents occupation of caravans within the site except for holiday purposes. This is further reinforced by sub-section (b) which states that the chalets / log cabins shall not be occupied as a person's sole or main place of residence.

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<sup>1</sup> Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government & Tewkesbury Borough Council [2014] EWHC 1138 (Admin)

15. Whilst it is accepted that the condition is not expressed as "The land shall not be used for more than 12 holiday caravans" the use of the word "only" in condition 6, sub-section (a) read alongside negatively worded sub-section (b) is in my view sufficient to impose a limitation in law.
16. To conclude the use of the land for up to 12 caravans for the purposes of human habitation throughout the year was not lawful on the date of the application.

#### Appeal B

17. On 21 March 2010 planning permission was granted for the change of use of part of touring caravan site for the siting of 20 static holiday homes. A number of conditions were imposed of which condition 2 and 3 are of relevance. Condition 2 requires the development to be carried out in accordance with the approved plans and drawings. Condition 3 states (a) the holiday homes shall be occupied for holiday purposes only; and (b) the holiday homes shall not be occupied as a person's sole or main place of residence. These reflect the wording of the conditions assessed under Appeal A.
18. For the same reasons set out above in relation to Appeal A, I conclude that the use of the land for up to 20 caravans for the purposes of human habitation throughout the year was not lawful on the date of the application.

#### **Overall Conclusions**

19. For the reasons given above I conclude that the Council's refusal to grant certificates of lawful use or development in respect of use of land for up to 12 caravans for the purposes of human habitation throughout the year (Appeal A) and use of land for up to 20 caravans for the purposes of human habitation throughout the year (Appeal B) was well-founded and that the appeals should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*C Sherratt*

INSPECTOR



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## Appeal Decision

Site visit made on 20 November 2017

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 29<sup>th</sup> November 2017**

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**Appeal Ref: APP/L3245/W/17/3181951**

**Land adjacent to B4380, Buildwas Road, Buildwas, Telford TF8 7DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Messrs Brassington against the decision of Shropshire Council.
  - The application Ref 16/04668/OUT, dated 11 October 2016, was refused by notice dated 15 February 2017.
  - The development proposed is described as "outline application (all matters reserved) for residential development on land at Buildwas, Shropshire."
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all matters reserved. I have determined the appeal on this basis treating the plans that show a site layout and the appearance of the houses as indicative.

### Main Issues

3. The main issues in the appeal are:
  - The effect of the proposed development on the character and appearance of the area and on Shropshire Hills Area of Outstanding Natural Beauty; and
  - Whether or not the site represents a suitable location for housing having regard to policies for the location of new housing.

### Reasons

#### *Character and Appearance*

4. The appeal site forms part of a large field to the south of the road, which together with adjacent fields are used for agricultural purposes. These fields create a large expanse of open land between the road and the river, and provide attractive views across to the wooded hills on the other side of the valley.
5. The site lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The statutory purpose of including land within an AONB is to conserve and enhance its natural beauty. Paragraph 115 of the *National Planning Policy Framework* (the Framework) states that in AONBs great weight should be given to conserving the landscape and natural beauty.

Policy CS17 of the *Shropshire Core Strategy (adopted February 2011)* (SCS) and Policy MD12 of the *Site Allocations and Management of Development Plan (adopted December 2015)* (SAMDev) indicate that development within the AONB should not have a significant adverse effect on its special qualities, and should contribute positively to its special characteristics and local distinctiveness.

6. Development on the southern side of the road takes the form of sporadic, individual houses, separated by areas of open land and small areas of woodland. As such, in marked contrast to the other side of the road, the area has an open and rural character, to which the appeal site, and its roadside hedge, currently makes a positive contribution.
7. The proposed development of the site for up to 7 houses would create an alien and incongruous form of development along this side of the road. Nor would it respect the local context or the distinctiveness of the village, which results from development being focused to the north of the road, with only limited sporadic development to the south.
8. The open and relatively flat nature of the surrounding land means that the houses would be a prominent feature when viewed both from the road and from the footpath that crosses the field to the south, even if as suggested a variety of materials could be used on the houses. Moreover, the open and expansive views from the village across to the river and the other side of the valley would be lost by the proposal.
9. Although landscaping is not to be determined at this stage, it has been suggested a copse could be developed on the western edge of the site to help screen views of the development, that an area of open space could be included within the site and, to help integrate the site into the village, that the roadside hedge would be moved to the rear of the site and at the same time enhanced by the addition of other species. Nevertheless, given the dispersed nature of dwellings along this side of the road, a development of this many houses would not readily assimilate into the pattern of development in the area.
10. The houses and their gardens, together with the access road that would be required to serve them, would introduce a domestic and urban character to the site, which would erode its rural character and would represent a detrimental encroachment of the urban form into the countryside. In addition, the development would result in the loss of the hedge along the roadside. Whilst the hedge may not be historic or species rich, it is still an attractive roadside feature. As a consequence, the contribution the site makes to the rural character of the area would be unacceptably harmed.
11. All in all, I consider that the proposal would unacceptably harm the character and appearance of the area and the Shropshire Hills AONB. Consequently, it would conflict with Policies CS17 and MD12 and the Framework outlined above. It would also be contrary to Policy CS6 of the SCS, and Policy MD2 of the SAMDev which seek to ensure that new development protects and enhances the natural, built and historic environment, is appropriate in scale, density and design, and takes into account local context and character.



*Whether a suitable location for new housing*

12. In order to make the rural areas of Shropshire more sustainable Policy CS4 of the SCS seeks to direct new development into Community Hubs and Clusters. Such development needs to be of a scale and design that is sympathetic to the character of the settlement and its environs, and satisfies Policy CS6. It also indicates that housing schemes should provide a suitable mix of housing that caters for local needs.
13. The SAMDev classifies Buildwas as a Community Cluster settlement. There are no housing allocations within the settlement, but Policy S13.2(i) identifies the village as being suitable for limited infilling and conversions providing approximately 10 additional dwellings over the plan period to 2026. The policy states that preferably no more than 5 houses should be developed in each half of the plan period, and that no more than 3 dwellings should be developed on any single site.
14. There is no settlement boundary for Buildwas, and so whether the site forms part of the village or not is a matter of judgement, and is disputed by the parties. The appellants have argued that the site lies within walking distance of the main facilities within the village, and opposite other houses, and so forms part of the village. Whereas the Council consider that as there is so little development on this side of the road, the site is isolated from the village which is focussed to the north of the road.
15. The site forms part of open agricultural land. Although it lies in close proximity to Brook Cottage, houses on this side of the road are sporadic, isolated dwellings, with the focus of development otherwise being entirely to the north of the road. In this regard, the village has a very different nature to the neighbouring village of Leighton, where dwellings are clustered either side of the road. Given that the overriding pattern of development is to the north of the road, in my opinion the site appeared visually and physically separated from the village, especially as the houses opposite are set back some distance from the road frontage. Thus I consider it represents agricultural land surrounding the village rather than part of the village itself.
16. However, even if it is accepted that the site does form part of the village, to conform to Policy S13.2(i) development should take the form of either conversion or limited infilling. Although the site has a single dwelling to one side, it forms part of a long stretch of open fields to the other, and thus the site does not constitute an infill plot.
17. Moreover, even though it is proposed to provide a mix of housing, the development of up to 7 houses on the site would be significantly greater than the guideline of allowing no more than 3 houses on any one site given in policy S13.2(i), and would represent a scale of development that would be inappropriate given the modest size of Buildwas. Whilst the appellant has highlighted that permission has previously been granted for developments of 4 houses in the village, these appear to pre-date the adoption on the SAMDev, which includes this guideline. In addition, at more than twice the guideline figure, the appeal scheme is considerably larger than these other schemes.

18. In rural areas, outside of settlements designated as community clusters and hubs, Policy CS5 of the SCS and MD7a of the SAMDev strictly control development. New housing in the open countryside is limited to that which is needed to house essential rural workers, to affordable accommodation to meet a local need, and to the replacement of existing dwellings. Although the appellants have indicated that they would be willing to enter into a Section 106 agreement to ensure that 2 of the dwellings could be affordable housing, the rest of the scheme would be open market dwellings. Moreover, no such agreement to secure affordable housing has been put before me. Therefore, the appeal scheme does not meet any of these criteria, and so would be contrary to these policies.
19. Policy MD3 of the SAMDev indicates that as well as the allocated housing sites, permission will also be granted for other sustainable housing development, subject to other policies in the plan and the SCS, including Policy CS5, to which I have concluded the proposal would be contrary. The policy envisages housing beyond the settlement boundary, but only where the settlement housing guideline appears unlikely to be met.
20. The Council's evidence is that between 2011/12 and 2016/17, two houses have been completed in the village and a further eight sites either have permission or prior approval granted, and that since then another two houses have been granted permission<sup>1</sup>, making a total of 12 dwellings. The appellants' figures are that since 2006 seven houses have been approved, with an additional two affordable houses, which they consider should not be included within the total as they are on exceptions sites. In addition, they argue that having carried out an assessment of potential infill sites within the village there are no other suitable sites for development.
21. The appellants have not provided specific details of each scheme or of their assessment of the village. As a result, it is not possible to identify where the differences between the figures lie, and in particular it is not clear whether the appellant's figures include the most recent permissions. Notwithstanding this, even taking the lower figures, and accepting the housing figures are a guideline and not a maximum, given there are still nearly 9 years of the plan period remaining, I am not persuaded that it is currently necessary to bring forward land outside the village.
22. The Council have indicated that the latest Five Year Housing Land Supply Statement <sup>2</sup> is that they have a 6.04 years supply. This has not been disputed by the appellant. As such, policies for the supply of housing can be considered up to date.
23. To conclude on this matter, the development strategy for the area recognises that Buildwas is a village that can accommodate a limited amount of growth over the plan period, and that this growth will help the village to be more sustainable. This growth is to take the form of conversions and limited infilling. The appeal scheme would not lie within the village but on agricultural land adjacent to it that forms part of the AONB. Bearing in mind the strong policy objective to protect land within the AONB, the fact that the Council can currently demonstrate a five year housing land supply, and

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<sup>1</sup> Application Reference 17/0194/OUT

<sup>2</sup> Dated 11 September 2017

without substantive evidence to indicate that the village will be unable to achieve the proposed level of growth, I consider that the proposal would be contrary to the development strategy for the area. Therefore, the proposal would not represent a suitable location for new housing, and it would conflict with Policies CS4 and CS5 of the SCS and Policies S13.2(i), MD3 and MD7a of the SAMDev.

### *Other Matters*

24. The construction of the houses would provide some work for local contractors, and spending by the new residents would also be beneficial to the local economy. The scheme would also result in a Community Infrastructure Levy payment, towards local infrastructure improvements. However, given the size of the development these benefits would be limited, and common with developments located within the community hubs and clusters.
25. It is indicated that the development would also make a contribution to both open market and affordable housing in the area. However, as outlined above, in the absence of any mechanism to secure the affordable housing, there is no guarantee that the scheme would deliver this, and so I give this element limited weight. In addition, in the light of the Council being able to demonstrate a 5 year supply of housing I give only modest weight to the contribution it would make to the general housing supply for the area.
26. Buildwas has a limited range of facilities and services, including a primary school, a church and a village hall. These would be within walking distance of the site, and future occupiers would help to strengthen and sustain the local community by using them. A greater range of services are available in Much Wenlock and Telford, and the village has a limited bus service to the latter, during the day at least, and so future occupiers would not be entirely reliant on the private car to access day to day needs.
27. The village contains a number of listed buildings including the adjacent dwelling and the church. Subject to careful consideration at reserved matters stage, I consider that it is likely that a scheme could be developed that would not harm the setting of these heritage assets. It has also been suggested that the scheme could be designed in a way to limit external lighting to help protect "dark skies". Be that as it may, an absence of harm in these matters is a neutral factor.

### **Conclusion**

28. The proposal would be contrary to the overall development strategy for the area as set out in the development plan, would unacceptably harm the character and appearance of the area, and would be contrary to national and local policies that seek to conserve the landscape and natural beauty of AONBs. Whilst I have given weight to the benefits of the scheme in my decision, they would not outweigh the harm that I have identified it would cause, and the conflict the scheme has with the policies of the development plan.

29. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR