



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

Date: Monday, 17 September 2018

**Committee:**  
**South Planning Committee**

**Date:** Tuesday, 25 September 2018  
**Time:** 2.00 pm  
**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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

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

**Members of the Committee**

David Evans (Chairman)  
David Turner (Vice Chairman)  
Andy Boddington  
Gwilym Butler  
Simon Harris  
Nigel Hartin  
Richard Huffer  
Madge Shingleton  
Robert Tindall  
Michael Wood  
Tina Woodward

**Substitute Members of the Committee**

Jonny Keeley  
Heather Kidd  
Christian Lea  
Elliott Lynch  
Cecilia Motley  
William Parr  
Vivienne Parry  
Kevin Turley  
Leslie Winwood

Your Committee Officer is:

**Linda Jeavons**      Committee Officer  
Tel:                    01743 257716  
Email:                [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the minutes of the South Planning Committee meeting held on 5 June 2018.

Contact Linda Jeavons (01743) 257716.

## 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 no later than 24 hours prior to the commencement of the meeting.

## 4 Disclosable Pecuniary Interests

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

## 5 Land near Shipley, Bridgnorth Road, Shipley, Shropshire (17/05303/MAW) (Pages 7 - 116)

The phased extraction of sand and gravel, inclusive of mineral processing, all ancillary works, equipment and associated infrastructure and progressive restoration.

## 6 Proposed Poultry Units South East Of Hopton Heath, Shropshire (17/04546/EIA) (Pages 117 - 170)

Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme).

## 7 Proposed Exception Site Dwelling NE Of The Barn, Underton, Bridgnorth, Shropshire (18/00945/FUL) (Pages 171 - 182)

Erection of one affordable dwelling with detached 2-bay garage block.

## 8 Wheathill Touring Park Caravan Site, Wheathill, Shropshire, WV16 6QT (18/02109/FUL) (Pages 183 - 198)

Change of use of land for the storage of touring caravans (unoccupied) and associated ground works and landscaping.

## 9 Schedule of Appeals and Appeal Decisions (Pages 199 - 314)

## 10 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 23 October 2018, in the Shrewsbury Room, Shirehall.



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## Committee and Date

South Planning Committee

25 September 2018

## **SOUTH PLANNING COMMITTEE**

**Minutes of the meeting held on 5 June 2018**

**2.00 - 4.13 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

### **Present**

Councillor David Evans (Chairman)

Councillors Simon Harris, Nigel Hartin, Madge Shingleton, Robert Tindall, David Turner (Vice Chairman), Michael Wood, Heather Kidd (Substitute) (substitute for Andy Boddington), Christian Lea (Substitute) (substitute for Tina Woodward) and Cecilia Motley (Substitute) (substitute for Gwilym Butler)

### **1 Election of Chairman**

**RESOLVED:** That Councillor David Evans be elected Chairman for the ensuing municipal year.

### **2 Apologies for Absence**

Apologies for absence were received from Councillors Andy Boddington (Substitute: Heather Kidd), Gwilym Butler (Substitute: Cecilia Motley), Richard Huffer, Tina Woodward (Substitute: Christian Lea).

### **3 Appointment of Vice-Chairman**

**RESOLVED:** That Councillor David Turner be appointed Vice Chairman for the ensuing municipal year.

### **4 Minutes**

**RESOLVED:**

That the Minutes of the meeting of the South Planning Committee held on 9 May 2018 be approved as a correct record and signed by the Chairman.

### **5 Public Question Time**

There were no public questions or petitions received.

## 6 Disclosable Pecuniary Interests

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

With reference to planning application 17/02689/FUL, Councillor Robert Tindall declared that the applicant was not known to him but the proposed site was adjacent to his brother-in-law's property and his brother-in-law was well acquainted with the owners of the affected property. For reasons of perceived bias, he would leave the room and take no part in the consideration of this item.

With reference to planning application 17/03774/FUL, Councillor David Turner declared that he was well acquainted with two adjacent landowners and would leave the room and take no part in the consideration of this item.

## 7 The Larches, Larches Lane, Oreton, Cleobury Mortimer, DY14 0TW (17/02689/FUL)

(In accordance with his declaration at Minute No. 5, Councillor Robert Tindall left the room during consideration of this item.)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit on a previous occasion and had viewed the site and had assessed the impact of a proposal on the surrounding area.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Madge Shingleton, as local Ward Councillor, made a statement. She then left the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- She welcomed the applicant's proposal to remove the previously proposed access track and use current access routes that already existed at the property; and
- She reiterated her previous objection with regard to the location of the proposed building and the impact it would have on the nearby property.

In the ensuing debate, Members considered the revised plans, and it was,

### **RESOLVED:**

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

**8 Proposed Residential Development Land East Of Shaw Lane, Albrighton (17/03774/FUL)**

(In accordance with his declaration at Minute No. 5, Councillor David Turner left the room during consideration of this item.)

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He provided a verbal update regarding information received following publication of the agenda, including:

- Further objections received from members of the public;
- Further comments from Albrighton Development Action Group; and
- Further comments from the applicant in response to the comments made by the Albrighton Development Action Group.

Members had undertaken a site visit on a previous occasion and had viewed the site and had assessed the impact of a proposal on the surrounding area.

Councillor R Smith, representing Albrighton Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Dr Jeremy Bradley, representing Albrighton Medical Practice, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from Members of the Committee.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Malcolm Pate, as local Ward Councillors, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- Albrighton Parish Council, Albrighton and District Civic Society and over a thousand residents of Albrighton had opposed this application;
- He did not agree with the recommendation to permit. The proposed three-storey building would be unsuitable and totally out of character - many buildings had been refused for this reason;
- The Highways Manager had originally objected to the application on highway grounds but following proposals to incorporate a raised plateau outside the school entrance to reduce traffic speed the recommendation was changed to permit. Shaw Lane is the most congested road in Albrighton;
- Drainage – The system could not cope now and there was regular flooding in the area;
- He was not against housing on this site. This site had been identified through the SAMDev Plan as one for residential development – an extra care home had never formed part of the SAMDev Plan; and
- He urged the Committee to take note of all the concerns raised and refuse the application.

Mr A Williams, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from Members of the Committee.

In the ensuing debate, Members considered the revised plans, and noted the comments of all speakers and the advice given by the Solicitor, Planning Officer, Principal Policy Specialist and Area Highways Development Control Manager (South). Members expressed concerns regarding the overdevelopment of what was an already congested area, the proposed sole vehicular access to the development onto Shaw Lane, the lack of assurance that access from Kingswood Road to the south could be achieved in the future, traffic congestion, highway and pedestrian safety, and the large scale, need and impact of the 'Extra Care' home facility on the surrounding area.

At 03.26 pm, Members agreed to adjourn in order that Officers could consult and formulate possible wording of planning grounds for refusal based on comments and concerns proffered and expressed by Members during the debate. At 03.35 pm the meeting reconvened and it was:

**RESOLVED:**

That, contrary to the Officer's recommendation, planning permission be refused for the following reasons:

It is acknowledged that the application site forms part of an adopted Development Plan housing allocation and would deliver new market housing and a high level of affordable housing broadly in line with the development guidelines for the site set out in Policy S1.1a of the Site Allocations and Management Development Plan (SAMDev). However, these benefits are not outweighed by a combination of negative factors which comprise:

- the vehicular access to the development being solely onto Shaw Lane with no assurance at this stage that access from Kingswood Road to the south could be achieved, which is the preferred option for the site as shown on the SAMDev Policies Map S1Map, with the consequence that the nature and scale of the development would create traffic flows that would exacerbate the existing traffic congestion already experienced in the Shaw Lane area because of the close proximity of the School, Railway Station and Doctors Surgery, to the detriment of highway and pedestrian safety;
- the bulk and massing of the predominantly three storey extra care building would be out of keeping with the character and appearance of the locality, leading to the over development of the area, and would have an adverse impact upon the setting of the listed railway station building, albeit less than substantial but still a significant harmful impact, and there are no public benefits sufficient to outweigh this harm.

The proposed development would therefore be contrary to Shropshire Core Strategy policies CS6 and CS17; SAMDev policies MD2, MD13 and S1.1 and would not satisfy the environmental role of sustainable development set out in the National Planning Policy Framework.



**9 Spicers Hall, Caravan Park, Spicers Hall Farm, Off Church Street, Claverley (17/05265/FUL)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site and had assessed the impact of a proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting and which included further comments from the Planning Officer, a recommended amendment to Condition No. 4, and a comment from the Local Ward Councillor, Tina Woodward

Mr A Reade, representing Claverley Preservation Society, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr P Dowd, the agent spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers, and it was:

**RESOLVED:**

That, as per the Officer's recommendation, planning permission be granted subject to the conditions as set out in Appendix 1 to the report, subject to the amendment to Condition No. 4 as set out in the Schedule of Additional Letters.

**10 11 Greenfields Road, Bridgnorth, Shropshire, WV16 4JG (18/01814/FUL)**

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, she drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site and had assessed the impact of the proposal on the surrounding area.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Christian Lea, as local Ward Councillor, made a statement in support of the application. He then left the table, took no part in the debate and did not vote on this item.

Members considered the submitted plans.

**RESOLVED:**

That, as per the Officer’s recommendation, planning permission be granted, subject to the conditions as set out in Appendix 1 to the report.

**11 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 5 June 2018 be noted.

**12 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 3 July 2018 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....



<u>Committee and date</u>
South Planning Committee
25 September 2018

## Development Management Report

### Summary of Application

<b><u>Application Number:</u></b> 17/05303/MAW	<b><u>Parish:</u></b> Worfield & Rudge and Claverley
<b><u>Proposal:</u></b> The phased extraction of sand and gravel, inclusive of mineral processing, all ancillary works, equipment and associated infrastructure and progressive restoration	
<b><u>Site Address:</u></b> Land near Shipley, Bridgnorth Road, Shipley, Shropshire	
<b><u>Applicant:</u></b> JPE Holdings	
<b><u>Case Officer:</u></b> Graham French	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Recommendation:** Grant Permission subject to the conditions and legal obligations set out in Appendix 1.

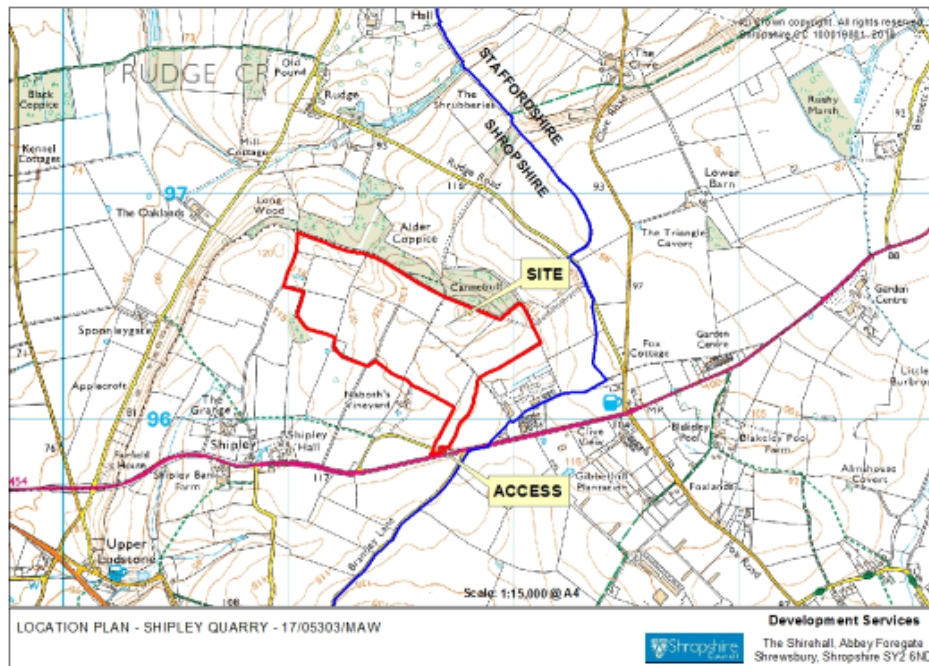


Figure 1: site location

## REPORT

1. THE PROPOSAL
  - 1.1 The applicant JPE Holding Ltd is applying for full planning permission for the phased extraction of sand and gravel from the Site with progressive restoration and aftercare.

The current planning consent for mineral production from the company's nearby quarry at Seisdon (circa 2.7km southeast of the Site) is due to end such that export of mineral must cease by 31st December 2018. The company states that the current proposals will allow continuity of mineral supply to its established local markets following the closure of Seisdon.

- 1.2 The Proposed Development' comprises the phased extraction, processing and export from Site of c.3.5 million tonnes of saleable sand and gravel aggregate (the total amount excavated would be 4.13mt but this would be reduced by mineral processing). The mineral would be exported from the site at an average annual rate of c.250,000 tonnes. Mineral production would last for a period of c.14 years, with an initial preparatory period of up to 1 year and a final c. 2 year restoration period. Initial works would involve formation of screening mounds around the periphery of the site and installation of the plant site, access road and related infrastructure.
- 1.3 The applicant states that the deposit is geologically similar to that at Seisdon and would be capable of supplying the same market. Around 50% of the reserve is fine to very fine building sand. This can be used for mortar and as plastering sand which comprises a core part of the applicant's existing trade from Seisdon Quarry. Around 25%-30% is estimated to be sharp (coarse) sand for use primarily in concreting and asphalt products. The rest of the reserve would produce 10mm, 20mm and 40mm gravel. The workable sand and gravel deposit falls mainly in central and eastern parts of the Site and ranges up to 30m deep in places, averaging 17.9m. The western part of the site does not contain workable mineral. The maximum extraction depth of 106m AOD would only occur over 3 hectares and this would remain over 10m above the regional groundwater table which fluctuates between 93mAOD – 96mAOD. Working gradients at the edge of the extraction area would not exceed 1 in 3.
- 1.4 The equipment used at the Site would primarily consist of long-arm excavators (around 2 no.), backacters (around 2 no.), front-loaders (around 4 no.), articulated trucks (around 3 no.), static wash plant, and (mobile) mineral processing plant. Provision may also be made for a conveyor to aid in the transport of material across the Site. If required, this would be established during the middle of the operational time period. No blasting would be required. A new access route connecting to the A454 Bridgnorth Road would be placed in a shallow cutting near the southern boundary of the site and would include wheel wash facilities.
- 1.5 The mineral processing and wash plant and mineral stocking areas would be established on lower land within the western margin of the Site. The primary processing method would be screening. Any requirement for crushing would be undertaken infrequently / intermittently on a campaign basis. Topsoil and subsoil storage mounds and overburden stocks would be established according to the phasing of operations. Soil making materials would also be saved for use in restoration. Soils would be replaced to an average depth of 1.5-2m across the site. Freshwater and silt lagoons would facilitate water storage and processing operations.
- 1.6 The site would be restored progressively to a combination of agricultural land, with nature conservation interest and enhanced habitat diversity including species rich grassland, acid grassland / heath mosaic and woodland. The amount of best and most versatile agricultural land would remain unchanged. No importation of material would be required.

Proposed hours of operation would be between 7am and 6pm Monday to Friday and between 7am to 1pm on Saturdays, similar to those permitted at Seisdon Quarry.

- 1.7 All vehicle access would be via the A454 Bridgnorth Road. The access proposals allow for a right turn lane and improvements to the junction layout with the A454. All works can be undertaken on publicly owned highways land under the jurisdiction of Shropshire Council Highways. The proposals are likely to result in an average of circa 96 individual HGV movements on average (48 return movements) per operational day assuming standard 20 tonne loads, 48 week working year and 5½ day working week.
- 1.8 Environmental Statement: The application is supported by an Environmental Impact Assessment (EIA) which considers matters including noise, dust / air quality, traffic, ecology, landscape, soils, cultural heritage and the water environment. A Scoping Opinion issued by Shropshire Council on 16<sup>th</sup> August 2016 (ref: 16/01952/SCO) provides advice on the scope and content of any Environmental Statement. The applicant's Environmental Statement concludes that the proposed development is unlikely to result in any significant adverse environmental impacts. Following the initial planning consultation process additional information was requested by the Planning Authority under Regulation 25 of the 2017 EIA Regulations and this has been the subject of further planning consultations. Matters addressed by the Environmental Statement are considered in section 6 below.

## 2. SITE LOCATION / DESCRIPTION

- 2.1 The Site (NGR SO 81533 96443) is located within the Green Belt on the eastern boundary of Shropshire (see figure 1). It is 2km south-southwest of the Staffordshire village of Pattingham, c.5km west-southwest of Wolverhampton and c. 9km east-northeast of Bridgnorth. The Site will have direct access on to the A454 Bridgnorth Road which links Bridgnorth to Wolverhampton. The planning application area totals 44.53ha of agricultural land, of which 23ha would be subject to mineral extraction operations.
- 2.2 Currently the site comprises a mix of arable and pasture uses. Land use to the immediate south of the Site comprises agricultural land and a residential dwelling (Naboth's Vineyard). The residential curtilage of the property is located 90m south of the edge of the landscaped edge of the quarry site and 130m south of the proposed extraction limit. A paddock owned by the property shares a boundary with the application site. A property known as Ridge View is located on the north side of the A454 some 280m east of the proposed site access. The hamlet of Shipley, Shipley Hall and Thornescroft Restaurant are located approximately 0.5km southwest and west of the Site's boundary. Land use to the southeast of the Site comprises agricultural land, the Gardenland's Garden Centre (Wyevale Nurseries), Walford and North Shropshire College and a residential property. Land use to the north comprises a large block of mixed woodland ('Alder Coppice', known locally as Cannebuff) and agricultural land. Other scattered development primarily follows the A454 Bridgnorth Road and adjoining roads, including farmsteads and commercial farming buildings.
- 2.3 The landform of the Site comprises a gently undulating south facing slope, which leads up to the localised highpoint of 'Cannebuff' north of the Site. Ground levels vary between approximately 115mAOD in the south west and 136m AOD at the northern site boundary. There are no public rights of way within the site and no statutory designations, other than

Green Belt, though an area of ancient woodland is located to the immediate north. The Site is on a major aquifer and within a total catchment protection zone.

### 3. REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposals comprise Schedule 1 EIA development and the Council's Scheme of Delegation requires that such applications are determined by the Committee.

### 4. COMMUNITY REPRESENTATIONS

4.1a Claverley Parish Council (26/02/18): Objection. The following comments are made:

- i. Hydrology: Hydrological changes may substantially alter ground water and surface water quantity and quality. The supply of water to individual boreholes, pools and businesses could be seriously affected and there is great concern about the sustainability of the moat and monastic fish pool at the Grade I Listed Ludstone Hall as a result of the disturbance to the water table as it is a site source to Claverley Brook. There has been a precedent with regards to hydrology disturbance in the parish. When Hilton bore hole was sunk it resulted in mains water having to be supplied to two thirds of the parish as private water supplies dried up. Because of the serious implications for private water supplies, an independent hydrology report should be obtained prior to determination of this planning application.
- ii. Road safety: The significant increase in traffic from the proposed development would exacerbate the safety risks along the A454 which is a very busy road. The proposed entrance to the site is close to the entrance to Naboths Vineyard which will pose a hazard. The report on the local road network contains inaccuracies and uses out of date data. The Parish Council fears the estimate of 100 lorry movements per day is likely to be exceeded and there would also be additional vehicles movements to and from the proposed site. The number of slow moving agricultural vehicles pulling out on to the A454 adds to the impact on the safety of road users. The likelihood of mud being left on the road as the lorries leave the site is another concern.
- iii. Archaeology: As this is a site of archaeological interest, the Parish Council is concerned the proposed development could have an adverse effect on the site and supports the comments of 23/11/2017 made by Shropshire Council Archaeology (Historic Environment) that an archaeology field evaluation of the proposed site be undertaken and submitted to the Local Planning Authority prior to the planning application being determined.
- iv. Damage to ancient woodland and wildlife: The Parish Council is concerned the proposed development would have a detrimental impact on the ancient woodland with a damaging effect on the woodland ecosystem. Protected animal species would be at risk. The Parish Council supports the contents of the Woodland Trust's letter of objection dated 18/12/2017 which states a minimum boundary of 50m between the woodland and the proposed site with a suggested boundary of 100m in order to protect the ancient woodland from disturbance and pollution.
- v. Noise and Dust Pollution: The Parish Council is concerned about the inevitable effects of noise and dust on those living and working in the vicinity of the proposed site.

- vi. In conclusion, Claverley Parish Council considers this inappropriate development in the Green Belt. The proposed site has not been allocated as being a preferred site for the extraction of sand and gravel in Shropshire Council's SAMDev Plan and both Shropshire and Staffordshire Councils have sufficient sites to supply sand and gravel. No special circumstances have been put forward to justify approval and Claverley Parish Council considers this application should be refused. Claverley Parish Council would like to request a site visit is arranged for members of the Planning Committee before determination of this planning application.
- 4.1b. (Comments 14/06/18) Councillors believe that this will have a significant impact upon the volume of traffic that will use the A454 Bridgnorth to Wolverhampton Road. This the very road which is under consideration in conjunction with application 17/05303/MAW. Councillors have already expressed concern that the proposal by JPE Holdings, if granted, will generate a very high number of vehicle (both lorry and other vehicle) movements per day. This alone gives rise to our belief that this road which is already heavily used and dangerous will have this danger factor intolerably amplified. This is inevitable, given that there are numerous entry and exit points on this stretch of road and that the proposed access to the site is on a blind portion of the road. The prospect of the construction of the Orbital Road, points up even more concern. This section of the A454 will effectively become a "feeder road" to the new motorway. The traffic movements will increase well beyond that which we currently experienced. Councillors of Worfield & Rudge of firmly of the opinion that this new (resurrected) plan to proceed with the completion of the Orbital Road cannot be ignored in the consideration of 17/05303/MAW. They would urge you to consider this latest Highway information when the application is taken.
- 4.1c. (Comments 17/07/180 Claverley Parish Council continues to object to this application on the following grounds:
- i. Need for Aggregates: Claverley Parish Council has seen no evidential need demonstrated for the sand and gravel from this quarry application:-
- Site is not in current SamDev as a preferred abstraction site
  - Shropshire minerals land bank exceeds annual demand for more than the required 7 years ( and this is before Woodcote Wood site being granted approval for 2.25 million tons).
  - South Staffs has a 12 year supply and to quote their consultation document "the cessation of sand and gravel supply at Seisdon Quarry can be meet from alternative sources within Staffordshire"
  - Over supply could affect economic viability of existing quarry sites.
- ii. Hydrology: The second hydrology report commissioned by the applicant also does not know where the water that flows from Grange Farm adjacent to the application site comes from. This water is a site source tributary for the Grade I Listed Ludstone Hall pools, moat and Claverley Brook. Further unexplained points are:-
- No operational daily water volume requirements for dust suppression, sand washing, wheel washing, etc provided.
  - No information as to where operational water is coming from.

- No impact assessment on the local hydrology of the removal of 4.25 million tons of pressure from above the ground water aquifer (3.5 million tons aggregates / 0.75 mt spoil)
  - iii. Ancient Woodland: The removal of the one side of this hill top adjacent to the ancient woodland effectively under cutting it would leave it literally high and dry.
  - iv. Visual Impact: The site viewed from the eastern side from the A454 between Furness Grange Farm entrance and Bennets Lane is the first view of Shropshire for visitors and daily commuters. From this elevated position no screening measures will be effective to hide this scar on the horizon topped off with the sand and gravel screening machinery
- 4.2a Worfield & Rudge Parish Council 05/02/18 (adjacent parish): Objection. The following comments are made:
- i. Quality of Paperwork: We are concerned that some of the factual information and data used in the reports issued in the presentation of this application contain multiple inaccuracies and out of date facts. This is particularly apparent in the report on Local Road Network. Comparisons are drawn which are inequitable. See the Air Quality evaluation which fails to differentiate between industrial and agricultural environment. The reports are inadequate in defining the impact on the A454. This applies both in terms of a heavy increase in lorry movements on and off this road due to site traffic and to the essential need to consider the design of the access road. These factors will have an important and considerable impact on road safety. (Please note the incorrect statement that the speed is limited to 50mph at the site entrance. The actual limit being currently set at 60mph). The numerous inaccuracies that we can see must indicate that the supporting documents should be regarded as unreliable and might be considered as being deliberately misleading. Based upon the above, Councillors have concern for the integrity of the other many reports which focus on the various important information topics that are presented by the applicant. Councillors suspect that the figures for lorry movements on and off this site are “conservative” to say the least. Traffic surveys at other similar sites, some of which are smaller in scale, demonstrate a very much increased level of activity. The economics of the operation of such a site would lead us to believe that there would be in excess of the stated number of vehicle movements per day generated. The figures stated in the application are deliberately intended to reduce the worry about road safety on the A454. Please see further criticism at item 3 below).
  - ii. Effect on water supply and water table: This topic must be considered in two important aspects. First it should be noted that a number of households in the vicinity of this area derive their entire water supply from bore holes. It is crucial that there should be no detriment to this water supply as a result of 17/05303/MAW. Second - Feed from streams and underground sources also sustain the viability of many water features, ponds and wildlife habitat. This will affect several properties. One of these which is of note, being the moat at Historic Ludstone Hall. This rare Grade I listed property (the moat is also listed) must be preserved. The effect upon the springs and underground aquifers from the disturbance which will be caused by the proposed process of mineral extraction will inevitably have consequences for the sustainability of these ponds and pools.



- iii. **Road safety:** The application indicates that there will be some 100 lorry movements per day to and from this site. We dispute this figure as being deceptively low. There will also be other car and smaller vehicle traffic which will be generated. The entrance to the site is via the A454 close to the current entrance to Naboths Vineyard. This constitutes an appreciable hazard to road users. The main road at this point is a de-restricted, very busy, "A" class road. Shortly beyond this junction traveling east, the speed is limited to 50 miles per hour. The reason for this restriction (on the Staffordshire side of the county boundary) is because of a proven high risk roadway which has been the cause of numerous RTA's in the past. The danger spots being the cross road at The Fox at Shipley and the two drives which serve the garden centre. Indeed at the proposed entrance to this proposed new facility it is noteworthy that the road is blind in the eastern direction because of the contour of the terrain. On the western approach along the A454 this council has in the past pointed out the hazardous junction at the bottom of Red Hill at Rudge Road crossroads. It would be timely to acknowledge the hazard faced by drivers entering into and exiting from The Inn at Shipley. This restaurant has twin drives and sits in close proximity to the entrances of six other properties. All these cause concern for the inexperienced and experienced driver alike. All of these hazards – both in Shropshire and on the Staffordshire side of the county boundary will definitely be made more dangerous with the addition of traffic which will be incumbent upon the operation of a quarry. It should be noted that there will be an increase in the lorry traffic on all local roads as a consequence should this application is granted. Many of these roads are entirely unsuitable for heavy lorries. Currently great impact is felt on these roads as a consequence of the agricultural harvest. This would still also have to be accommodated in addition to the additional lorry traffic created. All this would make an existing dangerous road even more dangerous for all road users. It is hoped that these concerns will be noted when consideration of the proposed use of this position to access the site for such a high volume of traffic which will be a factor every working day of the plant.
- iv. **Noise and dust pollution:** It is an inevitable consequence of the operation of a plant such as this that there will be a problem with both noise and dust. This is an irrefutable fact. Those who dwell, farm, or trade within the vicinity will be affected by these two problems. This causes concern for councillors.
- v. **Historic importance:** The site has proved to be of great archaeological and historic interest. It is a heritage site where many ancient artefacts have been found on the land. It is important that this great legacy is not lost in a questionable commercial framework which is probably providing the driving force behind the application.
- vi. **Restoration and landscaping:** The application sets out the time line for the use of the proposed facility. It also includes information about the restoration and landscaping at the completion of the operation. Councillors and electors need to be able to be confident that should this application be successful that these pledges be carried out with diligence. This is prime rural landscape, coupled with this historic and archaeological significance respect must be insisted upon in order to inflict as little harm as possible.
- vii. It must be noted that at the time of a public meeting to consider this application, held on 4th January, it was noted that many householders reported that they had not been correctly informed and felt that they were being denied an opportunity to make their views known in the normal planning procedure.

**4.2b** Worfield & Rudge Parish Council 14/06/18 further comments.

At the June meeting of Worfield & Rudge Parish Council it was noted with interest that the scheme to construct the Western Orbital Link Road has returned to the agenda. Councillors believe that this will have a significant impact upon the volume of traffic that will use the A454 Bridgnorth to Wolverhampton Road. This the very road which is under consideration in conjunction with application 17/05303/MAW. Councillors have already expressed concern that the proposal by JPE Holdings, if granted, will generate a very high number of vehicle (both lorry and other vehicle) movements per day. This alone gives rise to our belief that this road which is already heavily used and dangerous will have this danger factor intolerably amplified. This is inevitable, given that there are numerous entry and exit points on this stretch of road and that the proposed access to the site is on a blind portion of the road. The prospect of the construction of the Orbital Road, points up even more concern. This section of the A454 will effectively become a “feeder road” to the new motorway. The traffic movements will increase well beyond that which we currently experienced. Councillors of Worfield & Rudge of firmly of the opinion that this new (resurrected) plan to proceed with the completion of the Orbital Road cannot be ignored in the consideration of 17/05303/MAW. They would urge you to consider this latest Highway information when the application is taken.

**4.3** Pattingham & Patshull Parish Council (Adjoining parish). Object for the following reasons:

- The quarry application does not meet with South Staffs, or Shropshire District Council Site Allocations and Management of Development Plan. Land at Shipley does not feature in sand & gravel reserves and this application can only be viewed as a commercial opportunity.
- Increase in heavy lorries on a dangerous stretch of A road with a risk of quarry lorries taking short cuts through local villages like Pattingham or along Burnhill Green Road.
- Dust hazard, noise and air pollution, specifically to nearby homes.
- Hydrology reports are not sufficient. Natural springs and water courses will be affected and some nearby homes rely on bore holes for their water supply.
- Too close to ancient woodland at Cannebuff and the impact on wildlife and natural habitats.

**4.4** Environment Agency (15/12/17): No objection. The following comments are made:

- i. Site context: The site is located upon an isolated sand and gravel deposit (glacio-fluvial deposits) which is classed as a Secondary A aquifer. The superficial gravel is underlain mostly by the Kidderminster Formation (gravelly sandstone) bedrock, with a small area underlain by the Bromsgrove Sandstone in the west beyond a fault. Both formations are classed as Principal Aquifers. The site sits within a Source Protection Zone (SPZ) III (total catchment). This site is located above a Water Framework Directive (WFD) groundwater body, WFD drinking water protected area and is within 400m of a surface watercourse. The site is considered to be of high sensitivity and could present potential pollutant/contaminant linkages to controlled waters. The site falls within the Worcestershire Middle Severn CAMS (Catchment Abstraction Management Strategy) with the Kidderminster Formation making up the Wombourne GWMU (Groundwater Management Unit). There is no water available for new abstractions from the sandstone. The proposed mineral extraction presents a risk to groundwater which is particularly sensitive in this location because the proposed development site is within SPZ 3 and is located upon Principal Aquifer. The maximum depth of excavation is proposed to be

limited to 106m AOD and will operate with a significant freeboard above the water table based on the information provided. However, in contrast to the above, the Environmental Risk Assessment (Table 9.5) states that this is only proposed as an initial working depth, with the final working depth to be agreed after operational monitoring, with a minimum 2m buffer zone. As suggested by the applicant, we would recommend that you impose a condition to secure the maximum initial working depth to a level of 106 m AOD. A Monitoring scheme condition could be imposed to provide ongoing operational evidence to confirm the water level which may require/enable the final working depth to be amended.

- ii. Potential Impact upon shallow/perched water table: Your EIA scoping letter identifies the need to consider possible drawdown effects in any shallow/ perched water tables, spring lines etc. The ES confirms that as the site will not be wet worked and only perched water is likely to be affected by quarry activities the potential risk to local groundwater abstractions is considered to be minimal (low risk). While the report has confirmed consultation with your Council for the private water supply records, it is not clear to what extent local residents have been contacted with regard to possible unlicensed abstractions, to support the above conclusion. Given the concerns raised by local residents during public consultation and following a review of the information submitted, we would recommend that a water features survey be completed to consider all such possible abstractions (and any water features) located within 1km radius of the excavation. This will inform a more robust EIA. These should be identified and detail sought to establish whether the abstraction is situated within the shallower Secondary aquifer or deeper Principal aquifer. The data obtained should be used to revise the Conceptual Site Model and hydrogeological impact assessment where necessary. This will inform the final ES conclusion. Particular concerns were raised by a local resident about spring-fed fish ponds and pools at Shipley Hall and Grange Farm to the south-west, therefore more detailed comments should be made by the applicant regarding potential risks of derogation of these springs which are within the proposed working depth of the quarry. Further information should be provided to confirm the risk and any avoidance/mitigation measures, including agreement for protection of such supplies where relevant and necessary.
- iii. Flood risk / water management: We have no comments on the FRA based on the location within Flood Zone 1 (low probability of fluvial risk) based on our indicative flood map for planning. We would recommend that you seek the views of your Flood and Water Management team with regard to surface water quantity (including climate change allowance for peak rainfall) and other sources of flooding. We note the information submitted confirms that “proposals (are) likely to retain more surface water in the landscape at the site, thus flood risk outside the site not increased whilst protecting prevalent groundwater regimes”. Presumably the use of less permeable silt/clay fractions in the low level restoration could increase runoff of surface water and potentially reduce recharge to the aquifer. We acknowledge the other water management systems as proposed in section 9.5.2.10 of the ES (chapter 9). Part of the mineral processing operations will rely on a mains water supply, of which the used water will be wholly recycled for re-use on Site with other operations. As no wet working is required there will be no need for dewatering, aside from implementation of the permissible 20m<sup>3</sup> de-minimis daily abstraction rate.

- iv. Mining Waste and Material Management: The application confirms that there will be no import of waste material for the restoration. The low level landform restoration will be achieved by utilising suitable site won overburden and no waste material will be imported for use in the restoration. The site may need to obtain relevant Environmental Permits, in accordance with the Environmental Permitting Regulations, for the management of inert and extractive wastes. Only suitable site derived materials should be used in any screening bund or restoration works. Materials Management including any sampling strategy for the testing of excavation formations would be suitably controlled through the permit for example, Standard Rules Permit (SR2009 No8). This regulates “The storage, treatment and disposal of inert extractive wastes and unpolluted soil resulting from the prospecting, extraction, treatment and storage of mineral resources and the working of quarries at a mine or quarry” It states that “Waste types shall conform to the description in the approved waste management plan”. A Mining Waste Directive (MWD) Permit or Extractive Material Management Statement (EMMS), in accordance with the MWD, may be required. The applicant should contact our EPR Waste team on telephone: 02084 749014 with regard to the above.
- v. Water Quality: The Drainage Strategy suggests that there will be no discharges to any controlled waters, with all discharges proposed to the proposed settlement lagoons, so no environmental permit to discharge should be required. The applicant should locate all water features and agreement should be reached with all users of these supplies for their protection during dewatering. Subject to a detailed impact assessment, to be carried out by the applicant, compensation and/or monitoring measures may be required for the protection of other water users and water features. The applicant should note that under the New Authorisations programme abstraction for dewatering to facilitate mineral excavation or construction works will no longer be exempt from abstraction licensing. On 31st October 2017, DEFRA announced that the transitional arrangements for licensing of the currently exempt abstractions for trickle irrigation, quarry dewatering, geographically exempt areas and other exempt abstractions will come in to force on 1st January 2018. The applicant should contact our National Permitting Service (NPS) to confirm the legal requirements. When scheduling their work, the applicant should be aware that it may take up to 3 months to issue an abstraction licence.
- vi. Biodiversity / ecology: We note the details within Chapter 6 – Ecology, including Habitat Survey report. There are no protected species identified within our remit. We are not the appropriate authority to comment on woodland, bats, badgers or great crested newts (in pond 1 and 2). We would recommend that you seek the views of Natural England and the Forestry Commission in relation to the Alder ancient wood and retention of semi-improved grassland, provision of additional native trees etc. Notwithstanding the above, we welcome the inclusion of the ephemeral wetland areas/ponds ‘formed at the base of the slopes’ as shown on the concept restoration plan (Figure 4) dated 01 November 2017, Rev A. To enhance biodiversity/the water environment and support Water Framework Directive (WFD) objectives we would recommend that an additional pond is created in the restoration phase to leave 3 ponds in total at the site. The additional pond could be formed from one of the operational lagoons.

*Note: The applicant has provided additional information on hydrology in response to a further query from the Environment Agency.*

- 4.4i. Environment Agency (17/09/18): No objection. We have reviewed the following document, which was received on 6 September 2018:
- Stephen Buss Environmental Consulting Ltd, Shipley Quarry: Appraisal of hydrogeological impact assessment, Doc. Ref. 2018-030-008-002. 06 September 2018
  - Specific questions a) and b) raised in the Stephen Buss Environmental Consulting Ltd email to the Environment Agency: Comments on hydrogeological risk assessment at Shipley Quarry, of 06 September 2018: “

The key aspects that we wish the Environment Agency to reconsider are as follows -

- a). *“I feel that the maximum groundwater level in the Principal Aquifer beneath the site may have been considerably underestimated. I consider that no representative groundwater level data has been presented with the application. I feel that there is a chance that the water table may (in a wet winter) rise above the proposed base of the quarry. Hence the planning application must not go ahead with a proposed base of 106 m AOD. This is a critical aquifer protection issue.”*
- a.i. We consider that it is unlikely that the groundwater level will be higher than 106mAOD. The record from the Shipley observation borehole indicates 98mAOD maximum groundwater level, but this was during a very high recharge year. The Garden Lands borehole has a rest water level of 17m below datum in July 1986 (cased to 30m). This suggests that generally the low lying ground on either side of the North-South ridge acts to reduce the degree of mounding occurring. Whilst this is not suggested by the groundwater model output, it is considered that the model is unlikely to be able to replicate the small scale site specific conditions. It is accepted that the quarry site is on a ridge and some relatively lower permeability layers may be present which could act to form a recharge mound. We have no site specific information to enable informed comment on the suggested maximum groundwater level at site of 104.5mAOD as suggested in the Stephen Buss Environmental Consulting Ltd report.
- a.ii. It is agreed that faults give rise to complications and compartmentalisation. There is also the potential for ‘perched’ groundwater systems within the bedrock aquifer. In relation to the comments about the observation borehole record potentially not being representative, we agree that it is some distance from the site. We accept that the record is cut short (finished in 2010), however it is possible to use other hydrographs in the area to estimate likely overall trends.
- a.iii. In terms of potential Water Company changes in abstraction regime, data from nearby observation boreholes indicate that there may be some local effects on groundwater levels from changes in the abstraction regime in proximity to abstraction boreholes. However, there has been no significant regional rebound in the area. The nearest abstractions are some distance away - nearest c. 2.5km and then c. 4km plus. (The nearest observation boreholes in the area show that there may have been a slight rise in groundwater levels in the area around Chesterton (1998 and 2006), but in general groundwater levels do not show long term trends. At Shipley it is expected that any impacts arising from small changes in local abstraction regime will be minimal given the intervening distance.)

- a.iv. The peak in the Shipley Common groundwater level graph was a result of intense rainfall/recharge of autumn/winter 2000/2001. This is commonly seen elsewhere although the significant response varies between the differing sandstone formations which respond in different ways to the recharge. What is missing from the Shipley Common record is the groundwater peak in 2013/2014, arising from heavy rain of April 2012 to 2013. However, this can be seen on the Little Moor and Chesterton borehole records. This groundwater peak is generally similar in magnitude to that seen in 2000/2001, although in some places was a little higher (0.5-1m). It is plausible that a similar groundwater level to 2001 would have been observed at Shipley Common observation borehole in 2013/2014.
- a.v. Despite all the above points of detail, we would concur that the only way of assessing this parameter with greater certainty would be to install comprehensive 'groundwater monitoring' around the site. This information would further inform the vertical stand-off distance and develop the conceptual understanding of the site/spring mechanisms.
- b). *"I agree with your recent communication (EA letter of 13 August 2018) to Grahame French, in that the catchments to springs are poorly defined. I consider that the larger springs may be from the Principal Aquifer and not from perched groundwater bodies, though I agree with your assessment of the risk of impacts on perched groundwater bodies. This highlights how the very limited data that has been presented can be interpreted in different ways, and therefore the extent of the residual uncertainty in the conceptual model. There are licensed abstractions and a scheduled ancient monument downstream that are dependent on maintenance of the current flow regime. There is no baseline monitoring of flows. Without baseline data there is no chance that impacts can be assessed, and adequate mitigation planned. This is a water resource protection issue."*
- b.i. As confirmed in our previous response, of 13 August 2018, this is a complex hydrogeological setting and ideally further investigation/monitoring should be undertaken to refine the conceptual model, although even then some uncertainty may remain. We believe that many of the comments made by Stephen Buss support our stance with regard to the spring mechanisms. There remains significant uncertainty about their origins, whether superficial perched, bedrock 'perched', regional groundwater table supported, or some potentially fault related.
- b.ii. Based on the reasoning above (generally observation range of water levels in the area to the south/west of the site), we are not certain whether the springs issuing at 108mAOD could be considered to originate from the regional coherent groundwater system. However the potential for compartmentalisation and effects of faulting are unclear. Whilst it may be possible to infer spring mechanisms from geological mapping, care is required because of the potential inaccuracy of mapping of the superficial deposits. Determination of the potential impact of the quarry upon the springs is not fully possible, because the spring mechanisms are not completely understood. It is therefore not possible to state with confidence whether mitigation measures are required or indeed would be feasible or appropriate. It is arguable that the necessary site specific monitoring that has been put forward should be undertaken upfront in order to inform the EIA and such mitigation.
- b.iii. The monitoring proposed by the applicant does provide the opportunity for greater certainty to be provided and a mechanism for avoidance of potential impact and

remediation of any derogated supplies. We would reiterate that it would be for your Council's Public protection and/or Private Water Supply protection team to comment further on this element to ensure they are satisfied with this approach. We note the recent commitment to ensuring protection of the principal aquifer through the restrictive condition of the suggested monitoring response condition (revised). This is seeking to ensure a freeboard (buffer zone) below extraction i.e. a "minimum 2m freeboard" linked to the understanding that any extraction will not progress below circa 110mAOD until around 7 years in to the future (phasing). The comments in our previous letter still stand.

4.5 Natural England: No objection. The following comments are made:

- i. Ancient woodland and veteran trees: The development site appears to be adjacent to Ancient Semi Natural Woodland. You should consider any impacts on ancient woodland and veteran trees in line with paragraph 118 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forest Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland/veteran trees where they form part of a SSSI or in exceptional circumstances.
- ii. Soils, Land Quality and Reclamation: Natural England has considered this proposal in the light of our statutory duties under Schedule 5 of the Town and Country Planning Act 1990 (as amended) and the Government's policy for the sustainable use of soil as set out in paragraphs 109 and 112 of the National Planning Policy Framework (March 2012). Based on the information provided in support of the planning application, we note that the proposed development would extend to approximately 25 ha, including some 9.83 ha of 'best and most versatile' (BMV) agricultural land; namely Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system. While Natural England does not wish to comment in detail on the soils and reclamation issues arising from this proposal, we would expect the Planning Authority to take the economic and other benefits of the BMV land into account (in line with para 112 of the NPPF). We would also make the following points:
  1. We are satisfied that that the site working and reclamation proposals provided in support of this application meet the requirements for sustainable minerals development, set out in current Minerals Planning Practice Guidance, particularly section 6 on restoration and aftercare of minerals sites.
  2. In particular, we have noted that the following Sections, Appendices and Plans of the EIA (or Supporting Statement) are sufficient to demonstrate that an equivalent (or substantial) area of the BMV land disturbed as a result of the development, would be reinstated to a similar quality, suited to a productive agricultural afteruse:
    - Chapter 8 – Agriculture and Soils
    - Chapter 8 Agriculture and Soils – Technical Appendices
  3. In accordance with Schedule 5, Part 1, Para 4 (1) of the Town & Country Planning Act 1990, Natural England confirms that it would be appropriate to specify agriculture as an afteruse, and for the land to be reclaimed in accordance with Para 3 (1) of the 1990 Act; namely that the physical characteristics of the land be restored, so far as practicable, to what they were when last used for agriculture.

4. Should the development proceed (and subject to no more accurate information coming to light during the working of the site), Natural England is satisfied that the Soils and Agricultural Land Classification Report (at Technical Appendix 8.1) constitutes a record of the pre-working physical characteristics of the land within the application site boundary.
5. Some suggested conditions to safeguard soil resources and achieve a satisfactory standard of agricultural reclamation are attached, which may be of use.
6. Defra's Good Practice Guide for Handling Soils provides detailed advice on the choice of machinery and method of their use for handling soils at various phases. We would recommend (or welcome where proposed) the adoption of "Loose-handling" methods (as described by Sheets 1-4 of the Guide), to minimise damage to soil structure and achieve high standards of restoration.
7. More general advice for planning authorities on the agricultural aspects of site working and reclamation can be found in the Defra Guidance for successful reclamation of mineral and waste sites.

If you are of the opinion that this proposal may have significant implications for a greater loss of agricultural land, or other considerations which we should take into account, Natural England would be pleased to advise further.

- iii. Environmental enhancement: Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 9, 109 and 152 of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 118 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.



- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
  - Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).
- iv. Biodiversity duty: Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat.
- 4.6 Historic England: No objection.
- 4.7 Staffordshire County Council (adjacent Mineral Planning Authority): No objection subject to the following comments:
- i. Background: The planning application for the phased extraction of sand and gravel involves 44.5 hectares of agricultural land of which 23 hectares would be subject to mineral extraction is entirely within Shropshire but close to the county boundary with Staffordshire. The quarry would lie approximately 100m from the County boundary at its closest point and would be accessed from the A454 Bridgnorth Road.
  - ii. Justification for proposal: The proposal is justified as a replacement site to Seisdon Quarry which is one of two quarries operated by the applicant in Staffordshire. Working operations at Seisdon Quarry are required to cease no later than 31 December 2018 (refer to condition 3 of permission ref: SS.15/13/627 M) and this requires that the winning and working of sand and gravel shall cease no later than 30 June 2018. The applicant seeks to develop the Cannebuff site mainly for the purposes of maintaining supply to markets in the West Midlands conurbation<sup>12</sup>. The nature of the geology at the proposed site is capable of providing a product range similar to that produced at Seisdon Quarry and in particular, it is estimated by the applicant that around 50% of the reserves would be suitable for use as building sand. Policy CS20 of the Shropshire Core Strategy refers to 'Broad locations' for the future working of sand and gravel as identified in Figure 11 and paragraph 7.30 acknowledges that there is potential for sites within these locations to supply markets outside Shropshire as well as in the county. The Shropshire Local Aggregate Assessment 2016 – 17 concludes that the current general pattern of aggregate imports and exports can be expected to continue, although the progressive exhaustion of permitted reserves in south-west Staffordshire may start to result in additional demand from sites in eastern Shropshire and Telford & Wrekin.
  - iii. In assessing need for the proposal, the applicant considers planned provision within Staffordshire and scope for replacing the current provision from Seisdon. Policy 1 of the Minerals Local Plan for Staffordshire (2015 – 2030) indicates that overall planned provision for sand and gravel is made on the basis of maintaining at least a 7 year landbank of permitted reserves based on a production capacity of 5.0 million tonnes of sand and gravel per annum. Referring to the latest Local Aggregate Assessment produced by this Authority it is assessed that based on producing 5 million tonnes of sand and gravel per annum, the sand and gravel landbank as of 1 January 2017 was 12.7 years and therefore, the landbank indicates an overall steady and adequate supply. It is evident from the Local Aggregate Assessment that the supply of sand and gravel from quarries in Staffordshire is significant in meeting the demand for construction aggregates in the West Midlands conurbation<sup>3</sup>.

- iv. The nearest alternative quarries for the supply of sand and gravel within Staffordshire are Saredon and Calf Heath Quarries (refer to figure 1 of the Local Aggregate Assessment). Both quarries have allocated extensions in the adopted Plan (refer to inset maps 7 and 8 in the appendices to the Minerals Local Plan for Staffordshire). Within South Staffordshire district, there are permitted reserves at three dormant sites but there is no current indication as to whether the reserves at these sites would be made available in the short to medium term. In preparing the Minerals Local Plan for Staffordshire, three site options in the local area were considered<sup>4</sup> but none of these options were considered more suitable than the allocations made in the Plan.
- v. Conclusion: The cessation of sand and gravel supply at Seisdon Quarry can be met from alternative sources within Staffordshire but there are no operational/ planned replacement sites south of the M54 and to the west of Wolverhampton/ Dudley in South Staffordshire District. As recognised in the Shropshire Local Aggregate Assessment, demand met from Seisdon would be likely to be displaced to quarries in eastern Shropshire and in meeting current and any potential increased demand for sand and gravel, there will be a need for 'windfall' sites as well as allocated and committed sites.
- vi. Environmental considerations: In relation to the proposal, I have received the following responses from colleagues:
  - a) Transport Development Control Officer: no objection in terms of impact on the highways in Staffordshire;
  - b) Flood Risk Planning and SuDS Officer: no objection; and,
  - c) Principal Landscape Officer: no objection but clarification is recommended on mitigation measures:
    - i. The photographic evidence in Chapter 7 of the Environmental Statement indicates that locations to the south and east within Staffordshire would have skyline views of extraction, or views onto the back faces of the quarry, which could not be mitigated by perimeter bunds. The upper 10m of the northern extraction face will be seeded to 'green up the upper profiles'; and in Phase 3 similar treatment is proposed for a 5-10m strip. Your Authority is advised to seek clarity on how the depth of these strips have been established, (for example, through a requirement for additional sections) to establish whether this would be adequate to deliver an acceptable level of mitigation.
    - ii. The Working Scheme and Overview Plan shows bunds along the access track as 1-2m high, which would only provide limited mitigation for lorry movements.
    - iii. The 20m woodland buffer to the south of Alder Coppice Ancient Woodland, referred to in 2-2.7.17 of the ES is not shown on the Restoration Plan. There would be both landscape and biodiversity benefits in encouraging restoration of woodland in the buffer zone rather than the acid grassland and scrub mosaic indicated on the Concept Restoration Plan.
- vii. Your Regulatory Services recommend the imposition of conditions relating to dust and noise management and it is requested that consideration be given to the inclusion of noise sensitive monitoring locations in Staffordshire as part of a noise monitoring scheme for the quarry and that the locations are identified and agreed with the South Staffordshire District Council's Environmental Health Officer. Consideration should also

be given to conditions to ensure that no mud or slurry is deposited on the public highway and that effective vehicle wheel cleaning facilities are installed. The applicant's planning statement refers to pre-application consultation with the two local parish councils in Staffordshire and their concern about the use of roads through local villages by HGVs. The applicant indicates that HGV movements are not generally anticipated through Seisdon or Pattingham villages as access is achieved directly onto the strategic highway network via the A454. Consideration should therefore be given to the use of a planning obligation to provide assurances that the applicant would manage vehicle movements to ensure that HGVs do not pass through Seisdon and Pattingham villages unless necessary for local deliveries.

- viii. Conclusion: Taking into account the environmental considerations listed under Policy 4 of the Minerals Local Plan for Staffordshire and the comments noted above, no unacceptable adverse impacts on sensitive receptors within Staffordshire have been identified that are not capable of potential mitigation. Further clarification should be provided by the applicant on the landscape mitigation measures. The noise monitoring scheme should include noise sensitive locations in Staffordshire agreed with the South Staffordshire District Council's Environmental Health Officer. There should be a condition to require effective vehicle wheel cleaning facilities and consideration should be given to the use of a planning obligation to direct vehicle movements to the Strategic Highway Network except for local deliveries.
- ix. Overall Conclusions: Having regard to the policies, guidance and observations referred to above, it is reasonable to conclude that no unacceptable adverse impacts have been identified on sensitive receptors within Staffordshire which cannot be mitigated by condition or planning obligation. The assessment of the need for the proposals should take into account the circumstances relating to provision of sand and gravel in Staffordshire as explained above. Therefore, in accordance with the powers contained in the 'Scheme of Delegation to Officers', this letter confirms that Staffordshire County Council, acting as the Mineral Planning Authority, has no objection to the planning application for phased extraction of sand and gravel at Cannebuff, Bridgnorth Road, Near Shipley for the reasons described above, subject to the considerations referred to above (landscape and visual mitigation measures; noise sensitive locations in Staffordshire; wheel cleaning and vehicle movements directed to the Strategic Highway Network). I trust that Staffordshire County Council's observations will be taken into account in reaching a decision on the application.

4.8a. CPRE (30/01/18) Objection.

- i. CPRE has grave concerns that the location for the proposal of the extraction of sand and gravel is completely unsuitable, and it supports many of the environmental concerns raised by the numerous objectors. The location for the proposed development is within the Green Belt and greatly conflicts with its purposes of protecting the countryside. Indeed, it is contrary to Shropshire Council's policy under CS5, which favours considering permitting small scale developments, not very large ones that are the antithesis of the aim to maintain and enhance countryside vitality and character. Policy CS5 further requires large scale new mineral related development to demonstrate that there are no unacceptable adverse environmental impacts, and that is not the case with this proposed development. Figure 10 on page 122 of Core Strategy indicates that only part of the proposed site is in a Mineral Safeguarding Area. Policy CS20 states that

there should be a sustainable approach to mineral working which balances environmental considerations against the needs of the economy and society. This proposal has the opposite effect, and for important environmental reasons is a most inappropriate development at this location. The specific concerns of CPRE are:

- ii. **Traffic:** A prominent concern is the significant increase in heavy traffic (estimated by the applicant at about 100 two-way HGV journeys a day) which will exacerbate safety risk along the busy A454 road. Speed control of traffic is already a major problem which is highlighted by the need for so many speed cameras along this stretch of road. The introduction of many more heavy vehicles will only create the possibility of an increase in accidents. Even Shropshire Council's Highway Authority has implied reservations by recommending that the applicant's proposed road access improvements should be formally approved before planning permission for mineral extraction is granted. CPRE does not consider that there are any road improvements that will sufficiently remove the added risk to safety should mineral extraction on this site go ahead.
- iii. **Arboriculture and wild life:** The views of the Woodland Trust are fully supported. There is evidence to indicate that the mineral extraction development will result in irreparable damage to trees in an adjacent ancient wood, and will be harmful to protected animal species. Despite reports to the contrary, there are claims from local people that crested newts, badgers and a growing population of bats live in the vicinity, which must be protected.
- iv. **Water levels:** There are justifiable concerns from members of the public that the scheme will cause unacceptable disturbance to the water table. Concerns are that excessive drainage due to the development will result in scenic pools and streams being run dry and worries that farming businesses nearby will be badly affected due to loss of water in bore holes. There is no guarantee that measures to minimise the effect on water levels will be sufficiently successful.
- v. **Air quality:** There are bound to be marked and unacceptable increases in air pollution arising from mineral extraction activity that will spread dust and soil particles by prevailing winds over a wide area in this protected countryside. No mitigating measure will be enough to prevent the invasive harmful effect on the surrounding environment of air pollution that can cause people health problems.
- vi. **Noise pollution:** Unpreventable noise from machinery and extra traffic will disturb the tranquillity of the countryside and the quality of life in the surrounding area.
- vii. **Landscape and visual:** There are serious visual impairments to the scenic beauty of the landscape which screening proposals will do little to prevent harmful impact on the countryside.
- viii. **Policy:** As well as the non-compliance with CS5 and CS20 noted above, there is also paragraph 7.2 of the recent Consultation document on the Preferred Scale and Distribution of Development which said, under the sub-heading "Mineral Sites": "The availability of sand and gravel resources remains well above the minimum guideline and additional sites have also been allocated in the SAMDev Plan (2015). No additional site allocations are therefore proposed as part of the Local Plan Review." This proposed site is therefore not needed, and runs counter to Shropshire Council's own policy, despite

the commentary in paragraph 7.3 that “a number of planning applications for ‘windfall’ sites or site extensions are expected to be determined during the next year in Shropshire. These resources, if consented, would provide a significant additional boost to the local supply of sand and gravel”.

- ix. Green belt: The proposed site is within Land Parcel BA2 within the recent Green Belt Assessment commissioned by Shropshire Council. The conclusion for this Land Parcel was that the Green Belt here is playing a Strong role in preventing further encroachment of development in the open countryside. There is therefore a presumption against development in this part of the Green Belt.
  - x. Conclusion: It is noted that the location is not identified by Shropshire Council under MD5, as a site preferred for the extraction of gravel and sand, which would mean to grant planning permission is contrary to its own agreed policy on suitable locations. Under MD5 of SAMDev the possibility of using existing sites before introducing any new ones should be explored more. The applicant makes it plain that this application, on the far eastern boundary of Shropshire, is made as a replacement for its operations, due to close at the end of 2018, at Seisdon Quarry, which is only 2.7km to the southeast, but which is over the border in the South Staffordshire District Council area. Whilst acknowledging the requirement of counties to share in mineral extraction, this site near Shipley is not suitable to meet shortage of essential demand. In such an event, the view is taken that Shropshire Council, South Staffordshire District Council and Staffordshire County Council should liaise and negotiate with developers to find a more suitable location. This is an inappropriate development in the Green Belt with no very special circumstances to justify approval. Only part of the site is in a Mineral Safeguarding Area and the proposal as a whole does not adhere to providing sustainable mineral working as envisaged in Core Strategy 20. This application should be refused.
- 4.8b. CPRE (15/04/18): CPRE wrote to you on 30 January 2018 outlining its objections to the extraction of minerals at the quarry near Shipley. At item 6 of the letter reference was made to landscape and visual effect by stating, "There are serious visual impairments to the scenic beauty of the landscape which screening proposals will do little to prevent harmful impact on the countryside". CPRE acknowledges the very recent judgment in the Court of Appeal (case No.CI/2017/0829, copy attached for ease of reference) where it was held that North Yorkshire County Council's Officer had mis-briefed its Planning Committee over the interpretation of Paragraph 90 of the NPPF regarding visual impact. The Council's decision to grant planning permission to extend the extraction of minerals in a quarry was consequently quashed. CPRE therefore wishes to take this as an opportunity to emphasise the primacy of fully taking into account the visual impact within the Green Belt that the current proposal will have, in the way expressed within this judgment. The proposal, being immediately adjacent to an ancient woodland on a slight ridge, would in itself make a permanent harmful visual change to the openness of the Green Belt. The proposal appears to be in Parcel BA2 of the Shropshire Green Belt Assessment of September 2017 by LUC, who gave this parcel a rating of Moderate or Strong for the purposes of 2, 3 and 4 of NPPF paragraph 80. Please take these further comments into account when arriving at your recommendation to the Planning Committee.
- 4.9ai. SC Ecology (10/04/18): Objection. Additional information is required relating to Great Crested Newts and bats.

- 4.9bi. SC Ecology (22/06/18): Objection. Additional information is required relating to mitigation and enhancement measures for Great Crested Newts. If the additional information (detailed below) is not submitted I would recommend refusal since it is not possible to conclude that the proposal will not cause an offence under The Conservation of Habitats and Species Regulations (2017). Conditions and informatives to be included on the decision notice if planning permission is granted are suggested but will be finalised once the information above has been provided. This consultee response expands on comments provided to the planning case officer dated 26th January 2018.
- ii. Designated wildlife sites: No international (SAC, SPA, Ramsar Sites), national (SSSIs) or local (LNRs, LWS) designated wildlife sites are likely to be affected by this project. However, Ancient Woodland lies along the northern boundary and this is protected in national and local planning policy.
  - iii. Habitats: Chapter 6 states that the habitats on site are arable, hedgerow, improved grassland, scattered trees, semi-improved grassland, standing water. Ancient woodland lies immediately adjacent to the site in the north. The buffer strip to the woodland, particularly on the upper slopes of the hill may support a richer flora in summer and one of the fields (F6) was semi-improved (rather than reseeded with rye grass) with indications in places of dry acidic grassland. The proposed buffer has been increased from a minimum of 15m width to one of 30m and retention of some of this grassland should be considered before the treatment of the buffer area is finalised. The concept restoration plan indicates that significant amounts of both acidic grassland and species-rich grassland will be created, which will provide enhancements in the longer term. However, care must be taken in the landscaping and habitat management to ensure nutrient poor soils are used for these areas, that natural regeneration is utilized where suitable and any seed application from green hay or mixes is suitably sourced. See landscape plan condition below.
  - iv. Ancient Woodland: The northern edge of the site is bounded by a band of Ancient Woodland (AW) and Plantation Ancient Woodland (PAW) including Long Wood, Alder Coppice and Cannebuff – referred to here collectively as ‘Alder Wood’. A minimum buffer of 30m to the mineral extraction area with a temporary bund taking up 5m of this buffer (at 25m from the woodland) for Phase 2 only, has now been proposed. This buffer ensures no conflict with root protection areas and adequately protects trees from any direct damage to branches.
  - v. Water Environment: Additional information has now been provided on water features and possible impacts of extraction on water levels in the adjacent ‘Alder Wood’ (Ref. 14). The presence of a number of springs has been confirmed in the surrounding area, most likely relating to localised superficial deposits rather than the principal aquifer. In the ‘dry valley’ feature leading down towards the springs in Alder Coppice the maximum depth of extraction has been raised to 111m AOD and the landform profile has been designed to encourage and maintain runoff and recharge within the pre-existing catchment towards Alder Coppice. Springs on the boundary with Alder Coppice lie at around 104m AOD, which is lower than the proposed maximum extraction depth of 106m AOD and the recharge area should be unaffected by the proposed quarry. Caulmert Ltd conclude that in combination with the superficial geology, the proposed depth of working is unlikely to affect the recharge to these springs. The springs around Grange Farm are at a lower

elevation that the proposed base of the development and therefore are not considered to be directly affected by it. In view of the need to protect Ancient Woodland, the springs in Alder Wood should be monitored throughout the life of the development. There should be a mechanism whereby the LPA is informed if drying of the springs is detected but of course a weather record should also be kept for the quarry to help rule out natural fluctuations in water levels. A condition should be drafted to cover the monitoring of water features taking into account any comments provided by the Environment Agency.

- vi. Dust: Alder Wood is adjacent to the northern boundary of the proposed quarry site, downwind of the prevailing wind direction and ranges in elevation from circa 136m in the east to 100m in the west. Based on the ecological consultant's professional judgement the wood is considered to have a 'medium sensitivity' to dust. It is stated (Chapter 4, 4.6.3.5) that the northern part of the site, being at a higher elevation, could result, in the absence of mitigation measures, in impacts from airborne concentrations of dust due to impaction. The Mineral Dust Impact Guidance (IAQM, 2016) states that it is commonly accepted that disamenity dust and PM10 from sand and gravel quarries is uncommon beyond 250m, with the greatest impacts occurring within 100m of the source. Coarse dust, which causes most disamenity, will largely deposit closer to the source than fine dust. (IAQM, 2016). The majority of the proposed quarry workings are within 250m of the edge of Alder Wood. Mineral working in phases 2, 3, 6a and 6b will take place within 100m, as will soil stripping and bunding, and disturbance during restoration works. The prevailing wind will blow from the workings towards the woodland. In response to my queries raised in my previous response, the applicant has made the following points:
- The site will be worked in a southerly direction away from the ancient woodland.
  - The closest mineral operations between 30m to 50m distant of the woodland comprise soil stripping and grading works, 2m to 5m below the level of the woodland at its closest.
  - On average, works quickly start to become between c. 7m and 10m below the levels of the adjacent woodland. This in itself starts to become a substantial barrier to dust.
  - Within 100m of the woodland, extraction would be between 10m to 20m below the level of the adjacent woodland again forming a barrier to dust.
  - Only c. 6% of extraction operations occur within 50m of the woodland (outside the 30m buffer), over three phases of work. Such work in Phases 2, 3 and 6a will occur over a temporary time period (a matter of weeks).
  - Temporary surface working that gives rise to elevated risks of dust can be adequately managed. See 'Dust Management Scheme Ancient Woodland Specific Aspects' section 4.1.32.
  - Around 80% of all mineral extraction works occurs outside 100m from ancient woodland.
  - The edge of the mineral storage area has been moved back to c. 140m from the woodland and the processing plant at c. 180m.
  - The mineral processing area will be depressed to a level c. 2.5m below adjacent levels and will be surrounded by 2m to 3m high bunding and partially screened with 2m high willow on the bunds.
  - Over a 14 year period, this equates to less than 3 year of working within 100m of the woodland; the majority of which would be at considerable depth below the woodland.
- vii. Whilst the mineral extraction is a considered 'dry' dig, above the water table, material will be wet processed through the wash plant (save for very temporary occasional dry

screening if necessary for the material). All processing is located over 140m of the Ancient Woodland. This is in conjunction with the plant site levels, peripheral bunding and planting, which will act as a substantial barrier to dust dispersal from processing activities. (4.1.29). Based on this it is considered that the risk of significant adverse sustained or long-term impacts on the Ancient Woodland are low. Given the geology of the area, it is considered unlikely that any dust deposition would significantly alter soil chemistry or the soil resource (i.e. there is no great divergence in substrate types between the Site and woodland to the north). However, good practice dust suppression and management techniques would be employed to further limit dust dispersal and any potential for adverse physical effects on vegetation. It should be noted that fields within 90m to 150m are already ploughed periodically as part of current agricultural practice. Specific measures to protect the GCN land to the west of the mineral processing area from dust are detailed in sections 3.3.20 – 3.3.26 of the Addendum to Chapter 6 Ecology.

- viii. I assume that an annual review of progress with the quarrying activities will be conditioned. The results of the dust monitoring for sensitive biodiversity receptors and any remedial measures required should be considered and recorded as part of this review.
- ix. Badger survey: The recommendations detailed in the 'Appendix E8, Confidential Ecology Information – Badger' should be conditioned.
- x. Reptiles: The ecological consultants consider that reptile species are likely to be absent due to the fragmentation of habitat and limited areas of suitable habitats. An ecological clerk of works should inspect the site prior to vegetation removal and be present when hedges or other vegetation more likely to support wildlife are to be removed.
- xi. Bats: A preliminary bat roost assessment of trees from the ground on 24th March 2015 and bat activity transect surveys were carried out on the 11th June, 17th September and 29th September 2015. An update Preliminary Roost Assessment has now been carried out on the two trees with potential roost features, which will be removed during the development. All other trees to be removed are considered to have negligible bat roost potential. The location of these trees has also been clarified. No signs of bats were found, but the trees won't be removed immediately work starts. An update survey will be required prior to felling in case potential roost features are occupied during the intervening time. Loss of potential roost sites will be mitigated by erecting bat boxes on remaining mature trees. The majority of internal hedges, which are to be removed, are of poor quality. External hedges are to be retained and the tree planting on bunds is likely to increase their bat foraging potential. The majority of bats detected were foraging along the woodland edge to the north of the site and along boundary hedges. Very few were recorded using the internal hedgerows. In view of this, further bat activity transect surveys are not required unless the details submitted with the application change.
- xii. Nesting birds: The breeding bird survey recorded a total of 38 species of conservation concern at the site including 6 Species of Principle Importance (as listed on the NERC Act 2006). Minimisation of the amount of nesting habitat removed, additional tree and scrub planting on bunds created around the site boundaries, a phased approach to extraction with phased restoration maximising habitat through time and restoration of the site to a mixture of more diverse grassland and scrub with new hedges and fields, should



reduce disturbance in the short term and provide potentially enhanced nesting habitat in future. The surrounding area contains similar habitats to those on the proposed development site and the assemblage of species found is typical for these habitats. According to the bird report it is now out of date the survey being undertaken in 2015. In view of the retention of the majority of habitat around the boundaries and a buffer strip to the woodland, together with initial new tree and scrub planting, sufficient information has been supplied for the planning decision. However, update surveys will be required for later phases of the development.

xiii. Great Crested Newts: A total of 13 ponds within 500m of the Site (figure E41 of ecological Addendum) were identified. Two of these ponds (ponds X and Y) were considered to be separated from the site by significant barriers to amphibian dispersal. The remaining 11 ponds were investigated further. Pond G (at Naboth's Vineyard) could not be accessed but is believed to be dry. Ponds F and H are no longer present. Ponds A and B in Alder Wood were too shallow to sample and considered unlikely to support GCN. Pond K had been dry on previous occasions and was similar to A and B. Pond I was excluded from eDNA analysis due to its structure, use and distance from the development Site. Pond I also appears to be a relatively recent feature judging by aerial photos. eDNA analysis was only considered necessary in respect of Ponds C, D, E and J. The results of these tests were all negative indicating likely absence from these ponds. Hence there is a small population of GCNs centred on Ponds 1a, 1b and Pond 2. No further survey work for GCN is required. GCN mitigation proposals have been provided in sections 5.2.4 to 5.2.19. However, I am concerned that insufficient terrestrial habitat has been provided as mitigation for land excluded for GCN during the lifetime of the quarry. Measuring from aerial photos, and judging by the semi-permanent amphibian fencing indicated on Figure E1, I have estimated the following:

- Hedgerows temporarily lost during the lifetime of the quarry = c.422m
- Area lost during extraction within 100m of ponds 1a, b and 2 = c. 2.44ha
- Area lost during extraction within 250m of ponds 1a, b and 2 = c. 10.28ha
- Hedgerows gapped up between Ponds 1 and 2 and east of Pond 2 = c. 213m but not shown on Updated Concept Restoration Plan CE-CB0617-DW15b-Final Rev. B (Figure 4).
- Area of proposed tree screen: = c.0.1ha between 50m and 100m from ponds 1a and 1b

ix. Hence, for the duration of extraction, there would be a net loss of more than 200m of hedgerow within 250m of the ponds, c. 2.435ha of terrestrial habitat within 100m of the ponds and an additional loss of c. 10ha of terrestrial habitat within 250m. Whilst arable land and close-cropped pasture are not 'good' quality GCN habitat, newts will still cross and forage within them. Normally, under these circumstances I would expect a reduced area of better quality habitat and additional hibernacula to be provided, rather than a like for like area. I doubt a small tree belt and short lengths of gapped up hedge would be sufficient to obtain a GCN EPS mitigation licence. Ideally, additional habitat (woodland, scrub grassland mosaic) and hibernation features should be provided, particularly north of Ponds 1a and 1b and between ponds 1a/b and pond 2. This mitigation habitat should be retained in the final restoration plan as enhancement. Investigating the sustainability of water levels in the existing ponds 1a, 1b and 2, and mitigation measures to ensure continued water levels for the required length of time for successful GCN breeding is

welcomed. Are the ponds currently used for crop irrigation and if so will this cease during and after mineral extraction? Enhancements in terms of additional water bodies created on site during restoration should be investigated. Once this information is provided I will be able to consider the Favourable Conservation Status test under the Conservation of Habitats and Species Regulations 2017 and provide a European Protected Species 3 tests matrix form. The planning officer will need to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered.

- x. Dormouse: The hedges proposed to be removed are generally poor, gappy and poorly connected and would be unlikely to support dormouse. Boundary planting will increase dormouse habitat in the longer term.
  - xi. Invertebrates: March is not a suitable time to survey for invertebrates but the habitat types involved are relatively ecologically poor and in the longer term the production of south-facing sandy slopes with low soil fertility and species-rich grassland, together with increased tree planting are likely to be of benefit to a diverse range of invertebrates.
  - xii. Landscaping prior to and during extraction: Details of the landscaping prior to commencement will be required as this will provide mitigation for some of the ecological receptors as well as screening for properties and dust.
  - xiii. Construction Environmental Management Plan: To protect the sensitive ecological receptors on site during the working of the quarry, a construction Environmental Management Plan (CEMP) should be conditioned.
  - xiv. Habitat Management Plan: A habitat management plan should be submitted within 6 months of the commencement of excavation to ensure suitable management of marginal and restored land through the phased development and afterwards. I will add to/revise the conditions when the additional information has been provided. If there are queries on this memo please contact me using the details below in the first instance. In my absence Nicola Stone, Planning Ecologist (01743 258512) may be able to help.
- 4.9ci. SC Ecology (17/07/18 - verbal communication). No objection. The applicant has now addressed the specific issue regarding GCN mitigation raised in the previous consultation response with amendment to the working and restoration plans which show additional GCN habitats. Also, a survey found no roosting bats in a tree within the site.
- 4.10a SC Trees: (06/12/17) No objection on arboricultural grounds, providing appropriate measures are put in place to protect retained trees and hedgerows during implementation and given appropriate habitat restoration, including tree and hedgerow planting sufficient to compensate for that lost during mineral extraction. The Arboricultural Report (Crestwood Environmental Ltd, CE-CB0617-RP13-Final, 27 Oct 2017) identifies the phased removal of various trees and lengths of hedgerow during the lifetime of the proposed scheme. A total of 3 category 'A' trees and 1 category 'A' group of trees, 4 category 'B' trees and 3 category 'B' groups of trees, 3 category 'C' trees and 2 category 'C' groups of trees, 2 category 'U' trees and 1 category 'U' group of trees and 8 hedgerows of various lengths would be removed at various phases of the scheme. All other trees, groups of trees and hedgerows can be retained and protected during development. In addition, it is proposed to plant tree topped bunds and woodland belts

around the site boundaries at an early stage of the scheme. Long-term the plan is to plant more hedgerows with a greater combined length and number of trees incorporated along their length than currently exists within the site. A number of wooded copses are also proposed to be planted in field corners, reflecting the pattern of tree cover around the site. I consider that the temporary loss of trees and hedgerows whilst the scheme is in progress would be more than compensated upon restoration of the land. It is recognised that the veteran field maple tree (T47) towards the middle of the site cannot be replaced by new planting, but on balance in my opinion the loss of this one veteran tree provides insufficient grounds to object to the scheme. Conditions are recommended.

4.10b SC Trees: (14/06/18) No objection. I have reviewed the further information provided within the Response to the Regulation 25 Request (Crestwood Environmental Ltd, 31 May 2018) and the Additional Ecological and Arboricultural Information Addendum to Chapter 6 of the Environmental Statement (Crestwood Environmental Ltd, 31 May 2018) and would offer the following comments as regards arboricultural aspects of this application. I note the conclusion that the proposed development will have no lasting adverse impact upon the adjacent ancient woodland. Modifications to the development have been made such that a minimum 30m buffer will be left between the edge of the ancient woodland and the extraction site. Extraction levels have also been raised to protect the existing catchment areas to the ancient woodland. I welcome these amendments to the design and have no objections to the application on arboricultural grounds. I would refer to the recommended conditions contained within my previous consultation response dated 6<sup>th</sup> December 2017.

4.11i. SC Conservation (12/07/18) No objection. In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev), the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The application proposes the phased extraction of sand and gravel, inclusive of mineral processing, all ancillary works, equipment and associated infrastructure and progressive restoration on Land near Shipley. The site covers c.44ha of agricultural land with an extraction area of c.23ha. The site is located on the eastern boundary of Shropshire with Staffordshire and near the hamlet of Shipley, with the nearest dwellings at the hamlet being c. 450m to the south-southwest. The site itself does not contain any listed buildings and is not covered by any heritage designation such as Conservation Area, World Heritage Site or Registered Park and Garden. There are a number of designated heritage assets within the wider study area, those closest to the site consisting of a group of Grade II listed buildings at Shipley and Grade II and II\* listed buildings at Rudge. The proposed development is temporary in nature with mineral production lasting for a period of c. 14 years, with an initial preparatory period and a final c. 2 year restoration period. The proposed development includes a number of landscape mitigation measures, phasing and progressive restoration with the aim to minimise the visual impacts of the scheme including:

- Early tree planting to act as screening
- Strategically locating soil storage bunds
- Locating plant at the lowest levels within the Site.

- ii. Additional information has subsequently been provided in relation to the impacts upon landscape and heritage assets, taking into account the potential loss of areas of Ancient Woodland to the north. A number of amendments to the proposals have been submitted, aiming to minimise and/or mitigate against any increased visual effects, including:
- Reducing the floor level of the proposed processing plant from 115m AoD in the original proposals to 114m AoD;
  - Increasing the bund to the north of the plant site area in size to 3m high to screen the majority of the plant;
  - Planting fast growing c2m high willows across the peripheral bunding to form a visual screen which will be retained for the duration of operations;
  - Siting and orientation of the processing plant to reduce its visibility.

The additional information provided on Cultural Heritage and Landscape have been reviewed along with public comments and further assessment made of the impacts of the proposed development taking this information and the proposed amendments into account.

- iii. Looking first at the group of listed buildings at Shipley, including Shipley Hall and Barns, Shipley Grange and The Inn at Shipley. Taking into account the layout and orientation of the buildings, location in the landscape and having taken on board the zone of theoretical visibility, viewpoints provided and assessment on site, there do not appear to be any primary or planned views directly from any of the Shipley listed buildings towards the site. Views of the site from these listed buildings would most likely be incidental in nature or limited from upper floors and not primary formal spaces, therefore lessening their significance to some extent. Nevertheless, it is considered that the proximity of the site to the listed buildings at Shipley, particularly Shipley Hall and Barns could create some impact upon the setting of these listed buildings as the development could be noticeable in some views and when enjoying the grounds of the buildings. It is considered that this equates to a less than substantial impact upon the setting of the listed buildings. It noted that the development will be phased and revised landscaping and screening measures have been submitted. It is considered that the proposed phasing and landscaping would help to mitigate against these impacts.
- iv. Secondly, the impact of the proposed development upon the setting of heritage assets at Rudge has been further considered reflecting upon the position of the removal of a section of the Ancient Woodland. The removal of the woodland will result in more available views towards the site particularly from Rudge Hall which does appear to have a primary elevation fronting the site. However, the layout of the proposed development and the amendments to the plant buildings and screening now submitted are considered to reduce this impact. It is also noted that the distance between Rudge Hall and the site combined with the gradient of the land and proposed mitigation would lessen the impacts. It is considered that the impact upon the setting of the listed building would be less than substantial in nature. It is considered that due to the location of 7 Lower Rudge its views of the proposed development would be limited and the proposed mitigation would help to alleviate any impacts that would occur here.
- v. Finally looking at heritage assets further afield. It is considered that other heritage assets identified such as those at Chesterton, Patshull Hall, Ludstone Hall and the Ironbridge Gorge World Heritage site would not be impacted to any discernible degree by the development due to their locations distant from the site.

- vi. Conclusions: It is considered that the proposals could result in harm to the setting of heritage assets at Shipley by virtue of the close proximity of the site and the nature of the proposal which will alter the agricultural setting of the listed buildings. It is noted that there are no designed views from the listed buildings directly to the proposed development site but the nature of the development will mean a change to the character of the setting which could be noticeable when experiencing the listed buildings from within the curtilage. It is considered that the proposal would result in less than substantial harm to the setting of the listed buildings at Shipley. The proposed mitigation measures, phasing and temporary nature of the development is taken into account and is considered to help mitigate against the impacts of the proposal. It is considered that the proposed development could also result in harm to the setting of Rudge Hall, this harm would be considered to be less than substantial in nature, due to the distance between the site and the listed building and the proposed phasing, siting and landscaping mitigation measures which would help to mitigate against the impacts of the proposal. The less than substantial harms identified must be weighed against the public benefits of the scheme.
- 4.12i. SC Archaeology (04/06/18): An archaeological desk-based assessment (Crestwood Environmental, November 2017, Report Ref CE-CB0617-RP03 - FINAL) was submitted with this application and since our previous comments a geophysical survey has now been undertaken (TigerGeo, March 2018, Project code CSS171). The geophysical survey located a thin scatter of archaeological features across the site, including two linear features that may represent ditch fills, and a possible pit in the north-western field in the area of the flint find-spot (Shropshire Historic Environment Record [HER] No PRN 03817). Since the desk-based assessment was produced, further information has also come to light regarding the nature of the find-spot and the flint finds recovered in the 1980s. The proposed development site is therefore considered to have a moderate to high archaeological potential. I confirm that the archaeological desk-based assessment complies with the guidelines published by the Minerals and Historic Environment Forum in Mineral Extraction and Archaeology: A Practice Guide (2008), and, together with the field evaluation, provides a satisfactory level of information about the archaeological interest of the proposed development site in relation to Paragraph 128 of the NPPF.
- ii. In view of this and in and in relation to Paragraph 141 of the NPPF, Policy MD13 of the SAMDev component of the Shropshire Local Plan, and the Minerals and Historic Environment Forum's Mineral Extraction and Archaeology: A Practice Guide, it is recommended that a phased programme of archaeological work be made a condition of any planning permission for the proposed development. This programme of archaeological work should include provision for the archaeological investigation, excavation and recording of the find-spot (PRN 03817) in the north-western part of the proposed extraction site. The provision for the remainder of the site should comprise a strip, map, and record exercise to precede each phase of ground disturbance (including construction of access and infrastructure, extraction, and restoration) on the site. The detail of this programme of archaeological work should be in accordance with a written scheme of investigation (WSI) to be agreed in advance and approved by the Senior Archaeological Advisor, Historic Environment Team.
- 4.13ai. SC Regulatory Services: (13/12/17) No objections. Having considered the dust assessment submitted with this application I am of the opinion that the mitigation

measures proposed are satisfactory and should ensure no significant detrimental impact at nearby residential and commercial properties. As a result I propose the following condition:

- All dust mitigation measures stated in the Dust Management Scheme, report reference CE-CB0617-RP10-FINAL produced by Crestwood Environmental Ltd shall be carried out in full for the duration of works on site. Reason: to protect the amenity of the surrounding area.
- ii. In relation to noise it is noted that mitigation is proposed in section 5-5.2.3 of the Noise Assessment report ref CE-CB-0617-RP17-FINAL produced by Crestwood Environmental Ltd. Hours of operation are also specified in section 5-5.2.4 of the same report. I would advise that both all of these mitigation measures are suitably conditioned. In addition the noise assessment states that a 3.5m high bund to the south of the site and a 2.5m bund to the north of the site is required to bring noise levels down as much as possible. This would result in noise levels of 43.8dB LAeq 1 hour at The Alders and 49.4dB LAeq 1 hour at Naboths Vineyard. I would recommend that these levels are conditioned as the maximum levels to be found at these locations with monitoring undertaken by the quarry to establish that these levels are achieved. It is noted that the levels more than 10dB above background however the assessments are considered suitably conservative and it is noted that over the course of the development noise sources will become lowered in the site reducing noise at nearby receptors.
- 4.13b. SC Regulatory Services: (14/06/18) No objections. Additional information has been provided by the applicant in respect of noise and dust. Having considered the report reference CE-CB-0617-RP42 - FINAL dated 31 May 2018 I recommend the following conditions.
- Section 3.1.5 of the above named report shall be carried out in full.
  - Section 4.1.5 of the report shall be carried out in full with the exception of a change in wording to the first bullet point of the noise section which shall read "Construction within the CEMP area shall take place between 0900 - 1600 hours Monday to Friday only unless agreed in writing with the LPA prior to any works outside of these times taking place.
  - Sections 4.2, 4.3 and 4.4 of the above named report are recommended for appropriate condition.
  - A condition to state that prior to workings on Phase 5b a management plan shall be submitted to the LPA for approval in writing taking into consideration noise and dust mitigation specific to this phase of the development.

Reasons for all of the above conditions are to protect residential amenity of those living in close proximity of the proposed development works.

- 4.13ci. SC Regulatory Services: (18/07/18) No objections. Further consideration has been given to correspondence with the case officer indicating that there is an individual living in close proximity who may be particularly sensitive to dusts arising from this activity. Having considered if this should be taken into consideration I would note that when carrying out other functions under legislation used by Regulatory Services there is case law to suggest that sensitivity to a particular aspect should not be taken into consideration and instead the impact on the average person should be considered. This is in relation to

the Environmental Protection Act 1990 and Statutory Nuisance which falls under s79 of the Act.

- ii. However, in respect of planning it is noted that sensitivity could be taken into consideration. Having said this the impacts of dust from the site in question at the premises where a sensitive individual is living is not anticipated to cause an exceedance of the air quality objective levels which would trigger action. Indeed the levels would be significantly below the national objective levels set in legislation. Therefore I would consider that even though there is a sensitive receptor in the general area (noted to generally be upwind of the development with a prevailing wind hence reduced impacts likely) and due to the additional phasing and positioning and bunding of the site access road I do not consider there to be any dust concerns from the proposed application.
- 4.14i. SC Highways Development Control: No objection. Conditions and informative notes are recommended. Although the highway authority has no objection to the principle of the development proposed. It is recommended that the proposed junction improvements on the Bridgnorth Road A454 are agreed prior to consent being granted, to ensure that the development can be served by a safe and appropriate access, for all vehicles.
- ii. Observations/Comments: It is considered that the Transport Assessment submitted to demonstrate the potential highway impact of the proposed development on the adjacent local highway network, is sufficiently robust. The TA has also proposed the introduction of a 'ghost island' (right turn lane) junction in an attempt to mitigate the potential safety implications for right turning HGVs, at this location. It should be noted that the introduction of this 'ghost island' junction may increase vehicular speeds and encourage overtaking, particular as the right turn facility will not be in constant use. It is noted that this stretch of road is already known for overtaking opportunities. In addition, there are other local facilities and attractions which probably generate significantly greater turning movements per day, which operate successfully without such right turn facilities. Therefore it may be considered incongruous for such a junction improvement to be sited at this location. Indeed it could be argued that such a facility may potentially have a detrimental impact on highway safety.
  - iii. Consideration could be given to other potential local highway improvements, including traffic management techniques, which could have a more positive effect on the speed of passing traffic, as well as assist with facilitating safer turning manoeuvres, for all vehicles ( i.e. moving/reducing speed limit, erection of warning signs, etc.) Any proposals should be supported by an appropriate Stage 1 - Road Safety Audit. It should be noted that the proposed access is at the top of a vertical crest, when travelling westwards. Meaning that vehicles waiting to turn right into the side road/site may not be seen by approaching until the stopping sight distance is significantly reduced, for the potential speed of traffic (i.e. 60mph). In order to ensure that any impact is minimised on the public highway, it is considered that the new access and associate highway/junction improvements must be delivered as the first phase of the development.
- 4.15 SC Drainage: No objection subject to recommended conditions and advisory notes.

#### Public Comments

4.16 The application has been advertised by site notice and in the local press and the nearest residential properties have been individually notified. At the time of writing 194 objection letters have been received including some from more than one person and some repeat representations (representing 234 individuals in total). Seven individuals have written in support of the proposals and 3 neutral comments have been received. These responses are included in full on the Council's online planning register and a detailed summary is included in Appendix 1. The main issues of concern can be listed under the following headings:

4.17 Objections:

- i. Access and traffic: Unsafe access onto unrestricted and dangerous stretch of A454. Impact of quarry HGV's using minor roads in the local area. Concern that the proposals could lead to quarry traffic using unsuitable minor roads as short cuts including through Pattingham, based on concerns of equivalent movements from the applicant's existing nearby quarry at Seisdon.
- ii. Air quality and health: Concern that quarrying operations will result in an increase in dust and deterioration in local air quality leading to health impacts for the local community. A particular sensitivity is identified with respect to the nearest property, Naboths Vineyard. Doubt is expressed that sufficient measures will be available in practice to provide sufficient mitigation.
- iii. Noise: Concern that quarrying operations will result in an increase in noise and a corresponding deterioration in local amenities. The proposed hours of working are too long.
- iv. Hydrology: Concern that the quarrying operations will result in an adverse impact on local water resources which are vital for agriculture, ecology, heritage and which provide the only source of drinking water for some local residents. Concern that insufficient information was provided with the application to allow the nature of any potential impacts to be adequately assessed. Not all local water resources and features were identified in initial surveys by the applicant's consultant. Disturbing the groundwater will create serious problems for anyone who benefits from it.
- v. Landscape / visual impact: Concern that the proposals will result in adverse impact to the local landscape and visual amenities. This is a prominent site within the Green Belt with uninterrupted and spectacular views across Shropshire, Staffordshire and the West Midlands. Any such impact would also have the potential to adversely affect the setting of local heritage assets.
- vi. Heritage: Concern that the potential impact of the proposals on local heritage assets has not been properly taken into account. Up to 400 fragments of worked flint have been collected from within the site 'represents human activity in this area spanning many thousands of years from the Mesolithic the Bronze Age'. The planned clear felling of Long Wood will significantly alter the findings of the heritage report as the quarry will have a visual impact on the setting of Rudge Hall and other local listed buildings.
- vii. Ecology: Concern that the proposals could affect local wildlife and habitats including ancient woodland located to the immediate north of the site. Concern that there could



be indirect affects as a result of the effects of quarrying on local water bodies. Concern that the applicant has underestimated the ecological richness of the area.

- viii. Agriculture: Concern about the potential for permanent loss of best and most versatile / productive agricultural land.
- viii. Policy / need: The site is not allocated in the SAMDev plan and does not meet relevant policy criteria for release of non-allocated sites. Sufficient minerals are available from other quarries in Shropshire and Staffordshire. The adverse environmental impacts of developing the site significantly outweigh the claimed benefits.

#### 4.18 Support comments:

- i. With the closure of Seisdon quarry another source of materials is important so that affordable housing projects may progress using locally sourced materials. Sand and gravel is in short supply at the moment, it is a commodity that is needed. Extra jobs will be created for quarry workers and local building industry.
- ii. The site concerned would most likely have the least environmental impact on the general area so is a logical choice. Environmental concerns regarding the Cannebuff and Alder Coppice woodland have been considered, with the woodland being untouched by this development.

### 5. THE MAIN PLANNING ISSUES

- i) Policy context;
- ii) Non-allocated sites and justification for the development;
- iii) Green Belt appraisal;
- iv) Environmental effects (residential and general amenities - noise, dust, visual impact, ecology, highway safety, hydrology, restoration and afteruse);
- v) Conclusions.

### 6. OFFICER APPRAISAL

#### Policy Context

- 6.1 Planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) and the accompanying Technical Guidance on mineral working are material considerations. The NPPF recognises that minerals are essential for supporting sustainable economic growth and our quality of life. The guidance states that it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs, whilst ensuring that permitted mineral operations do not have unacceptable adverse impacts on the natural and historic environment or human health. When determining planning applications, 'great weight' should be given to the benefits of mineral extraction including to the economy (NPPF205).
- 6.2 The NPPF advises that Mineral Planning Authorities should plan to ensure a steady and adequate supply of industrial minerals including permitted reserves of sand and gravel

which are sufficient for at least 7 years of annual production based on an average of previous production rates. Mineral Planning Authorities should ensure that that the 'capacity of operations to supply a wide range of materials is not compromised'. 'Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites'. They should ensure 'that large landbanks bound up in very few sites do not stifle competition' and should calculate and maintain separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market (NPPF207).

- 6.2 The development plan for Shropshire comprises the Shropshire Core Strategy and the SAMDev plan. Core Strategy policy CS20 confirms that the site is located within a Mineral Safeguarding Area where there is a presumption that mineral resources will be protected from sterilisation. The policy commits amongst other matters to maintaining an adequate supply of sand and gravel in line with national policy requirements. It advises that 'priority will be given to environmentally acceptable proposals which can deliver targeted environmental or community benefits consistent with Policies CS8 (Facilities, services and infrastructure provision) and CS17 (Environmental Networks)'.
- 6.3 SAMDev policies MD5, MD16 and MD17 relate to mineral working. Of particular relevance is Policy MD5 which specifies how the supply of sand and gravel in Shropshire will be achieved. The policy is worded as follows:

*MD5: Sites for Sand and Gravel Working*

1. *The supply of sand and gravel during the Plan period should be provided in the first instance from existing permitted sites and then from the development of mineral working at the site identified on the Proposals Map and allocated in Schedule MD5a below;*
2. *Where monitoring demonstrates that the further controlled release of sand and gravel reserves is required, then the subsequent development of mineral working will be considered at the sites identified in Schedule MD5b below. Applications for earlier development of these sites will be considered on their merits. In considering any such application, particular regard will be paid to:*
  - i. *the need for minerals development to maintain an adequate and steady supply of sand and gravel consistent with the established production guideline;*
  - ii. *the need to control potential cumulative impacts associated with concurrent or sequential mineral extraction operations in a specific area, including through the imposition of output or timescale restrictions where these are necessary to reduce the potential for market oversupply and cumulative adverse environmental impacts;*
  - iii. *whether the early release of the site would enhance sustainability through meeting an identified local need.*
3. *Proposals for mineral working falling outside the allocated areas will be permitted where developers can demonstrate that:*
  - i. *the proposal would meet an unmet need or would prevent the sterilisation of the resource; and,*
  - ii. *the proposal would not prejudice the development of the allocated sites; or,*
  - iii. *significant environmental benefits would be obtained as a result of the exchange or surrender of existing permissions or the site might be significantly*

*more acceptable overall than the allocated sites, and would offer significant environmental benefits.*

The site is also located in the Green Belt where separate policy tests apply, These are considered in a succeeding section.

#### Non-allocated sites and justification for the development

- 6.4 Policies MD5(1) & MD5(2) set out the expected situation with respect to release of the allocated sites (Wood Lane North extension (approved and operational), Gonsal extension (not yet submitted) and Morville Extension (not yet submitted)). Policy MD5(3) sets out the position with respect to non-allocated sites. The policy supports new mineral provision in accordance with NPPF207, provided the tests set by the policy are met.
- 6.5 The site is not allocated for mineral extraction though it was originally identified as a preferred site in a consultant's report forming part of the evidence base for the SAMDev plan. The Council's consultants Amec found that the site is "relatively unconstrained in terms of planning and environmental constraints although it is within the Green Belt and on a major aquifer within a total catchment protection zone". Amec acknowledged that the "site is effectively an extension to an existing quarry nearby at Seisdon in Staffordshire" and that "the site benefits from being generally well screened and would have a direct access to the strategic route network in a location close to markets for the mineral being produced". However, the draft allocation was not subsequently proceeded with following withdrawal of the previous prospective operator. As the site is not allocated it must be considered under Policy MD5(iii). The three tests set out in Policy MD5(iii) are considered below. The Inspector's report on the SAMDev plan states that "It is accepted by the Council that a developer should only need to satisfy (i) and (ii) or (iii). This modification is required to ensure Policy MD5 is positively prepared". Therefore all three tests do not have to be met, either tests i and ii have to be satisfied together, or test iii.

The first test: MD5.(3.i) - The proposal would meet an unmet need or would prevent the sterilisation of the resource.

- 6.6 Preventing sterilisation: The proposal would not directly prevent the sterilisation of the sand and gravel resource. If the mineral was not worked now it would remain available for future working. However, the site is proposed as a replacement for the applicant's nearby quarry at Seisdon where mineral extraction will shortly cease. The ability to transfer existing staff and equipment directly over from Seisdon to Shipley and to preserve existing established markets would deliver operational benefits to the applicant. Whilst not preventing sterilisation, the timing of the current proposals seeks to exploit a limited window of opportunity associated with closure of Seisdon where it is accepted that the ability to develop the proposed site will be optimised.
- 6.7 Meeting an unmet need: The NPPF advises that Mineral Planning Authorities such as Shropshire should produce Local Aggregate Assessments (LAAs) on an annual basis in order to identify levels of production (NPPF207(a)). This information should then be used for predicting future demand on the basis of a 10 year rolling average. The reserves in Shropshire's landbank (11.69 million tonnes in 2016) equate to 16.94 years so on the face of it there is a healthy landbank. Objectors have cited the published landbank figure for Shropshire as evidence that there is no demonstrable need for the mineral and have

pointed out that the landbanks for Staffordshire (12.7 years – Jan 17) and the West Midlands Conurbation (10.64 years) are also well above minimum levels. A 1.6mt extension to the applicant's quarry at Shire Oak has also recently been permitted. They cite the consultation response on the current application from Staffordshire County Council as implying that the cessation of sand and gravel supply from Seisdon can be met from other supplies in Staffordshire. They suggest that Woodcote Wood 20km north of the Shipley site with good primary road access could also assist in meeting any local production shortfall when Seisdon closes. They also refer to the Inspector's report on the Inquiry into a proposed quarry / inert landfill site at Pave Lane near Newport and Woodcote Wood as indicating that there is no demonstrable need for the mineral from the site.

- 6.8 An objector has provided a report on need for sand and gravel which identifies 43 sand and gravel quarries within a 40 mile radius of the proposed site (the maximum limit for sand and gravel supply suggested by the objector), of which 32 are within 30km. It is suggested that these quarries, including applicant's existing quarry at Shire Oak, could supply market need without the need for the current proposals. Maps show that a 30km radius around 3 principal customers of Seisdon Quarry intersect a number of other quarry sites which it is suggested could be potential alternative suppliers to these customers. It should however be noted that with the exception of the applicant's quarry at Seisdon (shortly to close) and the proposed site, none of the identified sites are within a 10km radius of the applicant's principal market at Wolverhampton. The objector's report does not qualify the status of these sites, though the officer would note that of the 7 sites identified in Shropshire, 1 is closed (Tern Hill), 1 is dormant (Sleap), 1 is not yet operational (Woodcote Wood) and the next nearest operational quarry (Bridgwalton) is over twice the distance to Wolverhampton.
- 6.9 The Staffordshire County Council (SCC) statement that "cessation of sand and gravel supply at Seisdon Quarry can be met from alternative sources within Staffordshire" is qualified by the acknowledgment that "there are no operational/ planned replacement sites south of the M54 and to the west of Wolverhampton/ Dudley in South Staffordshire District". SCC also recognises that the Shropshire Local Aggregate Assessment, acknowledges that "demand met from Seisdon would be likely to be displaced to quarries in eastern Shropshire and in meeting current and any potential increased demand for sand and gravel, there will be a need for 'windfall' sites as well as allocated and committed sites". Moreover, the Staffordshire landbank is based on a supply rate of 5mt per year which is lower than the historic average of @6.5mtpa at a time when aggregate monitoring returns indicate a sustained increase in demand.
- 6.10 The Inspector's conclusions on the Pave Lane Inquiry regarding lack of need for the mineral had regard to the specific context of the appeal site. Pave Lane is within 1.5km of a rival site at Woodcote Wood which now benefits from planning permission. In contrast, the proposed site would not be in competition with the applicant's nearby quarry at Seisdon but would instead be a direct replacement. It is also understood that future reserves in a potential allocation at the quarry nearest to Shipley (Calf Heath 17km to the north east) may not now be available (due to the West Midlands Interchange Project currently being considered by the Planning Inspectorate). This follows the announcement in March 2018 of designation of the M54 Wolverhampton – Staffordshire High Growth Zone which incorporates a proposed major extension to the nearby Four Ashes industrial park which adjoins the quarry.

- 6.11 The latest available annual data (Shropshire LAA 2016-17) indicates that, at 0.74mt, sand and gravel production in Shropshire and Telford & Wrekin in 2016 was continuing to recover from lower levels of production in recent years with sales now above both the 10 year and 3 year rolling averages (0.69mt and 0.70mt). The same situation applies in Staffordshire, linked to an uplift in economic growth and construction activity. Accordingly the SAMDev has set an 'annual production guideline' of 0.82mt. The 2016-17 LAA acknowledges that release of mineral from unallocated sites may be required in order to meet the SAMDev annual production guideline. The 2016-17 LAA advises that 'despite having a large landbank, there are potential issues regarding productive capacity due to about 70% of reserves being contained within three sites which have been unworked for over 5 years'. This includes the 6.5 million tonne site at Sleaf near Wem and a 1.5mt site at Barnsley Lane which the landowner has confirmed will not now proceed. The NPPF advises in this respect that the 7 year sand and gravel landbank is a minimum requirement (NPPF207(f)) and so an adequate or excess landbank is not a reason for withholding permission.
- 6.12 The SAMDev Plan (2015) allocates additional resources at three sites, 2 of which (Gonsal and Morville) have not yet come forward. The LAA advises that 'The release of further resources is expected through windfall applications or the current Local Plan Review'. No new mineral site allocations are being proposed as part of the current SAMDev partial review process. Hence, any new proposals for sand and gravel working will need to come forward as windfall sites under Policy M5(3). The applicant states that the previous withdrawal of the draft allocation from the SAMDev Plan was due to the historic presence of unworked committed reserves in Shropshire and the interaction with the new Staffordshire Minerals Local Plan (adopted in February 2017). However, the applicant states that the mineral provision situation has now changed and the need for an alternative mineral supply at the Shropshire/Staffordshire border has become a strategically important consideration. This is due to the impending closure of Seisdon, the failure of Barnsley Lane to come forward and the inability of the adopted Staffordshire Minerals Local Plan to allocate additional reserves within southwest Staffordshire, immediately west of the West Midlands conurbation.
- 6.13 The applicant currently supplies sand and gravel to the Midlands region from its two main quarries at Shire Oak near Brownhills (which has recently received permission for a 1.6mt extension) and Seisdon Quarry. Much of the production at these quarries is taken up by established contracts with a few local customers. The two quarries produce different mineral products. The aggregate at Shire Oak is a 'rock sand' whilst Seisdon is currently the applicant's main producer of fine sand products. The proposed development would work a similar mineral resource to that worked at Seisdon and is intended as a direct replacement, in order to satisfy market demand in the area.
- 6.14 The applicant has provided confidential sales information. This confirms that current levels of customer demand have been increasing progressively in recent years at Seisdon Quarry and the company is having to actively manage demand to ensure that the annual output restriction is not exceeded. Over 70% of the output from Seisdon is to established medium and long-term contracts for building and concreting sand. The applicant advises that much of the customer base supported by Seisdon requires specific characteristics which may not be achievable at other existing sites. Whilst most of the mineral is used locally the specialist demand means that some of the product is now also

being used regionally. As such, the applicant states that Seisdon Quarry forms a critical part of the local mineral supply chain with increasing orders due to deficits in supply elsewhere and increasing construction activity.

- 6.15 This general picture of high demand is reinforced by another operator, NRS. The company advised in connection with recent applications at the company's Woodcote Wood site near Newport that it was also having to actively manage supply at its' quarry at Saredon 20km to the north east due to high local demand. It is considered likely that the trends of increased demand seen in the two most recent Local Aggregate Assessments will continue and there will also be additional demands on existing supplies in the West Midlands. In addition to the West Midlands market Telford is a significant market for sand and gravel and this is set to continue as the new Telford & Wrekin Local Plan has identified a growth agenda including a requirement for over 800 new homes per year. The British Geological Survey estimates that every home requires 60 tonnes of aggregate to construct and over 400 tonnes when other infrastructure such as roads and drainage is taken into account. Whilst the needs of Telford for sand and gravel are currently being met, they are not being met in a sustainable way as 2/3 of the supply to the Borough is being provided from quarries 20-30 miles away in Staffordshire. There are questions about the ability of Staffordshire to sustain this supply given the factors stated above, including the lack of other quarries west of Wolverhampton and growth in demand in the West Midlands region.
- 6.16 The proposed development has been put forward as a direct replacement for the applicant's nearby quarry at Seisdon and would be capable of supplying the same types of mineral to the applicant's established markets. No new mineral sites have been allocated in South Staffordshire to replace Seisdon Quarry and Staffordshire County Council has acknowledged that demand would have to be met from quarries in eastern Shropshire. A previously allocated site at Barnsley Lane near Bridgnorth will not now proceed. Whilst there are sufficient permitted reserves of sand and gravel in Shropshire to meet historical patterns of supply the NPPF requires also that account is also taken of 'the nature of local supply and demand for individual minerals and the character of an aggregates landbank'.
- 6.17 Whilst other sites in the Midlands area are potentially capable of supplying market demand in the Wolverhampton area these are all significantly further away than the proposed site, with those in Shropshire being more than 10km further away. The distance over which the product has to be transported is relevant to the sustainability of the development. Further, sand and gravel is a relatively low value bulk product with significant transport costs so distance to market is an important economic consideration. Whilst objectors advise that the applicant's ability to make a profit is not a material planning consideration, economic viability and market need are material considerations. Moreover, other sites within the region such as Shire Oak and Saredon are already understood to be at capacity in terms of supply so may not be capable of supplying mineral to make good any shortfall when Seisdon closes. Nor may they be capable of supplying the specialist fine sand mineral which the quarry supplies.
- 6.18 In summary it is considered that the applicant has demonstrated that closure of Seisdon Quarry will result in a need for supply of fine sand products into the company's existing established markets, particularly in the Wolverhampton area. Whilst this could potentially be met from other existing quarries these are generally further from the company's main

market in the Wolverhampton area so would involve longer and less sustainable journeys. Such sites may also not have capacity given the high level of demand currently being encountered and the specialist nature of the mineral supplied from Seisdon. It is considered that notwithstanding Shropshire's current landbank the particular circumstances of the proposed development amounts to an unmet need sufficient to satisfy the criteria of Policy MD5(3i) and NPPF 207.

The second test - MD5(3ii) - The proposal would not prejudice the development of the allocated sites

6.19 This test must be met in addition to MD5(3i) unless the test in MD5(3iii) is met instead. The allocated sites in the SAMDev plan are Wood Lane, Gonsal and Morville extension. A previously allocated site at Barnsley Lane will not now proceed. The Wood Lane allocation was permitted in 2016 and is in production so cannot be affected by the current proposals. The Gonsal north extension at Conover near Shrewsbury has not yet come forward due to access problems. Gonsal serves a different market which is focused on Shrewsbury and Mid-Wales, so geographically it is not in direct competition with the proposed site. The Morville extension west of Bridgnorth would be expected to serve a similar market as the current proposals and the existing nearby quarry at Bridgwalton which is nearing the end of production.

6.20 It is considered that the Telford market is sufficiently large (@350,000tpa) to accept supplies from the allocated site at Morville, the recently approved site at Woodcote Wood and a proposed contribution of @60,000tpa from the current site (it should be noted that the Woodcote Wood developer NRS already supplies over 80,000tpa into Telford under established supply contracts). It is not considered that there would be a conflict between the proposed site, the existing SAMDev allocations, and the site at Woodcote Wood. The requirement of policy MD5(ii) is therefore met. As such, the site complies overall with policy MD5(3) given that the policy requires compliance with either MD5(3i) and MD5(3ii), or with MD5(3iii). Notwithstanding this conclusion, compliance with Policy MD5(3iii) is also considered below.

The third test – MD5(3iii) - significant environmental benefits would be obtained as a result of the exchange or surrender of existing permissions, or the site might be significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits.

6.21 MD5(3iii) – Exchange or surrender: The proposals do not involve any exchange or surrender of existing mineral sites or permissions. The proposals would replace Seisdon Quarry which would be subject to beneficial restoration. However, this is a planning requirement so could not be said to be a benefit of the current proposals. Hence this aspect does not apply.

6.22 MD5(3iii) Significantly more acceptable overall than the allocated sites, and might offer significant environmental benefits:

The second element of policy MD5.3iii states that the proposals 'might' be significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits. The policy therefore invites a comparison between the proposed development and the allocated sites, with particular reference to environmental acceptability. Whilst the site would not be significantly more acceptable than the

allocated sites it is acknowledged that the AMEC report forming part of the evidence base for the SAMDev plan judged the site as having a similar level of acceptability as the currently allocated sites. Furthermore, the current site is being put forward as a direct replacement for the applicant's nearby quarry at Seisdon. The bulk of the mineral would be used to supply existing customers and established contracts in the West Midlands, with particular emphasis on specialist fine sand products.

- 6.23 The allocated site at Wood Lane is already approved and operational and would supply a different market. The Gonsal north allocation would supply a different market and is subject to access limitations. The Morville allocation would be able to supply Telford but would not be as well placed to serve the West Midlands market. Woodcote Wood is described in the SAMDev as an 'unworked site commitment'. This would have the potential to supply a similar market but is further from Wolverhampton. The applicant states that the proposals have the capacity to compensate for the non-delivery of the previously allocated site at Barnsley Lane. This is accepted to some extent though the recently approved site at Woodcote Wood would also achieve this objective.
- 6.24 Overall, the proposed site is significantly better located to supply the company's market on closure of Seisdon than the allocated sites in Shropshire. In highway terms the site is also better located than Seisdon Quarry as it accesses directly onto the principal road network. As such, subject to a legal routing agreement the proposals would address the concerns of local residents about the existing impact of HGV's from Seisdon on local minor roads. It is acknowledged that good access and proximity to market are key factors in aggregate supply given the environmental costs of HGV movements.
- 6.25 Given the justification for the proposals as a replacement for a Staffordshire Quarry the main consideration with respect to the tests set by Policy MD5(3iii) is the extent to which the proposals would offer 'significant environmental benefits'. In terms of other environmental benefits the proposed progressive restoration scheme involves the replacement of a number of valued wildlife habitats. This includes 9.26ha of species rich grassland, 4.88ha of acid grassland / scrub mosaic, 4.73ha of woodland (linking to local Ancient Woodland), 0.05ha of wetland, 723m of new hedgerows providing landscape connectivity, with over 50 hedgerow trees. These habitats are, in environmental terms, significantly better than the present baseline environmental condition of the site (pre-development), meaning the development will, over time, offer significant environmental benefits. The applicant states that the restoration scheme also offers the potential to improve the quality of agricultural land as areas proposed for agricultural afteruse would generally be reinstated to more even / gentler gradients.
- 6.26 There is a national and local policy expectation that restoration of sand and gravel sites will deliver significant benefits. Policy MD5(3iii) does not require that such benefits are any greater than might be expected for an equivalent quarry scheme. It is acknowledged that the proposed habitat creation areas would amount to a significant benefit once this has become established. The criteria for Policy M5(3iii) can potentially therefore be met in addition to MD5(3i) and (3ii), given the benefits of the restoration scheme. Notwithstanding this, the proposals are compliant overall with Policy MD5 given their compliance with MD5(3i) and MD5(3ii). Separate tests also apply under other Development Plan policies with reference to the environmental effects of the proposals and these are considered in succeeding sections.



- 6.27 Green Belt appraisal: The proposed site is located within the West Midlands Green Belt where additional policies restricting development apply. The NPPF includes a core land use planning principle that "planning should", among other things, "take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them .. ". NPPF paragraph 133 declares that the "fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence". Paragraph 134 refers to the "five purposes" served by the Green Belt:
- i. first, "to check the unrestricted sprawl of large built-up areas";
  - ii. second, "to prevent neighbouring towns merging into one another";
  - iii. third, "to assist in safeguarding the countryside from encroachment";
  - iv. fourth, "to preserve the setting and special character of historic towns": and
  - v. fifth, "to assist in urban regeneration, by encouraging the recycling of derelict and other urban land".
- 6.28 Local planning authorities "should plan positively" to do several things in the Green Belt, including "to retain and enhance landscapes [and] visual amenity". The NPPF policies for development control in the Green Belt include. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations (NPPF 145). Certain other forms of development are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. This includes amongst other matters mineral extraction, as it is recognised that minerals can only be worked where they are found (NPPF 147). Hence, mineral extraction is not 'inappropriate' in the Green Belt, provided openness is preserved and there is no conflict with the other purposes of the Green Belt. Core Strategy Policy CS5 supports national policy by restricting development in the open countryside and states that within the Green Belt "there will be additional control of new development in line with government guidance".
- 6.29 The development does not conflict with the purposes of including land in the Green Belt. The following can be said with respect to the 5 Green Belt tests in NPPF paragraph 134:
- Test 1: The proposals would not hinder the objective of preventing unrestricted sprawl of large built-up areas. The proposed use is temporary, albeit comparatively long-term and the site is not in close proximity to any large built-up areas.
  - Test 2: The proposals would not lead to neighbouring towns merging into one another. The site does not adjoin any towns and is adequately detached from the nearest settlements including Shipley and Pattingham.
  - Test 3: The proposals would not lead to any permanent encroachment of the countryside. The quarry scheme is temporary and there would be phased working and restoration so the area of disturbance would be much smaller than the total site area at any one time. The changes which the proposed development will result in are reversible. Whilst there will be a permanent change to the landform following quarrying this will only be apparent at a local level as the site is set in a topographic

depression, and it will remain open countryside. Canebuff ridge above the site will remain as a significant feature in the local landscape. Conditions can be imposed to support the mitigation measures included in the application.

- Test 4: The proposals would not impact adversely on the setting and special character of any historic towns. The nearest historic town of Bridgnorth would be unaffected by the development. The Council's Conservation section has not objected.
- Test 4: The proposals would not hinder the ability to assist in urban regeneration. Supply of mineral from the site to the applicant's established local markets would be expected to assist with urban regeneration.

6.30 The concept of 'openness' incorporates spatial / physical and visual components. Spatially "openness" means the state of being free from built development, the absence of buildings - as distinct from the absence of visual impact. A decision maker must determine whether the potential impacts of a proposal on openness would be sufficient to materially undermine the perception of 'openness'. This is as distinct from identifying specific localised impacts. A quarry scheme which has widespread impacts on the countryside would be expected to affect openness so would comprise inappropriate development. Conversely, a well-designed scheme where impacts have been minimised and which preserves openness and does not conflict with the purposes of including land within the Green Belt would not comprise 'inappropriate development' in the Green Belt. (NPPF 146)

6.31 The applicant's visual appraisal confirms that there would be localised views towards the site but that the phased nature of the proposals and careful siting of plant and landscaping means that any residual visual impacts are not significant. The Council's landscape consultant has reviewed the applicant's LVIA and has accepted the methodology employed and the conclusions reached. The Council's Conservation team has also not objected, concluding that any residual impacts on the setting of heritage assets would be localised and would amount to 'less than substantial harm'. Visual and landscape effects are considered further in a succeeding section which has also been taken into account in assessing Green Belt policy.

6.32 The proposals may be apparent to the nearest properties during the initial development phase before peripheral screening is fully established. The plant site has been designed to be set down by 2m at a low point within the landscape and will use low-profile equipment @8m tall max. It will be surrounded by a 3m bund which will be planted with pre-coppiced willow. The tallest plant items will be oriented with their narrow profile facing sensitive receptors to the south west. Hence, any visibility of plant within the landscape will be limited and localised. The access road would be well screened and set down beneath landscaped bunds. The majority of the quarrying operations would take place within a topographic depression. Phasing has been designed to ensure that landscape planting is well established before quarrying commences in more elevated areas of the site to ensure effective screening.

6.33 Whilst there would be a permanent change in landform it is not considered that this would affect the fundamental character of the landscape. The existing shallow topographic depression would be deepened and widened and there would be a steeper slope in front of parts of Canebuff wood. However, the depression would not be widely visible and the woodland ridge would remain as the dominant landscape feature. The character and

proposed use of the restored landform is considered to be typical of the local countryside. It is not considered therefore that any residual effects on landscape and visual amenity would result in material impacts to the sense of openness of the Green Belt.

- 6.34 Regarding the spatial dimension of openness the proposals would temporarily affect openness due to the phased extraction and progressive restoration with significant landscaping works to be carried out, but the openness of the site over time will be preserved following the restoration works. Further, at any one time no more than @1/3 of the total operational quarrying area would be subject to disturbance with the remainder being either unworked or restored / under restoration. It is not considered that the proposals would lead to any coalescence with existing development in the local area.. The local area is rural in nature and the design and spatial isolation of the plant site would not lead to it being seen as a material encroachment with capacity to add to the built effect of existing development.
- 6.35 Amenity is considered in a separate section below which has also been taken into account in assessing Green Belt policy. The Council's Regulatory Services section has not objected subject to the recommended conditions. It is not considered that the extent of any amenity impacts are likely to be sufficiently significant or widespread as to materially affect Green Belt openness. The proposed mitigation measures within the application are capable of being supported by detailed planning conditions to ensure that landscaping and other mitigation works proceed as intended for the duration of the proposed operations. Overall it is concluded that the function and sense of openness of the Green Belt would be preserved over time so the quarrying proposals would not comprise inappropriate development within the Green Belt and would comply with policy MD6. This is having regard to NPPF 146 which confirms that quarrying is not inappropriate in the Green Belt where the openness of the land is preserved and there is no conflict with the purpose and function of the Green Belt.

#### Noise

- 6.36 Worst case operational noise levels have been predicted using the guidance contained in BS5228 and assessed against the criteria contained in the Planning Practice Guidance for minerals. Noise generated by quarry traffic and overburden removal have also been taken into account. No impacts have been predicted for any receptor properties with the exception of a temporary 'worst case' impact at The Alders 420m north of the proposed quarry during Phase 2 which is not considered significant. For all other receptors no noise impacts were predicted. The upper limit of 55dBA specified in the planning practice guidance is met in all receptor cases. The topography of the quarry would act as a further barrier to sound beyond the Site boundary as workings deepen. Regulatory Services have not objected subject to imposition of a noise control condition. It is not considered that the proposals would undermine local amenities within the Green Belt as a consequence of noise disturbance.
- 6.37 An objector has advised that the model aircraft club has recently moved from land adjoining the site to land also owned by the proposed quarry site land owner to the north of Cannebuff wood, approximately 105m from the boundary of the quarry. It is stated that a new runway has been constructed. The objector advises that a cumulative noise impact assessment should be undertaken, with revision of the current noise report. The officer notes that no planning permission has been granted for any such use at the site in

question. It is noted that a motor car / bike racing use may occur on land for up to 14 days a year under Schedule 2, Part 4b(b) ('Temporary Uses') of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) subject to certain limitations. The extent to which equivalent permitted development rights would also apply for a model plane use will need to be subject to a separate planning evaluation. However, as the activity does not benefit from express planning consent in the area in question it is not considered that further cumulative assessment of the applicant's noise report would be justified at this late stage. If a planning application is subsequently submitted / required for the model plane flying activity then noise issues would be considered as part of that application.

### Air Quality

- 6.38 The NPPF states that "Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas" (NPPF181). SAMDev Policy MD17 (Managing the Development and Operation of Mineral Sites) states that "Applications for mineral development will be supported where applicants can demonstrate that potential adverse impacts on the local community and Shropshire's natural and historic environment can be satisfactorily controlled. Particular consideration will be given (where relevant) to: Measures to protect people and the environment from adverse effects, including visual, noise, dust, vibration and traffic impacts."
- 6.39 The Environmental Statement includes a report on air quality which has been prepared in accordance with the Guidance on the Assessment of Mineral Dust Impacts for Planning (Institute of Air Quality Management 2016). This has considered the potential for different activities to generate dust. Methods of controlling dust have been identified. The background concentrations must be under the annual average objective, stated in the Local Air Quality Management Technical Guidance published by the Department for Environment, Food and Rural Affairs (DEFRA, 2016), in order for the air quality objective for the area to be met. According to the Institute of Air Quality Management (2016) it is commonly accepted that disamenity dust and PM10 from sand and gravel quarries is uncommon beyond 250m, with the greatest impacts occurring within 100m of the source. Therefore only the closest receptors of the sources of dust have been included in this dust assessment (within 250m plus 10%). These are Naboths Vineyard 100m to the south and Ridge View 280m to the south -south east. There are particular sensitivities associated with local residents which have been subject to an Equality Impact Assessment and are considered further below.
- 6.40 A dust assessment was undertaken at three locations around the site over 12 weeks between the 3<sup>rd</sup> September and 26<sup>th</sup> November 2015 in order to establish baseline conditions in the direction of the nearest sensitive receptors. Background PM10 (suspended dust) levels were found to be well below recognised annual averaging limits. Nuisance dust was assessed in terms of potential sources of dust and the sensitivity of the closest receptors within 250m. The nearest receptor is at c. 100m distance to dust sources and the majority of operations will be beyond 250m from receptors to the south and southeast of the Site. Predicted residual source emissions after mitigation have also been assessed to determine the effect of any additions to background dust levels from the proposed operations and their potential effects at the nearest sensitive receptors.

Only temporary periods of working such as bund formation may lead to increased risk and these operations would be short-term and subject to additional mitigation measures. The air quality report therefore considers exceedances of air quality limits to be unlikely and the risk of health effects to the general public to not be significant. The report advises that a proposed Dust Management Scheme will allow effective controls to be exercised to ensure the nearest sensitive properties are appropriately protected.

- 6.41 The air quality assessment includes a dust mitigation plan which identifies the types of mitigation activity which would be employed to reduce dust levels within the site. This includes restricting vehicle speed and watering unsurfaced roads in accordance with a Dust Action Plan. The working scheme has been designed to minimise haulage distances. A water bowser would be retained permanently on site. A surface water run-off sump in the base of the excavation would yield water for dust suppression. The ES concludes that this approach would ensure that dust is controlled within acceptable levels throughout the life of the site. Regulatory Services have accepted this conclusion and have recommended an appropriate planning condition on dust monitoring and control which is included in Appendix 1.
- 6.42 The applicant has clarified that the Air Quality Assessment has had regard to Land-Use Planning & Development Control: Planning for Air Quality (IAQM, 2015). In relation to traffic it is stated that the average level of individual traffic movements projected per year (25,000) falls below the threshold of 100 additional movements per day or 36,500 movements per year at which IAQM 2015 requires a traffic air quality assessment to be undertaken. It is noted that neither the site nor the locality falls within an Air Quality Management Area. The applicant advises that approximately 15% of traffic from Seisdon Quarry currently passes the site access on the A454 travelling towards Telford. As this existing contribution would not apply following closure of Seisdon this would partly offset the level of traffic arising from the current proposals (see also section below on 'Highways – objector comments').

#### Air quality objections

- 6.43 An objection has been received from the nearest residential property, Naboth's Vineyard, based on the fact that one of the occupants has a particular susceptibility to air quality issues. An NHS consultant has expressed concern on behalf of the objector that the quarry operations could result in a deterioration of local air quality with potentially serious health consequences for the sensitive individual. A further representation has also recently been received from the occupant of Ridge View which fronts the A454 some 250m east of the proposed access and 180m from the nearest point of the proposed haul road. The occupant was blind from childhood but had sight restored in one eye in 1997 through pioneering surgery. Unfortunately after 20 years the sight was lost and the surgeon performed an operation which restored sight in the other eye. The objection includes a letter from the surgeon advising that any deterioration in local air quality could seriously affect the sensitive individual's remaining good eye. Given the nature of the sensitivities of the two individuals an Equality Impact Assessment is required under the Equalities Act 2010 and this is included as Appendix 3.
- 6.44 The applicant has amended the scheme in response to the representations received from Naboth's Vineyard. The haul road has been located 100m further north at the base of a topographic depression. Additional landscaping has been provided on the southern

margin of the site and a commitment to undertake ongoing monitoring of dust levels has been given. The phasing of the scheme has been re-designed so that nearest area of proposed quarrying (150m-240m from the façade of the property) forms a separate phase (Phase 5b) which would be worked no sooner than year 8, with additional dust control measures being employed if necessary. The applicant has also agreed to accept a condition providing that Phase 5b shall not be worked unless dust monitoring confirms that identified air quality criteria have been met during preceding quarrying operations further from the property.

- 6.45 Regulatory Services have considered this matter with respect to Naboths Vineyard and also taking into account the more recent representation from Ridge View. They advise that the impacts of dust from the site at the sensitive premises are not anticipated to cause an exceedance of the air quality objective levels which would trigger the need for action, even taking into account the particular sensitivities of these receptors. The proposed operations would be significantly below the national objective levels set in legislation. The proposed site is upwind of the sensitive properties relative to the prevailing wind direction. Given also the proposed re-phasing and bunding of the site access road Regulatory Services do not consider there to be any dust concerns from the proposed application. Detailed conditions have been recommended in Appendix 1.
- 6.46 An objector has expressed concern that dust from the proposed quarry would also affect plant productivity. It is stated that where significant dust is deposited over a long period of time this could have a direct effect on agricultural production and hence financial viability of farming. The objector also notes that whilst fugitive dust from such sites (>30 microns) is typically deposited within 100-200m of the source (most within 100m) finer dust can travel up to 1km. Concerns are expressed about the associated health risk, including for residents with respiratory complaints such as asthma.
- 6.47 In conclusion, the 2 nearest receptor properties to the site contain individuals with particular susceptibilities to air quality issues and an equalities assessment covering these individuals has been included as Appendix 2. The concerns of the local community with respect to air quality are acknowledged. Regulatory Services are the Council's technical advisors with respect to air quality and they have not objected. They are satisfied that the proposals, as amended, together with the recommended planning condition will ensure that the proposals do not lead to any unacceptable deterioration in local air quality and will protect the health of local residents, including those with particular vulnerabilities.
- 6.48 Highways: Paragraph 109 of the NPPF advises that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The application includes a traffic assessment which considers the effect of the proposed quarry on the local road network. Based on the proposed HGV and traffic movements the assessment concludes that there are no road safety or highway capacity issues associated with the proposals and they will therefore have no detrimental impact on the free flow and safety of traffic. Both peak hour and daily development flows are low and unlikely to have any material impact in any context. The proposals would change proportional flows on Bridgnorth Road by less than 2%. This is less than the daily variation in traffic flows on the Bridgnorth Road so is not considered material, either proportionally or in absolute terms.

- 6.49 The assessment has considered the suitability of the proposed site access in terms of vehicle routing and vehicle manoeuvring. Improvements are proposed to accommodate HGV access. The assessment concludes that the proposed development will have no material adverse impact on the safety or operation of the adjacent highway network, either in terms of effects to free flow or the impact of routing of goods vehicles to and from the application site. No severe cumulative impacts will arise (NPPF 109). There will be a potential minor adverse effect in relation to driver intimidation from HGV movements. In all other respects the effects are assessed to be negligible.
- 6.50 A Road Safety Audit (RSA) has been undertaken by an accredited highway safety consultant which supports the above conclusions. The RSA finds that visibility at the junction is in full accordance with the DMRB design standards for right turning and minor arm traffic, based on the measured vehicle speeds. The RSA identifies a single issue that motorists approaching from the west may be unaware of right turn lane as it is located on a gentle crest and may attempt to overtake, increasing the risk of collisions with vehicles entering the right turn lane. To address this the RSA recommends that overtaking restrictions are implemented and the carriageway markings appropriately amended with installation of additional warning signs on both approaches to the junction. The proposed access design has been updated accordingly. Detailed warning signs would be agreed by the Highway Authority under a Section 278 highways legal agreement.
- 6.51 The Council's highway consultant has not objected subject to prior agreement of the proposed junction improvements on the Bridgnorth Road A454. An updated junction design following the RSA process has been forwarded to the Council's highway consultant. As noted above, detailed signage and road marking can be dealt with under a s278 highways legal agreement. The applicant has also agreed to enter into a planning legal agreement providing amongst other matters funding for extension of a speed limit at Shipley, as recommended by the Council's highway consultant, and a vehicle routing restriction to avoid minor roads with appropriate penalty clauses. Subject to this it is considered that the proposals can be accepted in relation to highway matters (MD17.i)

#### Highways – objector comments

- 6.52 Objectors consider that the applicant's calculations regarding heavy vehicle movements (50 deliveries, 100 movements per day) have been significantly under estimated. They cite correspondence from February 2013 from the current agent regarding the applicant's site at Shire Oak Quarry in which the agent confirms that 200,000 tonnes per annum at Shire Oak equates to 50 deliveries per day (100 movements) whereas the applicant advises that 50 deliveries (100 movements) per day equates to 250,000 tonnes per annum at the proposed site. Objectors claim that if the same rate of tonnes per HGV movement applies as at Shire Oak then this would take movements at Shipley above the 100 additional movement per day threshold at which a prior traffic air quality assessment is required under 'IAQM, 2015 - Land-Use Planning & Development Control: Planning for Air Quality'.
- 6.53 The officer would note that the most common method for transportation of sand and gravel in Shropshire is in 20 tonne loads and this equates to the average of 50 deliveries (100 movements) per day stated by the applicant. This is consistent with the average

tonnage per load figure given for other equivalent recent sand and gravel quarrying applications in Shropshire. At some quarries an element of direct sale to customers may occur, and/or some HGVs with smaller loads may be retained, particularly in more urban areas where customers may require smaller loads (i.e. 10 tonne) delivered directly, so use of larger 20 tonne HGV's may not be cost effective. Also, there has been a tendency for the tonnage of mineral HVV's to increase over time and the objectors refer to the situation 5 ½ years ago at Shire Oak. Use of smaller loads will in turn increase the level of traffic movements for a given annual tonnage. Conversely, it is understood that the applicant has recently acquired a fleet of larger 32 tonne load vehicles which would have the potential to be used at the proposed site. Hence, the assumed level of HGV movements may actually be lower than that assumed in the applicant's transport assessment. The officer is satisfied on the basis of the submitted information that the level of traffic from the proposed development has been appropriately assessed and that there is no requirement for a traffic air quality assessment under IAQM, 2015.

- 6.54 Objectors have also expressed concerns that quarry vehicles would use inappropriate local minor roads including through Pattingham as short cuts to areas of the West Midlands. A high proportion of objections received in relation to the current application are from Pattingham residents expressing this concern and citing problems encountered with existing traffic from the applicant's existing quarry at Seisdon. The officer would note that Seisdon quarry has a relatively poor access onto a minor road so quarry traffic is forced to use minor roads to obtain access to the principal road network. Some of this traffic has travelled through Pattingham leading to local community concerns, though it is understood that imposition of a proposed weight restriction will prevent this in the future for all HGV through traffic. In contrast with the proposed development which would access directly onto a principal road with good linkss to other principal roads in the West Midlands. Hence, there would be no need for quarry traffic to use minor local roads. Notwithstanding this, to provide added reassurance the applicant has agreed to enter into a planning legal agreement preventing quarry traffic from using local minor roads as through routes. This would be backed up by an appropriate penalty clause. It is considered therefore that the concerns of objectors regarding quarry vehicle movements on local minor roads can be satisfactorily addressed.

#### Ecology

- 6.55 An ecological report has identified a number of different habitats at the Site of local importance, including suitable habitat for breeding birds, bats, badger and Great Crested Newt. No other protected species were identified. The report identifies habitat change as the largest direct impact and considers this to be negative but not significant prior to any mitigation. This change would be gradual, due to be phased nature of the working and restoration proposals. The report advises that all effects on local species can be effectively managed and mitigated such that the predicted impacts during the operations would be neutral. Species specific mitigation will be implemented as required. After completion of restoration the report predicts that there will be a habitat change which is positive and significant, restoring a number of locally distinctive habitats of principal importance including woodland and species rich grassland mosaics, together with higher quality agriculture.
- 6.56 Objectors have stated that the level of ecological interest has been underestimated. They have commissioned an ecologist who has found DNA evidence of Great Crested Newt



in a pond 450m from the application site where this species had not previously been identified by the applicant's ecologist. It is understood that GCN could have migrated to the water body in the period between the 2 surveys. The Council's ecology section has had detailed correspondence with the applicant's ecologist and further ecological information has been provided. Following confirmation of mitigation measures for Great Crested Newt the Council's ecologist has withdrawn a holding objection and has recommended a number of conditions to protect ecological interests. Detailed GCN mitigation would be progressed by Natural England as part of the protected species license process. The Council's ecologist is satisfied that sufficient land is available under the applicant's to provide additional habitat mitigation should this be required by Natural England under the EU protected species licensing provisions. Accordingly, the ecologist is satisfied that favourable conservation status can be maintained for this and other protected species. A habitat risk assessment is included as Appendix 3.

- 6.57 Objectors have also expressed concern that the proposals could impact adversely on ancient woodland which adjoins the northern boundary of the site. In response the applicant has confirmed that a 30m stand-off would be maintained between the excavation area and the woodland margin (twice the minimum distance recommended in Natural England guidance). Additional safeguards would apply to protect the woodland, including measures to prevent dust from entering the woodland edge. There are a number of small springs at Alder Coppice which forms part of the woodland near the north-west corner of the site. The applicant has confirmed that extraction in the area nearest to Alder Coppice would be to a shallow depth and would remain well above the level at which the springs occur. Hence, there should be no adverse impact on the springs. It is understood that a compartment of the ancient woodland is due to be clear-felled shortly as part of routine forest management operations. It is concluded that the proposals incorporate appropriate measures to protect the ancient woodland. Overall, it is considered that the proposals can be accepted in relation to ecology and that the restoration scheme will deliver significant biodiversity gains. (Core Strategy CS17, SAMDev MD12)

#### Landscape and Visual Impact

- 6.58 A Landscape and Visual Impact Assessment (LVIA) has been carried out in accordance with relevant landscape institute methodology. This considers the potential effect of the proposals on the local landscape and heritage assets and on visual amenities with reference to 11 representative viewpoints surrounding the site. The LVIA concludes that there would be no significant adverse visual effects after mitigation. The most significant visual impact would be to a maximum level of 'Moderate-Major' for a short period and at one viewpoint only. All other effects would be at a Moderate or lower level with the general scale of impacts being 'Small' or 'Very Small'. The adverse effects on the landscape resource are also assessed as limited to a maximum level of 'Moderate' and are considered to be 'Not Significant'. Restoration would result in a 'Minor-Moderate' enhancement of the landscape within the Site. The applicant's LVIA has been assessed by the Council's landscape consultant who has accepted the methodology and conclusions.
- 6.59 As noted above, an objector has advised that a woodland compartment to the north of the extraction area is due to be clear-felled shortly. Concerns have been expressed by objectors that this will open up additional areas of the proposed site which are not

currently visible, from the vicinity of Rudge Hal to the north and that this could have additional impacts on the setting of associated listed buildings. In response to this the applicant has amended the scheme to include provision of 3m bunding around the plant site which would have pre-coppiced willow planted on upper external batters. The highest plant has also been set down further. It is stated that this will ensure effective screening of the plant site including when the woodland felling operations take place. The Council's landscape consultant has been informed of this in reaching the above conclusions. In conclusion, whilst there would be some residual impacts to landscape and visual amenities these would not be significant and the extent of any such impacts would be limited by the proposed mitigation works. Restoration would deliver benefits in landscape terms. Overall, the residual minor negative impacts would be outweighed by 'great weight' which the NPPF requires to be given to the benefits of mineral extraction, including to the economy (NPPF 205).

### Agriculture

- 6.60 NPPF paragraph 170 advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other matters protecting and enhancing valued landscapes and soils, including recognising the economic and other benefits of the best and most versatile agricultural land. An agricultural assessment accompanying the application has found that the indigenous soil resource can be conserved and, with mitigation, no significant adverse impacts are predicted.
- 6.61 There is the potential that soil handling and storage could damage the soil resource. However, mitigation measures are proposed in accordance with Natural England advice and will ensure no nett loss in Best and Most Versatile land (with potential for improvements). Non-agricultural restoration is only proposed on areas which would not be suited to best and most versatile restoration. 100% of the soil resource would be retained on site and used for restoration. Over 85% of the site would be agriculturally managed upon restoration, though a combination of hay management, grazing and future arable crop production.
- 6.62 The assessment advises that loss of agricultural land during operations would be temporary and undertaken on a phased basis. The assessment considers the impact on agricultural land and quality to be minor adverse at worse and the effect on the farm business is considered negligible. Natural England has not objected and has provided recommended conditions covering agricultural restoration which are incorporated in Appendix 1. It is concluded that, subject to the recommended conditions, the proposals will not lead to any material adverse effects on agriculture or land quality.
- 6.63 Water Environment An assessment of the Proposed Development on the water environment at the Site and the surrounding area has been undertaken. This finds that the base of the mineral extraction (and subsequent restoration levels) is likely to be on average 10m above the prevalent groundwater table. Hence, the proposed development is unlikely to affect the underlying groundwater flow. A significant freeboard will remain above the water table with excessive rates of recharge not predicted. As such, the assessment concludes that groundwater abstractions and any private water supplies in the local area are unlikely to be affected adversely by the proposals.

- 6.64 The assessment advises that there are no important surface water features at site level or in the immediate vicinity which are likely to be adversely affected by the proposed development. The site forms part of wider catchment areas, and is not considered by the assessment to be hydrologically linked to any sensitive environmental designations. Nor is the site considered to be sensitively located in relation to any important water features. The magnitude of any potential effects on surface water features is considered to be negligible, both in terms of flows and quality and local surface water abstractions are unlikely to be affected. No risk is expected to groundwater quality or groundwater levels/flows at the site or in the aquifer around the Site. The site lies within a Flood Zone 1 risk area (low risk) and has no history of flooding. The assessment advises that the proposed development is not vulnerable to, or at risk of flooding and will not increase flood risk elsewhere, including upon restoration.
- 6.65 The assessment has indicated that perched water encountered by the applicant's boreholes represents localised pockets of groundwater with very limited correlation between the borehole logs. Therefore the development is unlikely to have an impact in the wider environmental context. The design of the scheme maintains the flows and falls to the springs within the Alder Coppice.. Whilst the proposals are not considered to lead to any significant impacts in relation to groundwater, a groundwater/water monitoring program will be undertaken to provide additional confidence in the protection of the water environment.
- 6.66 A supplementary survey of local surface water features has also been undertaken following the recommendations of the Environment Agency who have received representations from objectors. This confirms that known local groundwater abstractions are from the principal aquifer rather than the superficial deposits. The presence of a number of springs surrounding the area are considered to be related to localised superficial deposits. Recharge and flow mechanism for the springs within the Alder Coppice (North West of the site) have been reviewed. It is concluded that in combination with the superficial geology, the proposed depth of working is unlikely to affect the recharge to the springs. Springs at Grange Farm feed a brook within the farm's landholding which supplies water for stock. The superficial geology for the area in combination with the applicant's boreholes implies that there is no direct flow pathway between the proposed development and the springs at Grange Farm with intervening marl/clay deposits forming a barrier to flow with respect to perched groundwater. The main springs at The Grange (and neighbouring property) are at a lower elevation than the proposed base of the extraction in this area so are not likely to be directly affected by the development. Also, only a relatively small proportion of the catchment for the springs at Grange Farm intersects the proposed development with the majority comprising unaffected agricultural land. The supplementary report concludes that the proposed development (as amended) is unlikely to have a significant impact on the identified water features.
- 6.67 The Environment Agency was re-consulted on the supplementary survey and sought clarification on a number of issues which was subsequently provided by the applicant's hydrologist in an addendum to the report. This reiterates that no source-receptor relationships have been identified nearer to the site and the possibility of direct effects decreases with distance. The applicant's willingness to accept a water monitoring condition is reaffirmed.

6.68 The Agency has maintained its position of not objecting, whilst noting that ‘there remains considerable uncertainty as to the spring mechanisms giving rise to the identified water features’ so ‘it is not possible to be fully confident about the potential risks to these features’. They note that ‘as the regional groundwater is well below the ground level, this would suggest that the springs/ponds rely on the shallow superficial perched systems which are potentially more vulnerable to changes in topography’. ‘Changes in the surface water runoff from the site may effect recharge to the springs even if the groundwater mechanisms themselves are not affected’. They state that ‘this is a complex hydrogeological setting and ideally further investigation/monitoring should be undertaken to refine the conceptual model, although even then it is likely that there would remain uncertainty in terms of spring mechanisms/catchments’. The Agency acknowledges that it would be difficult to ‘fully identify and confirm the precise nature of the spring flow mechanisms’. Therefore they recommend that a condition/legal agreement is imposed requiring monitoring of the identified features (quantity/quality) and a condition/legal agreement to secure mitigation including remediation of any adverse impacts should this be necessary. The Agency notes that a number of monitoring boreholes are proposed across the development site and they recommend that there should be a commitment to wider monitoring to assist with spring lines/private water supplies.

6.69 The Agency has suggested a water monitoring planning condition. The officer has reviewed this condition and has made some amendments in consultation with the applicant, to ensure the condition meets the appropriate legal tests. The condition requires:

- 1) Ongoing hydrological monitoring;
- 2) Identification of trigger levels where action would be taken including, if necessary, cessation of working in a given area;
- 3) A requirement to take appropriate mitigation action in the event that trigger levels under “2’ above are met;
- 4) Working not to proceed within the proposed bottom 2 metres of the excavation unless appropriate criteria are met with respect to groundwater monitoring, including maintenance of an appropriate freeboard above the permanent groundwater table.

The Environment Agency has been notified of the amended condition which is included in Appendix 1 and would be supported by an associated legal agreement clause securing monitoring beyond the application area boundary.

6.70 Objectors have commissioned a report from a hydrological consultant which was received 9 days prior to the deadline for the current report. The consultant contacted the Environment Agency at that stage raising a number of objections regarding the hydrological implications of the proposed development including:

- i. Concern that the maximum groundwater level in the Principal Aquifer beneath the site may have been considerably underestimated as it is stated that no representative groundwater level data has been presented with the application. There is a chance that the water table may (in a wet winter) rise above the proposed base of the quarry at 106m AOD.
- ii. Concern that the catchments to springs are poorly defined and the larger springs may be from the Principal Aquifer and not from perched groundwater bodies. The

very limited data that has been presented can be interpreted in different ways. There are licensed abstractions and a scheduled ancient monument downstream that are dependent on maintenance of the current flow regime. There is no baseline monitoring of flows. Without baseline data there is no chance that impacts can be assessed and adequate mitigation planned.

- iii. With respect to the ancient woodland the applicants have not provided any sort of rebuttal to the 50 m stand-off that is required by Natural England's Standing Advice. Therefore a precautionary approach must be taken, and at least 50 m stand-off should be insisted upon.

6.71 The applicant's hydrologist has considered this submission and has made the following comments which the agent has also discussed with the Environment Agency:

- i. It is not proposed to extend operations into the Principal Aquifer. The applicant is willing to accept a condition ensuring that a minimum freeboard is retained above the aquifer. A freeboard of 2m is suggested, using results of the proposed groundwater monitoring scheme. In practice however, the applicant's hydrological data indicates that any freeboard is this unlikely to be less than 8m.
- ii. It is also considered that any assertion that all the springs, seepages etc. (including those at higher levels) being wholly related to the Principal Aquifer is not robust. Nevertheless, as the proposals provide for a minimum 2m freeboard and that extraction will not progress below circa 110mAOD until around 7 years in to the future, a detailed monitoring regime will ensure the protection of the Principal Aquifer and account for the future situation. The proposed planning condition and controls (attached as you previously provided to the EA), which builds upon the technical advice from the EA, is considered a more robust and practical approach, providing certainty throughout operations over the lifetime of the proposed development. The approach also allows for operations and the planning authority to respond accordingly to long term in-operation monitoring, through review and mitigation as may be necessary. This is a standard approach in relation to quarrying operations.
- iii. Given that the application makes no provision for working into the Principal Aquifer and that risk mitigation proposed in the original ES was that a minimum 2m freeboard should be retained below extraction, we would propose this become a planning control/condition upon any planning permission. This would also be a key 'criteria' to be included in any Hydrogeological Monitoring Scheme.

6.72 The Environment Agency has responded to the resident's consultant's objection. They acknowledge that uncertainty remains regarding perched aquifers and local springs and that ideally, some prior hydrological monitoring of these features should have been undertaken. They acknowledge however that the proposed hydrological monitoring condition will allow this information to be obtained. The officer notes in this respect that extraction would not exceed a depth of 109m AOD (i.e. within 3m of the proposed extraction base) until year 9. Hence, there is ample time for monitoring to take place to identify any potential implications for local hydrology and to take appropriate remedial action if necessary. The objector's consultant also makes reference to Natural England adopting a buffer of 50m from the edge of ancient woodland. This is incorrect. The

Natural England / DEFRA guidance 'Ancient woodland and veteran trees: protecting them from development' (updated 4/01/18) refers in 'Mitigation' to maintaining a minimum buffer of 15m. The applicant proposes a buffer of twice this width.

- 6.73 Given the availability of an appropriate planning condition and the absence of a formal objection from the Environment Agency it is not considered that a planning refusal on grounds of hydrology could be substantiated. It is concluded that any potential residual risks to local hydrology can be effectively managed so proposals can be accepted with respect to policies and guidance covering drainage and hydrology. (Core Strategy Policy CS18)
- 6.74 Hydrology – Water usage: Claverley Parish Council and other objectors have expressed concern that the hydrology report does not provide sufficient detail on the availability of water for mineral processing and dust suppression uses. The applicant has since provided further confirmation of how it is proposed to source water for the quarrying operations from a range of sources. It is confirmed that any person can abstract up to 20m<sup>3</sup> per day can be extracted from the aquifer beneath the site without the need for an extraction license from the Environment Agency as this falls below the threshold for a license. The site would only operate 5½ days per week but borehole water could be abstracted for 7 days per week with any surplus being fed to the lagoons for storage leading to a groundwater water availability rate of 24m<sup>3</sup> per operational day. The applicant states that the groundwater table is located on average 10m below the proposed extraction base. Deepest working would only occur within 20% (5ha) of the total 25ha extraction area within the overall 44.5ha site. Hence, the proposed development is considered unlikely to affect the underlying groundwater flow.
- 6.75 Surface water from rainfall within the immediate drainage catchment of the lagoons (at peak area) would yield an estimated average of 18-19m<sup>3</sup> per day, though the amount would vary depending on climatic conditions (the peak lagoon area is circa 10,000m<sup>2</sup> so average rainfall of circa. 680mm per annum equates to 6,800m<sup>3</sup> per annum or 18 - 19m<sup>3</sup> per day). In addition, the applicant is proposing a mains water supply at an average rate of 15m<sup>3</sup> per operational day (varying between 10-20m<sup>3</sup> per day). The applicant advises that this option is required to ensure a clean supply of water for the quarry plant. By comparison, an average 4 person UK family uses approximately 0.5m<sup>3</sup> per day. The applicant has confirmed that Severn Trent have indicated that a suitable mains supply can be provided. The proposed use of mains water would be offset to a degree by the closure of Seisdon Quarry which uses a mains supply for its welfare facility. An existing field supply of mains water for livestock would also not be required for this purpose during the quarrying operations.
- 6.76 A water recycling system would apply including use of water recovery and loss reduction techniques. Water from processed mineral would be collected on an impermeable drying pad and directed towards the lagoons for re-use. Based on experience of 'dry' mineral working at Seisdon Quarry the minimum moisture content of the mineral 'as dug' is likely to be 5%-7%. The main customer base can't accept a moisture content of more than 7% so any nett loss of moisture from export of the mineral would be no more than 1-2% and therefore minimal. By contrast, the applicant's quarry at Seisdon also has permission to work below the water table so 'as dug' material has a moisture content of 15% and above. This is dried down to 7% on drying pads. The proposed quarry welfare facility would also include greywater recycling.

- 6.77 The Applicant has made provision that lagoons be established as quickly as possible to allow greater initial store of water (lead water storage time) prior to initial mineral production. A detailed surface water drainage scheme would be produced for the Site (under Condition 23) and this would consider storage, drainage and wider recharge aspects to ensure a balanced water management approach and protections. All mains supply water (for a specific part of the plant) would be recirculated and recycled for further use in the system. It is concluded that there is no reason at this stage to conclude that sufficient supplies of water would not be available allow mineral extraction and associated operations to proceed.
- 6.78 Archaeology: An archaeology and cultural heritage assessment has been undertaken. Desk based assessments have concluded that there are no designated heritage assets within the Site boundary. The assessment concludes that the effect of the proposed development on archaeological remains and heritage assets (including Listed buildings), during both construction and operation, will not exceed slight adverse, and therefore will not be significant. Furthermore, these impacts are considered to be temporary and would reduce to nil after the restoration of the site. It has been agreed with the Senior Archaeological Advisor at SC, that a programme of archaeological fieldwork will be undertaken which will mitigate the loss of any unknown archaeological remains.
- 6.79 With the exception of the unverified flint assemblage collected from the northern boundary of the site adjacent to Alder Coppice, there is no recorded evidence for the presence of below ground heritage assets of importance within the Site. However a non-designated Heritage Asset, comprising the cropmark of a single ditched enclosure, lies immediately adjacent to the north-west boundary of the site. There remains the possibility of archaeological remains associated with this monument extending somewhat into the Site. The proposed mitigation is to deal with any buried heritage by way of a phased strip map and record, coincident with the phasing of the proposed development. This would allow a map and record investigation to be undertaken at the site.
- 6.80 Objectors have expressed concern that the assessment does not reflect the full significance of the Neolithic find-spot. The Council's Archaeologist has indicated that background information relating to it has only come to light since the planning application was submitted. However, the Archaeologist confirms that since then the applicant has followed the Council's initial recommendations for evaluation (geophysical survey) of the site, and the Council has made recommendations (Consultee Comments, 28 March and 04 June 2018) for the investigation, excavation and recording of the find-spot and for a strip, map and sample recording process for each phase of the rest of the site to be conditioned.
- 6.81 Cultural Heritage: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that for development which affects a listed building or its setting, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Regard must also be had to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings. The NPPF also requires that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the

public benefits of the proposal including, where appropriate, securing its optimum viable use.”

- 6.82 The applicant’s heritage visual appraisal demonstrates that whilst there is some limited inter-visibility with listed buildings at Shipley and Rudge there is no inter-visibility between any Registered Park and Garden, nor from the Scheduled Monuments, the Old Pound or Ludstone moated site. There was however a single limited view of the site from The Walls Scheduled Monument. The main attributes of the setting of the monument have been identified and the magnitude of the effect has been assessed as ‘no impact’ hence the assessment advises that the proposed development will result in no harm. Overall the assessment concludes that after mitigation the effects on heritage assets would not pose a constraint to development. Further clarification and assessment of localised Listed Buildings in the Study Area has also been undertaken, namely Rudge Hall and Outbuildings, 7 Lower Rudge, Shipley Hall, Shipley Grange Farmhouse and The Inn at Shipley (formerly Thornescroft). The assessment concludes that accounting for mitigation, no significant adverse residual effects on any of the Heritage Assets have been assessed.
- 6.83 The Council’s conservation officer considered that the proposals could result in harm to the setting of heritage assets at Shipley by virtue of the close proximity of the site and the nature of the proposal which will alter the agricultural setting of the listed buildings. While there are no designed views from the listed buildings directly to the proposed development site, the nature of the development will mean a change to the character of the setting which could be noticeable when experiencing the listed buildings from within the curtilage. The Council’s conservation officer considered that the proposal would result in less than substantial harm to the setting of the listed buildings at Shipley but that once the proposed mitigation measures, phasing and temporary nature of the development is taken into account it is considered that would help to mitigate against the impacts of the proposal. It is considered that the proposed development could also result in harm to the setting of Rudge Hall, this harm would be considered to be less than substantial in nature, due to the distance between the site and the listed building and the proposed phasing, siting and landscaping mitigation measures which would help to mitigate against the impacts of the proposal. The officer has considered whether the less than substantial harms identified outweigh the public benefits of the scheme, according considerable importance and weight to the desirability of preserving the assets and their settings. The officer considers that the identified heritage concerns are clearly outweighed by the public benefits of the scheme. These include benefits to the local economy, the national importance of mineral extraction and the landscape / habitat benefits of the restoration proposals. This is supported by the express national planning policy support for mineral extraction in NPPF 205.
- 6.84 Socio-Economic Assessment: The delivery of housing is a key social priority as families and workers need good quality houses places to live. This in turn relies on the sustainable supply of sand and gravel. Maintenance of mineral supplies to the construction industry is a critical consideration in support of local housing and economic growth. The proposals are a replacement for Seisdon Quarry which is due to cease mineral export by the end of 2018. Staffordshire County Council has made no provision for further mineral allocations in South Staffordshire and the Shropshire allocated Barnsley Lane prospect will not now come forward. Given the level of housing and economic growth proposed in local areas around the Site, it is considered that there is a



strategic need for a replacement for Seisdon Quarry at the Shropshire/Staffordshire border in order to help maintain mineral supply. Without a replacement quarry developers would have to source mineral from further afield with additional costs (transport, emissions, climate change). Mineral resources further afield may also be depleted more quickly, which may compromise the ability of other sites to sustaining their local demand, requiring other mineral sites to be opened more quickly. The increased costs of supplying mineral from further afield may also affect the viability and delivery of wider development.

6.85 Seisdon Quarry currently employs 10 full time members of staff and also uses 2 agency workers on a seasonal basis. The quarry also directly supports 30 HGV jobs as the applicant employs their own drivers. These jobs would be transferred to the proposed development. The majority of workers are from the local area. The proposals will help secure employment to the individual job roles for the next 15 – 17 years, which is considered a socio- economic benefit. There are also wider positive benefits in relation to the applicants business and employment support as well as the wider construction sector. The incorporated mitigation has sought to protect local amenity as far as practical without giving rise to unacceptable environmental effects. The effects from the Proposed Development can be well controlled via planning conditions to prevent any unacceptable impacts on amenity. The long term agricultural potential of the Site will also be protected, whilst restoration also allows for significant positive effects in relation to ecology.

6.86 The Applicant is a significant local supplier and employer operating across the West Midlands, but with a relatively limited number of Sites. It is not necessarily the case that jobs could be transferred internally within the company. Other main quarry locations serve predominantly different markets in terms of locality and types of material. The Applicants other sites are also fully staffed and operate at capacity. Retention of jobs and good staff is critical to the business profile, and to ensure trained skill sets are not lost from the industry.

## 7. CONCLUSION

7.1 The planning consultation process has attracted over 250 objection letters from the public and an online petition with 1010 signatures. The application has generated an unprecedented level of objection correspondence and objectors have employed their own consultants to challenge the conclusions of the applicant's environmental statement, including through direct correspondence with planning consultees. The applicant has provided additional information and has amended the scheme in response to the planning consultations. There are no outstanding objections from technical consultees, a number of whom have recommended conditions to address identified issues which have been included in Appendix 1. The two Parish Councils however remain strongly opposed to the application.

7.2 The application raises complex issues which have been assessed in detail. In terms of environmental effects it is considered that the design of the scheme and use of recommended planning conditions provide confidence regarding the ability to prevent any unacceptable effects. Some residual effects would exist after mitigation. However, the officer does not consider that these would be sufficiently adverse either on their own or in combination to justify refusal.

- 7.3 In terms of highway safety the Highway Authority has not objected and a road safety audit has found the scheme to be acceptable subject to 1 recommendation which the applicant confirms will be implemented. The applicant is willing to agree to a legal agreement on vehicle routing and delivering a financial contribution to secure re-location of a speed limit towards the site.
- 7.4 Regarding air quality, the applicant has amended the phasing and layout of the scheme and is willing to accept conditions providing for ongoing air quality monitoring and to preclude entry into phase 5b (nearest to Naboths Vineyard) unless specified air quality criteria are met. Off-site monitoring would be covered in a legal agreement clause. There would be at least 7 years of monitoring before the applicant enters this phase. A similar provision would apply for the area of the site nearest to the Gardenlands nursery. The applicant's air quality assessment indicates that air quality would remain at well below the level at which action would be required under relevant national standards. Regulatory Services have not objected. An Equalities Impact Assessment has been undertaken and is included as Appendix 3.
- 7.5 Regarding hydrology, the Environment Agency has not objected and has recommended a hydrological monitoring condition which is included in Appendix 1. This would be supported by an equivalent legal agreement clause requiring ongoing monitoring of local water features at representative locations throughout the proposed quarrying operations. This would also require appropriate mitigation in the event of any identified issues. There will be over 2 years of monitoring before operations reach the proposed quarry base. Equivalent monitoring provisions apply at other Shropshire quarries.
- 7.6 Regarding visual and heritage issues the applicant has provided a comprehensive landscape and visual appraisal, the conclusions of which have been validated by the Council's own landscape consultant. There will be some localised and residual effects on landscape and visual amenities and 'less than substantial' or negligible harm to the setting on some listed buildings. Any effects will however be very minor, temporary and mitigated by the proposed phasing and landscaping proposals.
- 7.7 In terms of ecology, the Council's ecologist is satisfied that the proposals would not impact unacceptably on the habitat of Great Crested Newts, bats or other protected species. Comprehensive mitigation has been proposed for GCN and sufficient additional land is available should Natural England consider this necessary as part of the EPS licensing process.
- 7.8 A minimum stand-off of 30m has been maintained between the operational site and the edge of the ancient woodland which is twice the amount required under currently adopted Natural England guidance. No veteran trees in the ancient woodland would be affected. The bulk of the ancient woodland is managed plantation woodland subject to periodic clear-felling. The applicant's hydrological reports indicate that a localised area of springs in the ancient woodland are likely to owe their presence to impermeable clay/marl deposits in this area which would not be affected by the proposed operations. The proposed extraction base nearest to the woodland springs would remain well above the level of the springs. A comprehensive hydrological monitoring scheme would apply.
- 7.9 In policy terms it is recognised that the site is not allocated and is 'greenfield' site located in the Green Belt. Hence, additional policy tests apply. The development plan does not

preclude non-allocated sites from coming forward, provided the relevant tests set out in SAMDev policy MD5(3) are met. These tests are considered in detail in the preceding section. National Green Belt policy does not regard mineral extraction as 'inappropriate development' where the objectives of Green Belt policy can be upheld. This matter is also considered in detail in the preceding section.

7.10 Objectors have questioned the need for mineral, and have suggested that other quarries in the region would be capable of supplying local demand. This may be the case in principle. However, the proposed site has been put forward as a direct replacement for their nearby quarry at Seisdon which is scheduled to cease mineral export at the end of 2018. It is considered that the applicant has put forward a robust case that if the site does not proceed this would lead to a less sustainable market supply situation with mineral products travelling further afield, leading in turn to increased cost and viability issues for local construction / housebuilding activity. The suggestion of objectors that local quarrying jobs could be re-deployed so would not be lost is also questioned given that the applicant directly employs their workers and their other quarry units are fully staffed.

7.11 The application raises complex issues requiring careful consideration. However, it is considered that no technical issues have been identified which cannot be addressed by appropriate detailed planning controls. Nor are there any overriding policy issues which would suggest that the proposals should not proceed. Whilst the proposals would lead to some residual impacts such as 'less than substantial harm' on some listed buildings these impacts are considered to be minor and are outweighed by the public benefits of the scheme including the 'great weight' which must be given to the benefits of mineral working under NPPF 205. The proposals are considered to comply with SAMDev policy MD5 and with the development plan overall. As such, the proposals would not amount to inappropriate development in the Green Belt. It is concluded that proposals can be accepted in relation to relevant development plan policies and guidance and other material planning considerations subject to the recommended conditions and legal agreement.

## 8. RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### Risk Management

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

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

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

#### 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 recommendation below.

#### Equalities

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

### 9. FINANCIAL IMPLICATIONS

There are likely financial implications of the decision and/or imposition of conditions is 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. The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.

#### Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OYQO0ITD08V00>

### 10. PLANNING POLICY

#### 10.1 Central Government Guidance: National Planning Policy Framework

203. It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

205. When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should:

- a) as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas;
- b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a

- locality;
- c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source<sup>66</sup>, and establish appropriate noise limits for extraction in proximity to noise sensitive properties;
  - d) not grant planning permission for peat extraction from new or extended sites;
  - e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;
  - f) consider how to meet any demand for small-scale extraction of building stone at, or close to, relic quarries needed for the repair of heritage assets, taking account of the need to protect designated sites; and
  - g) recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning permissions reflecting the intermittent or low rate of working at many sites.

207. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

- preparing an annual Local Aggregate Assessment, either individually or jointly by agreement with another or other mineral planning authorities, based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);
- participating in the operation of an Aggregate Working Party and taking the advice of that Party into account when preparing their Local Aggregate Assessment;
- making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;
- taking account of published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;
- using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;
- making provision for the maintenance of landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites;
- ensuring that large landbanks bound up in very few sites do not stifle competition; and
- calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.

Shropshire Core Strategy

### CS20: Strategic planning for Minerals

Shropshire's important and finite mineral resources will be safeguarded to avoid unnecessary sterilisation and there will be a sustainable approach to mineral working which balances environmental considerations against the need to maintain an adequate and steady supply of minerals to meet the justifiable needs of the economy and society. This will be achieved by: Protecting the Mineral Safeguarding Areas (MSA's) and rail freight facilities which could contribute to the sustainable transport of minerals which are identified in Figure 10. Non-mineral development in these areas or near protected railfreight sites will be expected to avoid sterilising or unduly restricting the working of proven mineral resources, or the operation of mineral transport facilities, consistent with the requirements of national and regional policy. Encourage greater resource efficiency by supporting the development and retention of waste recycling facilities which will improve the availability and quality of secondary and recycled aggregates in appropriate locations as set out in Policy CS 19; Maintaining landbanks of permitted reserves for aggregates consistent with the requirements of national and regional policy guidance. 'Broad locations' for the future working of sand and gravel are identified in Figure 11. Sites capable of helping to deliver the sub-regional target for sand and gravel will be allocated within these areas in the Site Allocations and Management of Development DPD; Only supporting proposals for sand and gravel working outside these broad locations and existing permitted reserves, where this would prevent the sterilisation of resources, or where significant environmental benefits would be obtained, or where the proposed site would be significantly more acceptable overall than the allocated sites; Supporting environmentally acceptable development which facilitates the production of other mineral resources such as crushed rock, clay and building stone to meet both local needs, including locally distinctive materials, and to help meet cross boundary requirements. Environmentally acceptable proposals for the exploration, appraisal and production of hydrocarbon resources, including coalbed methane, will be supported as a contribution to meeting the requirements of national energy policy; Requiring development applications for mineral working to include proposals for the restoration and aftercare of the site. Priority will be given to environmentally acceptable proposals which can deliver targeted environmental or community benefits consistent with Policies CS8 and CS17. More detailed policies against which applications for mineral development can be assessed will be provided in the Site Allocations and Management of Development DPD.

### SAMDev Plan

#### Policy MD5: Sites for Sand and Gravel Working

1. The supply of sand and gravel during the Plan period should be provided in the first instance from existing permitted sites and then from the development of mineral working at the site identified on the Proposals Map and allocated in Schedule MD5a below;
2. Where monitoring demonstrates that the further controlled release of sand and gravel reserves is required, then the subsequent development of mineral working will be considered at the sites identified in Schedule MD5b below. Applications for earlier development of these sites will be considered on their merits. In considering any such application, particular regard will be paid to:
  - i. the need for minerals development to maintain an adequate and steady supply of sand and gravel consistent with the established production guideline;
  - ii. the need to control potential cumulative impacts associated with concurrent or

- sequential mineral extraction operations in a specific area, including through the imposition of output or timescale restrictions where these are necessary to reduce the potential for market oversupply and cumulative adverse environmental impacts;
- iii. whether the early release of the site would enhance sustainability through meeting an identified local need.
3. Proposals for mineral working falling outside the allocated areas will be permitted where developers can demonstrate that:
    - i. the proposal would meet an unmet need or would prevent the sterilisation of the resource; and,
    - ii. the proposal would not prejudice the development of the allocated sites; and,
    - iii. significant environmental benefits would be obtained as a result of the exchange or surrender of existing permissions or the site might be significantly more acceptable overall than the allocated sites, and would offer significant environmental benefits.

#### Schedule MD5a: Phase 1 Site Allocations:

Development of the allocated mineral sites identified on the Proposals Map should be in accordance with relevant Local Plan policies and the development guidelines set out in this schedule.

#### MD16 - Mineral Safeguarding

Transport and processing facilities will not be granted unless the applicant can demonstrate that:

1. The development proposed would not prevent or unduly restrict the continued operation of the protected infrastructure; or,
2. That the identified facilities are no longer required or that viable alternative facilities are available. MSA boundaries and protected mineral transport and processing facilities are identified on the Policies map and insets. The buffer zones which will apply to protected resources and facilities are identified in the explanatory text below.
3. Applications for permission for non-mineral development in a MSA must include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the development or the protected mineral handling facility (termed a Mineral Assessment). This assessment will provide information to accompany the planning application to demonstrate to the satisfaction of the MPA that mineral interests have been adequately considered and that known mineral resources will be prevented, where possible, from being sterilised or unduly restricted by other forms of development occurring on or close to the resource;
4. Identification of these areas does not imply that any application for the working of minerals within them will be granted planning permission.

#### MD17: Managing the Development and Operation of Mineral Sites

1. Applications for mineral development will be supported where applicants can demonstrate that potential adverse impacts on the local community and Shropshire's natural and historic environment can be satisfactorily controlled. Particular consideration will be given (where relevant) to:
  - i. Measures to protect people and the environment from adverse effects, including visual, noise, dust, vibration and traffic impacts;
  - ii. The site access and traffic movements, including the impact of heavy lorry traffic on the transport network and the potential to transport minerals by rail. Where opportunities to transport minerals by rail are not feasible there will be a preference

- for new mineral sites to be located where they can obtain satisfactory access to the Primary Route Network;
- iii. The cumulative impact of mineral working, including the concurrent impact of more than one working in a specific area and the impact of sustained working in a specific area;
- iv. Impacts on the stability of the site and adjoining land and opportunities to reclaim derelict, contaminated or degraded land (Policy CS6);
- v. Effects on surface waters or groundwater and from the risk of flooding (Policy CS18);
- vi. Effects on ecology and the potential to enhance biodiversity;
- vii. The method, phasing and management of the working proposals;
- viii. Evidence of the quantity and quality of mineral and the extent to which the proposed development contributes to the comprehensive working of mineral resources and appropriate use of high quality materials;
- ix. Protecting, conserving and enhancing the significance of heritage assets including archaeology.

Where necessary, output restrictions may be agreed with the operator to make a development proposal environmentally acceptable.

2. Mineral working proposals should include details of the proposed method, phasing, long term management and maintenance of the site restoration, including progressive restoration towards full reinstatement of occupied land and removal of all temporary and permanent works. A satisfactory approach will avoid the creation of future liabilities and will deliver restoration at the earliest practicable opportunity to an agreed after-use or to a state capable of beneficial after-use. Where the proposed after-use includes agriculture, woodland, amenity (including nature conservation) or other uses, a satisfactory scheme will need to include the following:
  - i. Proposals which take account of the site, its surroundings, and any development plan policies relevant to the area;
  - ii. Evidence to show that the scheme incorporates best practice advice and is practical and achievable;
  - iii. A Management Plan, which should address the management requirements during each phase of the proposed development;
  - iv. A Reclamation Plan;
  - v. Provision for a 5 year period of aftercare;  
Where appropriate, a planning obligation will be sought in order to secure the after-use, long term management and maintenance of the site...
  
6. Where ancillary development is proposed, proposals should include satisfactory measures to minimise adverse effects, including:
  - i. Locating the ancillary development within or immediately adjacent to the area proposed for mineral working or on an established plant site;
  - ii. Restricting the principal purpose to a purpose in connection with the winning and working of minerals at the site or the treatment, storage or removal of minerals excavated or brought to the surface at that site;
  - iii. For imported minerals, where necessary, to limit the quantities involved to control the volume and type of traffic, and the establishment of an acceptable route for the traffic to and from the site;
  - iv. The cessation of the ancillary development when working of the mineral for which



the site was primarily permitted has ceased and removal of plant and machinery to allow full restoration of the site.

Where ancillary development could have an adverse effect on the local environment which cannot be mitigated to acceptable levels, a condition may be attached to the planning permission to control the adverse effects by limiting development to an established plant site, or introducing a stand off from sensitive land uses, or mitigating effects in other ways, or as a last resort, withdrawing permitted development rights so that the ancillary development can be properly controlled by the terms of the planning permission

11. HUMAN RIGHTS

11.1 Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation

12 RELEVANT PLANNING HISTORY:

- 12/02049/FUL Application under Section 73A of the Town & Country Planning Act 1990 for the use of land as a model flying club, car parking area and erection of storage shed (Retrospective) GRANT 15th October 2012
- 16/01952/SCO Scoping Opinion for the extraction of sand and gravel SCO 16th August 2016
- 17/05303/MAW The phased extraction of sand and gravel, inclusive of mineral processing, all ancillary works, equipment and associated infrastructure and progressive restoration PDE

List of Background Papers:

1) Planning Application reference 17/05303/MAW and the accompanying Environmental Statement and EIA Regulation 25 submission of further information

Cabinet Member (Portfolio Holder): Cllr R. Macey

Local Member: Cllr Tina Woodward (Alveley & Claverley), Cllr Michael Wood (Worfield)

Appendices:

- Appendix 1 - Conditions
- Appendix 2 - Public representations – detailed summary
- Appendix 3 - Equality Impact Appraisal
- Appendix 4 – 3 Tests Protected Species Matrix

## **APPENDIX 1**

### **Legal Agreement Clauses:**

- i. Traffic routing and management agreement preventing mineral lorries from using the minor roads in the vicinity of the site, with appropriate penalty clause for infringements;
- ii. Funding by the developer (£10k) for relocation of speed restriction nearer to the site access;
- iii. Provision for off-site hydrological monitoring at appropriate locations to be agreed;
- iv. Provision for off-site air quality monitoring at appropriate locations to be agreed;
- v. Securing availability of additional land for Great Crested Newt mitigation should this be required by Natural England under an EU Protected Species License;
- vi. Provision for 10 years aftercare for specific habitat areas to secure the stated habitat / biodiversity benefits of the proposed afteruse scheme;
- vii. Formation of a local community liaison group by the developer.

### **Conditions**

1. The development to which this planning permission relates must be begun not later than the expiration of three years from the date of this permission. The date at which development commences shall be referred to hereinafter as 'the Commencement Date'.

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

#### DEFINITION OF THE PERMISSION

- 2a. This permission shall relate to the areas edged red on Figure 2 (Existing Topographic Survey) accompanying the application (Drawing no. CE-CB0617-DW34) hereinafter referred to as the "Site".
- b. Unless otherwise required by the conditions attached to this permission, the development hereby permitted shall be undertaken in accordance with the approved scheme incorporating the following documents and plans:
  - i. The application form dated 3<sup>rd</sup> November 2017;
  - ii. The Non-Technical Summary dated 31/10/2017;
  - iii. The planning supporting statement dated 31/10/2017;
  - iv. The Environmental Statement dated 31/10/2017 and the accompanying appendices.
  - iv. The submitted drawings accompanying the Environmental Statement as amended, namely:
    - Figure 2 - CE-CB0617-DW34 -Topographical Survey;

- Figure 3 - CE-CB0617-DW13c - Amended Working Scheme (dated 10/07/18);
  - Figure 4 – CE-CB0617-DW15c - Updated Concept Restoration Plan (dated 10/07/18);
  - CE-CB0617-DW21 - Figure 6 Phase 1 & 2 - Years 2-3 (as amended by Fig3);
  - CE-CB0617-DW24 - Figure 9 - Phase 5 - Years 9-10 (as amended by Fig3);
  - 18531-03 – Site Access Layout.
- c. The further information submitted under Regulation 25 of the Environmental Impact Assessment Regulations 2018 comprising:
- Annex 1 - road safety audit;
  - Annex 2 - water features survey;
  - Annex 3.1 - cultural heritage addendum;
  - Annex 4.1 - ecology & trees;
  - Annex 4.2 – badgers;
  - Annex 5 - updated visual information;
  - Annex 6 - amenity protection.

Reason: To define the Site and permission

#### TIME LIMITS

- 3a. No less than 7 days prior notice of the intended date for commencement of the first stripping of soils under the terms of this permission shall be given in writing to the Local Planning Authority. Such date shall be referred to hereinafter as ‘the Commencement Date’.
- b. No less than 7 days prior notice of the intended date for commencement of mineral extraction shall be given in writing to the Local Planning Authority.

Reason: To define and provide appropriate advanced notice of the Commencement Date and the date for commencement of mineral working under the terms of this permission.

4. Extraction of sand and gravel from the site shall cease within 15 years of the date of this permission and final restoration shall be completed within 2 years of the cessation date for mineral extraction.

Reason: To define the permitted timescale for working and

#### LIMITS OF MINERAL EXTRACTION

5. There shall be no entry into each new mineral working phase as defined by Figure 3 (amended working plan) until the limits of that phase have been physically defined by wooden posts or other appropriate means. The boundaries so marked shall be retained in position for the duration of the extraction operations within that phase.

Reason: To ensure that the limits of the extension area and of mineral extraction within the extension area are properly defined.

OUTPUT

- 6a. Mineral shall not be exported from the Site at a rate exceeding 250,000 tonnes per calendar year (commencing on 1<sup>st</sup> January and ending on 31<sup>st</sup> December).
- b. Written records of the tonnage of mineral produced from the Site shall be provided to the Local Planning Authority upon prior request within three months of the end of each calendar year.

Reason: In the interests of highway safety and to ensure that the production and export of mineral is controlled at a level which will protect the amenities of the local area.

NOISE AND DUST

- 7. Noise mitigation measures shall be employed for the duration of the quarrying operations in strict accordance with the recommendations in section 5-5.2.3 of the Noise Assessment report ref CE-CB-0617-RP17-FINAL produced by Crestwood Environmental Ltd.

Reason: To protect residential amenity.

- 8a. Subject to Condition 8c all noise mitigation measures stated in the Noise Assessment report ref CE-CB-0617-RP17-FINAL and report reference CE-CB-0617-RP42 - FINAL (dated 31 May 2018) produced by Crestwood Environmental Ltd shall be carried out in full for the duration of works on site. In particular, a 3.5m high screening bund shall be constructed along the southern boundary of the site and a 2.5m bund shall be constructed along the northern boundary. The platform for the quarry plant site shall also be set a minimum of 2m below existing ground levels.

- b. Noise levels measured as LAeq 1h (free field) shall not exceed the following levels at the nearby noise sensitive locations during normal quarrying operations.

Location	Noise Limit LAeq (1hr)
The Alders	43.8
Naboths Vineyard	49.4

- c. Notwithstanding condition 8a, noise levels shall not exceed 70dB(A) LAeq 1h (free field) at any sensitive properties during temporary operations such as soil stripping. The increase in noise levels allowable for temporary operations shall not apply for more than 8 weeks in total in any one year.

Reason: to protect residential amenity.

- 9. Within 6 months of the date of this permission the developer shall submit schemes for noise and dust monitoring to to the Local Planning Authority. The submitted schemes shall detail the proposed monitoring locations and proposals for review of monitoring frequency. Prior to development commencing these schemes must be approved in writing by the Local Planning Authority. They shall thereafter be implemented.

Reason: To protect residential amenity.

*Note: Monitoring within the site shall be supplemented by monitoring in other appropriate areas under the control of the applicant, under the provisions of the section 106 Legal Agreement accompanying this permission.*

10. No development shall occur within Phase 5b and within 50m of the south east boundary of the Site in Phase 6b under the terms of this permission unless the following criteria are met:
- i. The developer has submitted detailed noise and dust management plans specific to these areas of the development having regard to section 4.4 of the report reference CE-CB-0617-RP42 - FINAL by Crestwood Environmental dated 31<sup>st</sup> May 2018 and the results of noise and dust monitoring in preceding phases;
  - ii. The Local Planning Authority has provided written approval of the noise and dust management plans for Phase 5b.

Reason: To protect residential and local amenities.

11. Temporary operations for construction of the southern and eastern bunds and the access haul route shall take place in strict accordance with the outline Construction Environmental Management Plan (CEMP) detailed in report reference CE-CB-0617-RP42 - FINAL by Crestwood Environmental dated 31<sup>st</sup> May 2018. This is with the sole exception that construction within the CEMP area shall take place between 0900 - 1600 hours Monday to Friday only unless any works outside of these times have first been agreed in writing by the Local Planning Authority.
- 12a. The dust mitigation measures stated in the Dust Management Scheme, report reference CE-CB0617-RP10-FINAL and report reference CE-CB-0617-RP42 - FINAL (dated 31 May 2018) produced by Crestwood Environmental Ltd shall be carried out in full for the duration of all works on site. The sole exception to this shall be that no construction works shall take place outside of 0900 - 1600 hours Monday to Friday unless this has first been agreed in writing by the Local Planning Authority.
- b. The quarry haul route shall be maintained so that it is beyond a distance of 200m from the edge of the property boundary of the dwelling known as Naboth's Vineyard until such time as Phase 5b comes in to operation, in accordance with Section 4.3 of report reference CE-CB-0617-RP42 dated 31<sup>st</sup> May 2018.

Reason: To protect residential amenities.

13. The Dust Management Scheme (Ancient Woodland Specific Aspects) in section 4.1.32, and the recommendations in sections 3.3.20 – 3.3.26 of the 'Additional Ecological and Arboricultural Information and response to Planning Application Consultation (Planning Ref: 17/05303/MAW), Addendum to Chapter 6 of the Environmental Statement, Ref. CE-CB-0617-RP41 – Final' dated 31<sup>st</sup> May 2018 by Crestwood Environmental Ltd. shall be

implemented from the commencement of the development until the restoration phase has been completed.

Reason: To ensure sensitive receptors including the Ancient Woodland and Ancient Plantation Woodland to the north of the site and Great Crested Newt (European Protected Species) habitats are not damaged by dust from quarrying activities.

14. In the event that a complaint is received regarding noise or dust impact and is subsequently validated by the Local Planning Authority the Developer shall submit a mitigation scheme for the approval in writing of the Authority which shall provide for the taking of appropriate remedial action within an agreed timescale. The mitigation scheme shall be submitted within 10 working days from the day when the Developer is notified of the complaint and the scheme shall be implemented in accordance with the approved details.

Reason: To assist in safeguarding the amenities of the area from noise or dust disturbance by implementing an agreed procedure for dealing with any complaints.

#### HOURS OF WORKING

- 15a. Subject to condition 12b mineral extraction and associated operations under the terms of this permission shall not take place other than between the following hours except where emergency access is required or for undertaking maintenance to quarry plant:

7.00 – 18.00 on Mondays to Fridays and 7.00 - 13.00 on Saturdays  
and such operations shall not take place on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the area.

#### HIGHWAY AND ACCESS

16. No development shall take place until details of the design and construction of the proposed junction on A454, new site access, together with details of the disposal of highway surface water, and traffic management have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before

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

17. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to the approved standard as shown on the application drawings and shall thereafter be maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

- 18a. Any gates provided to close the proposed access shall be set a minimum distance of 15 metres from the carriageway edge and shall be made to open inwards only.

- b. Details of construction and surface treatment for the internal access road leading to plant site shall be submitted for approval prior to the Commencement Date. The internal access road shall be constructed and maintained in accordance with the approved details

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

19. A wheel wash facility shall be provided at the Site in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority prior to the Commencement Date. The approved facility shall be retained for the duration of the operations hereby permitted. Wheel cleaning shall be employed by all goods vehicles leaving the Site so as to avoid the deposit of mud on the public highway. In those circumstances where mud or dust has been transported onto the metalled access road a tractor mounted brush or other similar device shall be employed in order to clean the road.

Reason: In the interests of highway safety.

Informative Notes:

- i. Mud on highway: *The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.*
- ii. No drainage to discharge to highway: *Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.*
- ii. Section 278 Agreement: *No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND to progress the agreement. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 278 of the Highways Act 1980 entered into.*  
<http://www.shropshire.gov.uk/hwmaint.nsf/open/7BED571FFB856AC6802574E4002996AB>
- iii. Works on, within or abutting the public highway: *This planning permission does not authorise the applicant to:*
  - *construct any means of access over the publicly maintained highway (footway/verge) or*
  - *carry out any works within the publicly maintained highway, or*
  - *authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or*
  - *undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway*

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

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

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

- iv. *Extraordinary maintenance: The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.*

#### PLANT AND STOCKPILING

20. Prior to the Commencement Date a detailed scheme confirming the specifications of the proposed quarry plant site shall be submitted for the approval in writing of the Local Planning Authority. The scheme shall be implemented in accordance with the approved details

Reason: In the interests of visual and general amenities.

#### REMOVAL OF G.P.D.O. RIGHTS

21. Notwithstanding the provisions of Part 17 A and Ba of the Town and Country Planning General Permitted Development Order 2015 or any re-enactment of this statute, no fixed plant, mobile processing plant, machinery, buildings, structures, or erections of the nature of plant or machinery, shall be erected without the prior written approval of the Local Planning Authority.

Reason: To ensure that any proposals to erect additional plant or structures within the Site are consistent with the need to protect the environment and visual amenities of the area, taking account of the ability of existing vegetation to perform an acceptable screening function.

#### PHASING

22. Phasing within the site shall take place in strict accordance with the approved working scheme plan (reference CE-CB0617-DW13c) detailed in section 4.3 of the report reference CE-CB-0617-RP42 - FINAL dated 10th July 2018.

Reason: To ensure that the Site is worked in a properly phased manner.

#### DRAINAGE AND HYDROLOGY

23. No development shall take place until a detailed scheme of surface water drainage including a drainage plan and calculations has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be based on the Technical



Appendix 9.3: Flood Risk accompanying the application and shall be fully implemented before development commences.

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

*Notes:*

- i. A 'permit to discharge' to surface water may be required to control the quality of any surface water discharge from settlement lagoons to controlled waters. To discuss and/or apply for a permit please contact the local Environment Agency Land and Water team on telephone 02030 251670.*
  - ii. The Environment Agency has advised that dewatering the proposed excavation (even at the permissible 20m<sup>3</sup> de minimis daily abstraction rate if in the same system) may lower groundwater levels locally and may affect nearby domestic and licensed groundwater sources and other water features.*
- 24a. Within 3 months of the date of this permission, a scheme of hydrogeological monitoring scheme ("the HMS"), shall be submitted for the approval in writing of the Local Planning Authority. The HMS shall be based on the information and principles contained within the Environmental Statement and Supplementary Environmental Information. No mineral extraction operations within the first phase of extraction shall take place until the HMS has been approved in writing and thereafter implemented. The HMS shall include proposals for monitoring in the following locations at and in the vicinity of the site, including in locations where potential interactions may be encountered between the proposed operations and groundwater:
- i. within the Principal Aquifer (i.e. at deeper levels); and
  - ii. within shallower geology above the Principal Aquifer.
- b. The HMS shall detail the monitoring approach and criteria for the identification of material changes to local groundwater levels and/or local water features which may be attributable to the consented operations. Details within the HMS shall include but not be limited to:
- i. identification of local water features within the vicinity of the Site (including but not limited to springs, boreholes and wells);
  - ii. monitoring locations;
  - iii. frequency, method and type of monitoring to be undertaken;
  - iv. frequency of submission of monitoring data to the Minerals Planning Authority; and
  - v. mechanisms for review of the monitoring scheme.
- c. Once the HMS has been approved in writing by the Local Planning Authority, it shall be implemented in full thereafter.

Reason: To define the monitoring of the consented mineral extraction operations in relation to the protection of the local water environment from significant harm resulting from any localised interactions, in accordance with Core Strategy Policy CS18.

*Note: This condition is linked to a section 106 legal agreement clause which facilitates hydrological monitoring in appropriate locations in the area surrounding the application site.*

- 25a. Within one month of the identification of any potential material changes to local groundwater levels and/or local water features, as defined within the HMS (referred to at Condition 24), a scheme of investigation (“the Scheme of Investigation”) shall be submitted to the Local Planning Authority for approval in writing. The scheme shall include:
- i. Proposals to investigate the cause of the material change to local groundwater levels or those local water features identified in the HMS;
  - ii. Measures to mitigate the associated risks, where the cause is attributable to on-site operations hereby consented; and
  - iii. Proposals for subsequent monitoring and reporting in relation to the success or subsequent amendment of mitigation measures undertaken.
- b. Once the Scheme of Investigation has been approved in writing by the Minerals Planning Authority, it shall be implemented in full thereafter.

Reason: To protect the local water environment should monitoring in accordance with the HMS approved under Condition 24 indicate a material change by securing mitigation if necessary in accordance with Core Strategy Policy CS18.

26. No extraction operations shall take place below 109m above ordnance datum unless the hydrological monitoring scheme required by Condition 24 has confirmed to the written satisfaction of the Local Planning Authority that extraction below this level would not intercept the permanent groundwater table.

Reason: To prevent any deterioration of ground or surface waters (‘controlled waters’ as defined under the Water Resources Act 1991).

27. Throughout the period of working, restoration and aftercare, the operator shall take all reasonable steps to ensure that drainage from areas adjoining the site is not impaired or rendered less efficient by the permitted operations. The operator shall take all reasonable steps, including the provision of any necessary works, to prevent damage by erosion, silting or flooding and to make proper provision for the disposal of all water entering, arising on or leaving the site during the permitted operations.

Reason: To ensure the permitted development does not adversely affect the drainage of adjoining areas.

#### Archaeology

28. No development approved by this permission shall commence until the implementation of a programme of archaeological work in accordance with a written scheme of investigation has been secured. This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest

Arboriculture

- 29a. No development-related works (including vegetation / site clearance and ground levelling) shall commence on site and no equipment, materials or machinery shall be brought onto the site, until a scheme to safeguard trees, woody shrubs and hedges to be retained on and adjacent the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon an Arboricultural Impact Assessment and shall include an Arboricultural Method Statement and Tree Protection Plan, prepared in accordance with and meeting the minimum tree protection requirements recommended in British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations, or its current version.
- b. All pre-commencement tree protection measures detailed in the approved Arboricultural Method Statement (AMS) and / or Tree Protection Plan (TPP) shall be fully implemented to the written satisfaction of the Local Planning Authority before any development-related equipment, materials or machinery are brought onto the site. Thereafter the approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site. The development shall be implemented in strict accordance with the approved AMS and / or TPP.

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

- 30a. A tree planting and habitat creation scheme, prepared in accordance with British Standard 8545: 2014 'Trees: from Nursery to Independence in the Landscape – Recommendations', or its current version, shall be submitted for the approval in writing of the Local Planning Authority prior to the Commencement Date. The approved scheme shall be implemented within the timescales proposed in the tree planting and habitat creation plan and shall include:
- i. Details of the trees and shrubs to be planted in association with the development, including species, numbers, locations and planting pattern, type of planting stock, size at planting, means of protection and support, time of planting (season and phasing as the scheme progresses) and measures for post-planting maintenance.;
  - ii. Details as relevant of the specification and location of the barriers to be installed prior to commencement of development (and / or any other measures to be taken), for the protection of ground reserved for the planting identified in a) above.;
  - iii. A revised plan showing the extension of the tree belt of a similar width to that in Phase 1 along the southern boundary between Pond J to Pond 2 and Pond 2 to Ponds 1a/b:
  - iv.. Details of habitat creation and other wildlife features (e.g. hibernacula), including species-rich grassland creation, enhancement or restoration. Schedules of plant species, including details of green hay or seed mixes (if used) also to be provided ;

- v. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- vi. Species of trees, shrubs and herbaceous plants should be native and of local provenance;
- vii. Implementation timetables.

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

- b. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the LPA becomes seriously damaged or diseased, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: to ensure satisfactory tree and shrub planting and habitat creation to enhance biodiversity and the appearance of the development and its integration into the surrounding area.

#### ECOLOGY

- 31a No site clearance or development shall take place until either:
  - i. A European Protected Species (EPS) Mitigation Licence with respect to Great Crested Newts has been obtained from Natural England and submitted with the method statement to the Local Planning Authority; or
  - ii. a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the Local Planning Authority for prior approval explaining why a licence is not required and setting out any additional mitigation measures proposed. The measures will be implemented as approved.
- b. Prior to commencement of development (or each phase of development with prior agreement of the Local Planning Authority) an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that the mitigation and enhancement measures and method statements are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place.

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

- 32. A minimum buffer zone of 30m of semi-natural habitat will be securely fenced between the northern woodland boundary and mineral extraction for the lifetime of the development. There will be no movement of vehicles or storage of materials within the buffer except for the first 5m beside the extraction boundary of Phase 2 where a temporary soil bund will be stored.

Reason: To protect Ancient Woodland and Plantation Ancient Woodland from direct and indirect damage due to mineral extraction in accordance with NPPF 118, CS17: Environmental Networks and SAMDev Plan policy MD12: Natural Environment.

33. All site clearance, mineral extraction, landscaping and biodiversity enhancements shall occur strictly in accordance with the recommendations in Appendix E8 Confidential Ecology Information – Badger by Crestwood Environmental Ltd., unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the protection of Badgers.

34. A minimum of 4 woodcrete bat boxes, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on trees near the site boundaries. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter maintained for the lifetime of the development.

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

35. No development shall take place (including ground works, vegetation clearance and mineral extraction)) until a Construction Environmental Management Plan for ecology has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i. An appropriately scaled plan showing ‘Wildlife/Habitat Protection Zones’ where construction activities are restricted, where protective measures will be installed or implemented and where ecological enhancements (e.g. hibernacula, bat and bird boxes,) will be installed or implemented;
- ii. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- iii. Pollution prevention measures.
- iv. Requirements and proposals for any site lighting required during the construction and extraction phases;
- v. A timetable to show phasing of work activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- vi. The times during construction and mineral extraction phases when an ecological clerk of works needs to be present on site to oversee works. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place;
- vii. Identification of Persons responsible for:
  - Compliance with legal consents relating to nature conservation;
  - Compliance with planning conditions relating to nature conservation;
  - Installation of physical protection measures during construction;
  - Implementation of sensitive working practices during construction;
  - Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and

- Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.

All construction activities shall be implemented strictly in accordance with the approved plan, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect features of recognised nature conservation importance, in accordance with SAMDev policy MD12, Core Strategy policy CS17 and section 170 of the NPPF.

36. For each phase of the permitted development, commencing after 2 years from the date of the planning consent the approved ecological measures and mitigation secured through conditions shall be reviewed and, where necessary, updated and amended. The review shall be informed by further ecological surveys (in line with recognised national good practice guidance) in order to:

- i. Establish if there have been any changes in the presence and/or abundance of species or habitats on the site, and
- ii. Identify any likely new ecological impacts and mitigation requirements that arise as a result.

Where update surveys show that conditions on the site have changed (and are not addressed through the originally agreed mitigation scheme) then a revised updated and amended mitigation scheme, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the phase. Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that development is informed by up to date ecological information and that ecological mitigation is appropriate to the state of the site at the time phases of development commence, in accordance with wildlife legislation, NPPF 118 and MD12.

37. Within 6 months of the commencement of development a habitat management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

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

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

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

#### Informative notes

- i. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett. No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site. There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.*
- ii. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree pruning or removal of scrub or other suitable nesting habitat should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*
- iii. Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences. If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.*

#### LIGHTING

38. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall:
  - i. identify those areas/features on site that are particularly sensitive for bats, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and

- ii. show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- iii. Include no lighting on the access road.

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

#### SITE MAINTENANCE

- 39. All existing and proposed perimeter hedges, fences and walls shall be maintained and made stock-proof from the commencement of the development until the completion of aftercare.

Reason: To protect the welfare of any livestock kept within the permitted Site and on adjoining land

- 40. All undisturbed areas of the Site shall be kept free from weed infestation by cutting, grazing or spraying as necessary.

Reason: To prevent a build-up of weed seeds in the soil, whilst protecting the nature conservation value of the non-agricultural areas.

#### SOIL HANDLING

- 41. No waste, overburden or silt other than those arising as a direct result of the excavation and processing of mineral on the Site shall be deposited within the Site and such materials shall be used-in the restoration of the site.

Reason: To define the types of restoration material for use at the Site.

- 42a. Not less than five working days prior notice shall be given to the Local Planning Authority of the intention to start stripping soils in each phase of the site.

- b. All topsoil and subsoil shall be permanently retained on Site for use in restoration and shall be stripped to its full depth within excavation areas. In addition, medium textured mineral soils recovered from the Site which are suitable for use as a soil shall be stored for future use in restoration of the Site.



- c. No part of the Site shall be excavated or traversed or used for a road or for the stationing of plant or buildings, or storage of soils, mineral or overburden, until all available topsoil and subsoil has been stripped.

Reason: To allow monitoring of soil stripping operations (40a) and to prevent loss or damage to soils (40b,c).

*Note: Where soils are stripped to less than 1 metre depth the developer should take action to rectify this deficiency by using soil making materials recovered during the working of the Site.*

- 43a. All soil and soil forming materials shall be handled in accordance with Defra's Good Practice Guide for Handling Soils. Soil shall only be moved when in a dry and friable condition and shall not be moved after significant rainfall. No plant or vehicles shall cross any area of un-stripped topsoil or subsoil except where such trafficking is essential and unavoidable for the purpose of undertaking the permitted operations. Essential trafficking routes shall be marked so as to give effect to this condition.
- b. Soil handling and movement shall not be carried out between the months of October to March inclusive, unless a scheme to agree soil movement outside of these times has first been agreed in writing by the Local Planning Authority.

Reason: To prevent damage to soil structure.

- 44a. All topsoil, subsoil and soil making materials shall be stored in separate mounds which:
- i. do not exceed 3.5 metres in height for topsoil and 5 metres for subsoil unless otherwise approved by the Local Planning Authority;
  - ii. shall be constructed with external bund gradients not exceeding 1 in 2;
  - iii. shall be constructed with only the minimum amount of compaction to ensure stability and so shaped as to avoid the collection of water in surface undulations;
  - iv. shall not be traversed by heavy vehicles or machinery except where essential for the purpose of mound construction or maintenance;
  - v. shall not subsequently be moved or added to until required for restoration unless otherwise agreed by the Local Planning Authority;
  - vi. shall be seeded or hydra-seeded as appropriate as soon as they have been formed if they are to remain in place for more than 6 months;
  - vii. if continuous mounds are used, dissimilar soils shall be separated by either hay, sheeting or such other suitable medium.
- b. Within 3 months of the formation of storage bunds the operator shall submit a plan to be approved in writing by or on behalf of the MPA showing the location, contours and volumes of the bunds, and identifying the soil types and units contained therein.

Reason: To prevent loss of soil and minimise damage to soil structure.

45. The applicant shall notify the MPA at least 5 working days in advance of the commencement of the final subsoil placement on each phase, or part phase to allow a site inspection to take place.

46. All stones and other materials in excess of 100 mm in any dimension which are likely to obstruct cultivation in the agricultural afteruse shall be picked and removed from the site.

#### REMOVAL OF PLANT AND STRUCTURES

47. All buildings, plant or structures within the permitted Site which have been installed in connection with the operations authorised under this permission and is not required in connection with the approved afteruse shall be removed from the Site within twelve months of completion of mineral extraction and the sites of such buildings, plant and machinery shall be restored in accordance with the provisions of the approved restoration and aftercare schemes.

Reason: To assist in securing the full and proper restoration of the Site within an acceptable timescale.

#### AFTERCARE

- 48a. Restored areas of the site which are designated for agricultural use shall be subject to 5 years aftercare.
- b. Aftercare schemes for each restored section of the Site shall be submitted as soon as restoration has been completed to the satisfaction of the Local Planning Authority. The submitted schemes shall provide an outline strategy for the aftercare period in accordance with Paragraph: 057 of Minerals Planning Practice Guidance. This shall specify the steps to be taken and phasing in the management of the land to promote its rehabilitation to the target afteruses; including where appropriate:
- i. A map identifying clearly all areas with phasing, subject to aftercare management,
  - ii. A remedial field drainage system, and
  - iii. A pre-release report to demonstrate that the land has been reclaimed to the required standard.
- c. Aftercare schemes for each phase shall make provision for the following works, as appropriate:
- i. minor regrading works as necessary to alleviate the effects of settlement and surface ponding or minor improvements to landform in habitat areas;
  - ii. measures to reduce the effects of compaction;
  - iii. cultivation works;
  - iv. reseeded where necessary of any parts of the area sown which do not provide a satisfactory plant growth in the first year;
  - v. grass cutting or grazing;
  - vi. replacement of hedge and tree failures;
  - vii. weed and pest control;
  - viii. Vegetation management proposals including as necessary firming, re-staking, fertiliser application, thinning and replacement of failures within the aftercare period;
  - ix. Habitat management proposals within the aftercare period;
  - x. Track maintenance within the Site;

- xi. Repair to erosion damage;
- xii. Provision of drainage including the construction/maintenance of soakaways and an underdrainage system where necessary and satisfactory;
- xiii. Provision of field water supplies.



Aftercare shall be undertaken in accordance with the approved schemes.

Reason: To ensure the establishment of a productive afteruse for the agricultural area and suitable, varied wildlife habitat conditions for the non-agricultural areas of the Site in accordance with the details of the approved scheme.

*Note: Areas designated for non-agricultural afteruse including as habitat areas shall be subject to extended aftercare as specified in the section 106 legal agreement accompanying this permission.*

#### ANNUAL REVIEW

49a. Before 1<sup>st</sup> February after the Commencement Date and after every subsequent anniversary of the Commencement Date for the duration of mineral working and restoration works under the terms of this permission an annual review of Site operations shall take place involving the Mineral Planning Authority and the Site operator. The Annual Review shall consider areas of working, mineral resource issues, progressive restoration and aftercare works undertaken during the previous calendar year and shall include proposals for working, restoration and aftercare for the forthcoming year. The Annual Review shall in particular review noise, dust, traffic, visual amenity associated with mineral working. It shall also detail proposals for aftercare works on all restored areas of the Site not already subject to an approved scheme, including areas of habitat management and planting, and shall take account of the need to provide the following as soon as practicable after the completion of the restoration operations:

- i. The steps to be taken and the period(s) during which they are to be taken in order to bring the land into approved afteruses, including habitat creation.
- ii. Drainage provisions as necessary for the restored areas.
- iii. The provision of fences, hedgerows, gates and water supplies.
- iv. The cultivation of the land to establish a seedbed suitable for the sowing of grass seed and to facilitate the planting of trees and shrubs.
- v. The fertilizing and liming of the Site in accordance with the requirements of the land as determined by soil analysis, but avoiding raising soil fertility of the open habitats of the non-agricultural areas.
- vi. A review of the production of mineral and use of fill sand in the previous year and implications for the future working and restoration of the Site.

Reason: To assist in ensuring establishment of the approved afteruses.

## **APPENDIX 2**

### **DETAILED SUMMARY OF PUBLIC REPRESENTATIONS**

Access: Slow moving lorries which have just left the entrance would not be seen by motorists approaching the rise in the road as it is blind at that point. Vehicles travelling from Wolverhampton towards Bridgnorth will be accelerating as the speed limit changes from 50 mph to 60 mph just before the rise in the road. The stretch of road is a notorious accident black spot and the additional heavy traffic will make it more so. As the proposal is for access to be on the apex of the hill we believe that lorries moving slowly in and out of the site will cause other cars to try to overtake when there is no visibility. The deceleration lane will only serve to increase people's belief that there is room and the road will be clear. According to the topographical survey the apex is at 117.18m and the furthest East reading which is only approximately 30m away is 113.54m a difference of 3.64m. The furthest West reading is 116.03m giving a difference from the apex of 1.15m. Even allowing for the viewing height of drivers this is easily sufficient for a car to be hidden just below the apex. The turning will increase overtaking opportunity and therefore increase the risk of accidents. Your access is directly outside my gate directly impacting mine my children's and any friends or family's safety. When pulling out of my gate I won't be able to see the HGV's coming from either way which is clearly extremely dangerous. My family would have to risk an accident everyday just to get out of our own property.

Traffic:

The entrance to the site is on a 60mph road that is repeatedly reported as a 50mph road. Basic errors such as getting the speed limit wrong, are unacceptable. The impact assessment is based on data for 12 hours but the site will only be operational for 11. This has the effect of reducing the % change figures to make them appear more favourable. Seisdon is producing 197,000 tonnes a year, the proposed quarry will be producing 27% more at 250,000 tonnes. Based on the figures quoted this means that 24 two-way movements (12 loads) are currently using the A454 at Shipley. 100% of the traffic from the proposed quarry will be using this road, an increase of 416%. Not only is this a huge increase but it also doesn't account for the danger and disruption caused by the fact lorries will be joining and leaving at a point where traffic is currently free flowing. The effects of increased traffic flow rates in the future are not included. There have been regular accidents within a couple of miles each side of this site over the past 15 years (including multiple fatalities). How have these been missed off the figures? No comment is made about the lack of lighting at the proposed junction, this must be considered given that lorries are going to be turning across a carriageway during the hours of darkness, and generally at peak times. No impact assessment has been made into the effects of this development on the maintenance requirements of the highways. JPE lorries are regularly spotted using the Old Worcester Road and in convoy. We would like traffic routes to be conditioned to keep lorries off minor roads and stopping them from cutting through the villages of Pattingham and Seisdon. We would also like the permissible haulage times limited to daylight hours.

In our opinion the survey taken by David Tucker Associates is completely invalid as they have taken the speed limit on this stretch of the A454 to be 50mph when the approach from both directions is actually 60 mph. After speaking to several residents from Seisdon, they all complained that Ebstree Rd from Seisdon to Langley Rd, Wolverhampton was in a terrible condition because the high volume of HGV traffic from the quarry constantly drive off the edge of the tarmac surface and cut into the grass verge on both sides of the road. No highway maintenance seems to have been carried out to rectify this hazard. We are concerned that this will be repeated on the roads around Shipley as there are no kerb stones here either. This stretch of road has NO pavements and therefore has NO street lights – the proposed site intends to trade from 7.00am -6.00pm mon- fri 7.00am – 1.00pm Saturdays. For 6 months of the year lorries will be joining and leaving the 60mph road in darkness, morning and night, this will be very dangerous.

We also note having read other similar proposals stating these same hours of business that it is very likely that HGV movements on the site would begin 1 hour earlier and finish 1 hour later than the above operating times. Traffic approaching the proposed site entrance will be travelling at speeds of 60mph (and above) with the proposed entrance near a crest in the road, as lorries slow down to turn other road users will naturally look to overtake, this will lead to more serious accidents on this already dangerous stretch of road. We cannot see any details on the size of the proposed right turn lane and are concerned as these lorries are often seen travelling in convoys of 2-5 lorries. Our entrance immediately next to the Inn at Shipley on A454 is already very dangerous as when approaching from Bridgnorth/Telford direction we can only safely indicate to turn left after we have passed both the pub car park entrances which gives us a mere 50m, to slow traffic behind us from 60 mph to 10 mph to enable us to leave the main road. This will be made far worse by adding 100 plus lorry movements per day, as the braking distances needed, especially when full, will be far greater than that of a car. School taxis also use this entrance daily. We have also been told by the council on several occasions that we cannot have traffic calming measures at this location as we do not have pavements or street lights. The entrance to Naboths Vineyard will become very dangerous as lorries will swing in from a 60 mph road around a blind bend and pass right in front of their gates. How will Mr Kyle be able to stop his vehicle to open and close his gates when he will be in the path of oncoming HGV's? At the proposed entrance to the site is the beginning of a public footpath, (see picture below) as it is the start of a walk people very often park their cars here to use the footpath. If the quarry is allowed to go ahead what provisions will be made for the ramblers' health and safety in this potentially very dangerous location and also what car parking facilities will be made available to them? Many drivers work on load related contracts which encourages the use of shortcuts, speeding and driving inconsiderately. Concern that JPE's figure of a maximum of 100 HGV movements /day is inaccurate. If permission was granted which council department would be responsible for checking that 100 movements per day was not exceeded?

Living in Seisdon we have had to put up with the unacceptable problems stated below caused by JPE Ltd. in association with its Seisdon Quarry. These problems will no doubt be in evidence once more should this quarry be given the go ahead to set up at Shipley. The 20 ton quarry vehicles have damaged the verges and road surfaces, creating potholes and hazards for other road users. The proposed Shipley quarry will result in a massive increase in traffic on an already busy road (A454). We already have to put up with the inconvenience of the quarry in Seisdon, muddy lanes, lorries travelling in convoy and generally the problem of meeting lorries head on in very awkward places. The Fox has a roadside frontage and play area on the A454 adjacent to a busy junction which is a known accident black spot, with the number of lorries turning onto the A454 at a slow speed will add to the problem. It is a road containing several accident blackspots, with at least 3 of them within a half mile distance. I am a regular user of the Bridgnorth road around the Shipley area and I cannot see how having 100 extra huge, slow and dirty lorry's pulling onto a 60mph road putting mud and stones on the road where there are many vulnerable motorcyclists and elderly drivers due to garden centres can be in any way safe! Many people including us have had car windscreens broken by debris left on road from the quarry near Seisdon. The Bridgnorth road is faster and busier. Mud being deposited on the highway when the wagons leave the site of [Seisdon] quarry. This washes down the road during rain and becomes dust when dry. Lanes too narrow to accommodate such vehicles. There is a 50mph limit on this stretch of road, but slow moving west bound wagons crossing the highway to reach the entrance will doubtless create hazards to motorists. Similarly, slow moving wagons emerging from the quarry and either turning left (eastwards) or crossing the highway to head westwards would be accidents waiting to happen. Congestion is already increasingly becoming a problem along this road. Increased heavy traffic, noise levels and dust clouds on the Bridgnorth Road and more importantly for us personally is along the B4176 through the Broad Bridge, a one lane, listed bridge which is already overloaded with heavy aggregate lorries and scrap metal wagons. Shropshire Council has already stated that the Broad Bridge, which has recently been decimated by a lorry couldn't be widened. This is a very quick road set at national speed limit (not 50mph as stated in application). Already it is extremely dangerous for vehicles turning in and out of the Inn at Shipley, Shipley Hall, Naboths Vineyard and there have been many accidents on the Staffs side of the border at the garden centres and Fox junction. Shipley Bank Farm has access close by and there are slow moving agricultural vehicles using this entrance at various times of the day all year round. There may be unintended consequences as additional vehicles begin to avoid the A454 using narrow poorly surfaced lanes that are not equipped to handle the volume and weight. The application has the wrong speed limits listed and uses old obsolete figures. The road is much busier than the road

at Seisdon and includes many visitors driving to Bridgnorth and the garden centres. This combination including the bus route should be factored in in the estimated 100 vehicle movements per day and what impact they will have on people not familiar with driving on country roads. The A454 is a fast road and mud on the road could lead to serious skidding which could result in fatal accidents. Traffic will be increased in the villages around the site as trucks take shortcuts to get to their destination. Again, I speak from experience in reference to the Seisdon quarry. Your results for traffic speed also appear to be bias, a recurring theme throughout the whole report, as you have recorded an average speed of 41mph eastbound. The road is a 60mph road and people regularly exceed this speed, nobody drives 41mph on this road. I live in Seisdon and our lives have been blighted by Truck movements associated with the Seisdon quarry. In addition to damaged / muddy road conditions I have also on more than 1 occasion been run off the road by inconsiderate truck drivers. We are clearly relieved this is now being closed down. For any new local quarry can you please ensure that any planning requires as a formal condition, that no access is allowed to the local village of Seisdon.

#### Dust / health:

The application acknowledges most operations give rise to dust and this will have an effect on local receptors within 250 metres, including residential properties, North Shropshire College, Gardenlands and the Ancient Woodland, which being situated within 100m to the North of the site, downwind of the prevailing wind, will be particularly susceptible. Dust Management Measures are very unspecific in their current form and are heavily reliant on the diligence of site personnel. However, staff will only be on site in the daytime Monday to Friday and Saturday mornings which leaves the site unattended for a majority of the time. Planning conditions should be imposed to give much firmer guidance on when and how dust should be minimised or suppressed i.e. actions required at different wind speeds etc. The stand-off to the woodland should be increased to 50 metres (see Ecology below). Screening barriers should be made a requirement of the Dust Management Scheme, as per Natural England Standing Advice on Ancient Woodlands. The use of clean water for suppressing dust should also be conditioned, so as not to risk contamination of groundwater. We would also like the use of a conveyor to be conditioned from Phase 3 onwards. This will reduce the vehicle movements and therefore the dust. Post operational dust monitoring should also be added to the list of conditions. As the early stages of excavations are situated furthest from the most sensitive receptors, levels can be monitored as the working areas gets progressively closer. If levels are unacceptable action can be taken before they cause health issues.

There are significant limitations to the Air Quality Report. The estimated traffic volumes seem unrealistically low. Regardless of the presentation of the statistics, the level will be at or slightly above the threshold of 100 two-way movements a day for 5 days of the week and should, therefore, require a detailed air quality assessment. At the very least, if the 100 two-way (AADT) movements is proven to be exceeded during operations, it should be conditioned that all material export stops until a detailed air quality assessment is undertaken and the results analysed.

We feel that very little attention has been paid by both the applicant and Shropshire Council to the serious risks posed to health and crops by dust particle pollution. The applicant feels that their offer to build earth berms and plant trees is sufficient mitigation to eliminate any dust pollution they will create. Planting trees is a long- term solution at best as the trees planted will be very small and offer no sufficient value for shielding. On our land adjacent to the proposed site we grow a large hay crop amongst other feedstuffs for our livestock. Dust contamination is a serious health risk to our livestock and so a major threat to the viability of our business. The hay crop to feed the racehorses that we breed as part of A J Haden Bloodstock is grown on the field immediately to the west of the site. We have always used this field as it is not contaminated in any way by dust or vehicle fumes which gives us the best crop for our horses. Any dust and contamination from the proposed site will render this crop unusable. Where large amounts of dust are deposited on vegetation over a longer time scale (a full growing season for example) there will be adverse effects upon the plants' photosynthesis, respiration and transpiration. The overall effect is a decline in plant productivity, which will then have indirect effects on fauna/crops. Will the applicant be prepared to pay compensation for this when they contaminate this crop? Residents living in proximity to quarries can potentially be affected by dust up to 500m from the source. Respirable particles, i.e. those less than 10 micrometres in diameter, have the potential to cause effects on human health. Whilst dust suppression

methods can reduce the deposition of dust in the locality they cannot eliminate it. Fugitive dust from such sites is typically deposited within 100-200m of the source; the greatest proportion of which comprise larger particles (greater than 30 microns) is deposited within 100m. However, smaller particles can travel up to 1km. As we have 3 x young children (1 of which has asthma) we are very concerned about the risks to their health caused by dust and other forms of airborne pollution. Having spoken to many residents of Seisdon the biggest complaint in recent times is the blatant disregard by lorry drivers failing to sheet their lorries when loaded. One can only presume that the pressure to meet delivery targets is such that sheeting of loads is not seen as essential and is regularly ignored. This results in a much wider area of air pollution affecting the entire routes taken by these lorries as well as the damage / contamination of hedgerows and crops.

Winds will carry dust and particulates towards houses, farms and other businesses in the area. This will inevitably impact on people's health and quality of life. Noise pollution and dust associated with all these lorries. The noise and inevitable dust generated by the excavation machinery will mean the health of those living and working locally will be affected and this will also apply to our patrons using the outside areas. Winds will carry dust and particulates towards houses, farms and other businesses in the area. Given the site is exposed, the dust will be at the mercy of the wind with the Garden Centres being at most risk from prevailing winds with consequential damage to visitor numbers and trade. You will have to use generators for electric which by looking at your proposed working times will run for a minimum of 60 hours per week. Excavating equipment will also be polluting 60 hours per week. You claim dust pollution to be low in the area however on one day your dust receptor recorded highly dangerous levels of dust, a fact that has been brushed over in your report. If you visit the area you can see with your own eyes the amount of dust pollution, imagine how much this would increase if this was to go through. You claim the wind blows south westerly, away from my property, this is entirely wrong. It's pretty obvious that the dust mitigation that has been put forward is totally unacceptable and will make no difference to dust levels. The increase in dust and diesel pollution would make living here unbearable. I have moved out here to seek all the benefits of the countryside and waking up every day to being choked by diesel fumes and dust is not one of them. Dust and diesel pollution are direct causes of respiratory problems, there is 8 of us living here, do you think it's right to adversely affect 8 people's lungs? Basically JPE will do whatever they please if this is approved, they will obviously use lighting and clearly won't clean the roads. The family that live a Naboths vineyard which is within 100 meters of the proposed quarry site will be severely affected by this project to say the least. Above all the health of their 2 year old child needs to be considered. This boy was born with down syndrome, leukaemia and heart and lung conditions. The dust that will spread onto their property and into their air space may cause his condition to deteriorate which is a risk that should not be taken. There is no electric in the area so diesel generators will have to be used increasing CO2 levels on a local level.

#### Noise Pollution

The criteria of NPPF 123 have not been met. The report does not clearly display the number of properties within the search area and does not properly consider the impacts on Lower Rudge, other than The Alders which is said to be the most affected property. There are another 9 properties at Lower Rudge not included in the survey. Most people who visit the area comment on how quiet it is. This would be lost. No mention of crushing in noise report yet it is mentioned in Chapters 2 and 4. The report does not consider the noise from loading lorries and dumpers. A conveyor system is quieter than a dumper or lorry and should be a planning requirement for moving materials. No mention of the impact of noise and vibration on the Ancient Woodland ecosystem. We believe that much more robust mitigation is required to protect the local residents, including reducing the working hours to start at 8.30am and finish no later than sunset. Strict rules on crushing should be a planning condition to limit frequency and duration. Who will monitor the levels and effects? What will happen if levels exceed acceptable limits?

There will be endless noise all day from 7.00am – 6.00pm from the heavy plant machinery and the 100 plus HGV movements per day not to mention any generators required. The proposed early morning starts 6 days a week are very antisocial and will affect all of us in the surrounding areas of Shipley and Rudge. It will be especially bad for those who live in Listed properties who are not allowed double glazing throughout their homes. The noise and vibrations will drive away wildlife.

#### Hydrology:

We have major concerns for the water environment as a consequence of this application. The proposed site is over a principle aquifer used for the supply of drinking water. A number of properties are reliant on this source for all their water. A number of agricultural abstractions will also be put at risk. The water emanating from the site supports a range of water features, ecosystems and heritage assets. Changes to hydrogeology through the removal of land containing perched water could have a serious detrimental and irreversible effect on hydrology and the Ancient Woodland. The reports are totally inadequate to base an informed decision on. Water losses will occur in a number of processes. The application states that a new mains water supply will be installed to supply additional water. This will likely be a substantial volume of water, given that this is drinking water we do not consider this to be a sustainable or appropriate use of this precious finite resource. We would like it conditioned that any drilling of boreholes to abstract water is limited to one for the whole site. The amended report still fails to identify a number of water features. The time lag between the cause and effect could be many years and possibly beyond the life of the quarry. Will the applicants still be accountable? We support the 4 planning conditions proposed in 9.5.1.15. However, these could be strengthened to further limit extraction depth until more conclusive evidence is presented on water table depth. The use and position of boreholes on the site should be controlled/limited and checked by the EA. Compensation for loss or degradation of water supplies for existing users must be made obligatory, long lasting and enforceable if they are impacted on. In order to establish baseline conditions these supplies should be monitored and tested, for at least a year before commencement, at the expense of the applicant not the users.

The water surveys undertaken using exploratory holes show a diverse range of the depth of water in the ground along with a lot of perched water pockets. Only 4 boreholes reached a depth of 18m so how can the applicant then go on to say that their operations will not affect the perched water level at all when they propose to dig to depths of up to 30m? If an incorrect decision is made on this subject then once the quarrying begins the damage will be irreversible. If JPE do break through the aquifer due to mis-calculations, then the site will not be able to be restored due to the risk of water contamination. If JPE are to have a mains water connection, then how can they assure us that the quality and pressure of our supply will not be affected by the vast quantities they would need to take? – our pressure is already poor at best. Will they be subject to the same rules as everyone else in the event of a hosepipe ban? JPE still plan to sink a borehole, this combined with the loss of surface and perched water will affect our farm and business greatly. We have a large pool stocked heavily with fish that is fed by surface water, land drains and underground springs. The springs are only approx. 1.5m below ground level so they will soon dry up. The stream that begins near the proposed site and runs through 3 of our fields is critical to our business as it waters our livestock and provides the perfect places for our numerous hives of bees to gather the water they require to survive and thrive. There is no mains water in these fields. It is also a habitat for newts, frogs etc. The stream is the source of the water supply for the moat and great lakes at Ludstone Hall, a grade 1 Listed property near Claverley, it runs under the A454 feeding several other pools along its route. Ludstone Hall is already struggling to maintain its water levels, so any drain on this source by the proposed site cannot be allowed. The true calculation of water required by JPE has not been disclosed in the application as they state that all water will be recycled but there is no mention that every load that leaves the site will contain 17% water – even at 50 loads/day that is a lot of water leaving the site over the life of the quarry! We are only a small size mixed farm in comparison to most found locally but we strive to grow as much feed and stores for our livestock as possible. We will not be able to do this if crop yields are reduced and water courses dry up.

The contamination of water supplies. Disturbance of the Water Table to the local area. The ramifications of the proposed development will extend beyond the site itself, with the destruction of water resources affecting nearby farming. Some households obtain their water from bore holes in the area. These cannot be put at any risk whatsoever by mineral extraction. The streams from underground in this area feed many ponds and water features in the Claverley area There is anecdotal evidence that the water table is very unstable and that small changes, let alone large scale mineral extraction, can have a dramatic impact on aquifers with many unintended consequences. This will almost certainly impact Grade One listed Ludstone Hall. The impact on water to Ludstone Hall etc can have a serious effect on the pools and moat and I believe the water usage will be greater than estimated especially during periods of very dry weather. Where is the gritting washing water coming from? What will happen with dirty water running into local irrigation facilities there are many ponds on local farmland? The proposed borehole will



affect all the watercourses 'downstream', including farmland, wildlife ponds stream beds and the ponds and ancient malt and pool systems at Ludstone Hall. The proposed works to trap and store water on the site will also affect this. The water that will be retained in the quarried materials will not be returned to the site in the natural course of things as it will be transported away with the quarried materials, further affecting the watercourses. The proposal fails to even acknowledge the major Pattingham fault which, according to BGS map 167 (2012), runs directly through the proposed quarry. The fault is impermeable and water levels vary from 115mAOD on the East to 78mAOD on the West (Physical properties of major aquifers, Allen et al 1997). This can also be seen by looking at borehole SO89NW11, which strangely isn't mentioned .... Disturbance of this fault creates huge possibility for massive disruption to a principal aquifer, as groundwater would drain from the East and rise in the West. This could result in the draining of ponds in the area. You state the proposal will not hit the water table due to borehole log data, however only 4 out of the 13 borehole logs mentioned in your water appendices reach the proposed 18m depth of extraction, one borehole is only 3m deep which is clearly useless for anything. The borehole data doesn't consider seasonal variation in water levels either, so you are guessing you might 6m above the water table but that could significantly decrease in winter. Even if you don't hit the water table being so close to it increases recharge rate into the aquifer putting the system out of balance. When all this water is disturbed it will directly drain into the water table and rise its levels again disturbing and increasing the risk of problems with the groundwater. Disturbing the groundwater will create serious problems for anyone who benefits from it. Local houses who use it as water supply will be seriously affected. The proposal will drain the perched water and adversely affect a system in balance. Properties miles away that depend on this water will be affected, this is not only a local issue! It is impossible to keep the roads clear of mud especially through the winter. Anyone using the road passing the Seisdon Quarry will be able to confirm this. How many deaths and severe injuries are we going to see as a result of dirty roads?? The Bridgnorth Road has always been a favourite for motorcyclists on their way in and out of the city, there have already been lives lost due to vehicles emerging from entrances and junctions onto the main 454. This will inevitably increase as motorcyclists are the most vulnerable! Farmers leave their fields at a very slow speed this will no doubt be the same for the heavy laden lorries leaving the site. Drivers exceeding the speed limit, of which there are many, along the stretch of road where the proposed entrance and exit is planned, will not stand a chance to slow down when the lorries begin their journey onto the main road. What local ground/spring water there is, will be directed to the quarry and therefore away from the local pools and watering holes, creating problems for not only the wildlife but also the aquatic life which is abundant around here. The bore holes which supply local houses, are already struggling due to the changing water table levels, what will be the consequences if that water is re-directed to both residents and buildings? It has been brought to my attention that above proposal would impact on several of my parishioners, their properties and the churchyard itself. The water used in the proposed scheme would take water from the local water course to process the extracts. I believe this would have a great impact on the brooks and pools around this area. There are many ancient pools in the area which are natural habitats for wildlife and various types of flora. The water levels are already dropping and this proposed development would only make this worse. There is a particular concern about the large pool and moat on the estate of the listed Ludstone Hall. There are also many ancient trees in the parish, particularly the churchyard yew tree which is certified as 2500 years old. We are already experiencing dry ground due to the water table dropping and would not want to see these ancient trees suffer any further through poor water management. The site is considered to be of high sensitivity. It is a secondary A aquifer. At present the water is used by many and the change due to proposed development will blight not only mankind but wildlife as well. Myself and neighbours at Shipley Hall and Grange Farm have ponds and pools with fish, my concern is the lowering of the water table will dry up and stop the springs which currently feed our ponds and pools and thereby cause death to the fish and other animals which depend upon this water and habitat.

I have read the Water report and can find no assurance that this scenario will not happen.

#### Landscape / visual impact:

In terms of landscape character this is a very prominent site with uninterrupted and spectacular views across Shropshire, Staffordshire and the West Midlands yet the report only considers the visual impact for 2.5km. The applicants are using the Ancient Woodland, to the North, as a mitigating feature. However they do not own or control it and two compartments within the woodland are due to be clear felled as part of the continued

management. Licences have already been granted by the Forestry Commission. This would open up views to the north, including to a number of listed buildings. The report fails to mention that the site is used by a clay shooting club, a model aeroplane club, a game shoot and the Albrighton and Woodland Hunt and is visited by hundreds of members of the public each year in association with these activities. Half of this site has been in a higher-level stewardship scheme yet this report gives a less than favourable summary of the current condition. Comparing future habitats to the existing is very misleading.

The proposed site can be seen from a great distance along the A454 It is visible from the top of the Hermitage Hill in Bridgnorth 7 miles away in one direction and from Trescott 4 miles away in the other. The proposed site will be a huge blot on the landscape for the next generation as it will never look the same again.

The proposed development will destroy an area of outstanding natural beauty. The destruction of 100 acres of greenbelt land. The destruction of 40 acres of irreplaceable ancient woodland. The countryside heading out to Bridgnorth as you leave Wolverhampton is an area of natural beauty and draws a lot of people to live and visit the area. Overall I can't see the advantage of risking lives and the local people for what essentially is digging extra sand out from underneath lovely farmland in a popular area for walkers which is full of wildlife! The area is the gateway to Shropshire from Wolverhampton enjoyed by many for its countryside and day trips etc. Because of the position of the works, it won't be just the immediate neighbours that will be affected but the entire area as a whole. The works will be visible for miles around and will cause a blight on the landscape. In this time of austerity, anything that affects the value of our most valuable assets is extremely unwelcome. Clearly it will ruin visual amenity, when you drive down the Bridgnorth road you can see Alder Coppice from miles away, all that we will see if the proposal goes through is a huge scar on the landscape. I have been walking this land for last 15 years. The area is of outstanding natural beauty and offers an escape from the hustle of everyday life which is the whole point of a green belt area.

#### Ecology:

Development can affect Ancient Woodland and veteran trees, and the wildlife they support, when it takes place on the site, or nearby and can also have indirect effects. If planning permission is granted conditions or obligations should be used to avoid or mitigate against damage or, as a last resort, to compensate for loss or damage (Natural England Standing Advice). This application is contrary to all the environmental policies, especially with regards to the Ancient Woodland. Mitigation and compensation are required. However, the mitigation only partially covers some of the problems and no compensation measures are suggested. Insufficient information has been provided on protected species. Not all ponds were surveyed for Great Crested Newt. The bat and breeding bird surveys will be over 2 years old by the time any work commences. The Site is considered to be of Site importance for lowland farmland Birds due to the high number of BOCC Red and Amber list species, as well as three SPI species present. The majority of land that supports Skylark will be permanently lost. The habitat that supports farmland passerines will be reduced. The report acknowledges that they have not surveyed wintering birds. However, this area is very popular with Woodcock (BoCC4 Red List). No specific surveys were carried out but camera traps placed in the ancient woodland by a local landowner have recorded a rich variety of mammals. As with mammals no survey has been carried out for Terrestrial Invertebrates. The habitat assessment does not consider the suitability of the site for bees. The likely impacts from noise, vibration, dust, lighting, loss of green infrastructure or changes to ground water have not been considered. A number of springs rise in Alder Coppice (W5), which is why the alders are growing there (they like the wet conditions). Any changes to the local hydrology would jeopardise this ancient habitat. These woods contain a huge number of native bulbs, mainly bluebells and snow drops. It would be a real shame if this proposal had a negative impact on them as well. Proposed mitigation measures are minimal and impacts on ecological interests are played down. None of these measures seem to go far enough.

We note that only 3 out of the 7 pools identified within 500m of the proposed site were surveyed to look for the presence of Great Crested Newts and other protected species. 5 other pools including our own wildlife pool (see picture below) which is species rich were not identified and not included in any of the surveys taken. The owners of the 5 pools that were omitted from the surveys were never approached in 2015 or 2017 for permission to survey them. The bat surveys were undertaken in June and Sept 2015 and despite identifying 5 species of protected bats

are now completely out of date (as admitted in the planning application) so this must be redone before any planning decision can be made. Our farm buildings are a large roosting site for bats (on summer evenings they can be seen to 'boil' out of the doorways at dusk) along with the ancient woodland on the northern edge of the site. They travel the hedgerows from the buildings all the way up the lane to the ancient woodland at Alder Coppice. Crestwood Environmental conducted 3 breeding bird surveys at 2 week intervals between April and June 2015. A total of 24 species were observed 5 of which are on the 'red list of conservation concern'. These were Skylark, Starling, Song Thrush, Linnet and Yellowhammer all species of principal importance. In addition to the above we can confirm that from the 'Red List' we regularly see the following on our farm immediately adjacent to the proposed site:

Grey Partridge, Lapwing, Woodcock, Cuckoo, Skylark, Starling, House Sparrow, Song Thrush, Mistle Thrush, Yellow Wagtail, Grey Wagtail, Yellow Hammer, Linnet, along with Mallards, Swift, Tawny Owls, Snipe, Kestrel, Dunnock and Bullfinch from the Amber List and most importantly 3 x Schedule 1 birds – Barn Owls, Redwing and Fieldfare. The survey concluded that 'The site is considered to be of site importance for lowland farmland birds due to the high number of Birds of Conservation Concern (BOCC) Red and Amber list species'. Crestwood also admit that 'The majority of land that supports Skylarks will be permanently lost' if the application is allowed to proceed. Please note that we cannot see any mitigation to counteract this issue. We also note that no survey of over-wintering birds e.g. Fieldfares and Redwings was taken. We are disappointed that hedgerow surveys were conducted at inappropriate times of the year. The majority of the hedgerows that JPE are proposing to remove are Hawthorn which are the main source of food for the over wintering Redwing and Fieldfares both of which are Schedule 1 protected species. No species specific survey was undertaken. Crestwood said they did not see any reptiles whilst carrying out other investigations so have appeared to surmise that no survey was required. *Scleranthus annuus* was previously recorded as present in the grassland on the proposed site and a detailed Botanical Survey above and beyond a Phase 1 Survey was requested. However, when reading the Crestwood Environmental Ecology report it states that during surveys it conducted in March 2015 and March 2017 none was found. Given that it is an annual plant it is very unlikely to be seen growing in March so further investigation must be done to ascertain the current status of this plant.

The Ancient Woodland at Cannebuff will be affected severely by the extraction of water and loss of surface and perched water. The 15m buffer zone suggested by JPE is NOT acceptable and contradicts the 50m minimum originally demanded by Natural England. The Ancient Woodland is described in the application as 'irreplaceable habitat' According to paragraph 118 of the NPPF Natural England maintain that 'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats'.

The area concerned is, I understand, Green Belt (which seems to mean nothing these days!) and is adjacent to ancient woodland which is home to many species of wildlife, many endangered and protected. Obviously these creatures will be affected by the ongoing noise and disturbance. Detriment to agriculture, forestry & wildlife habitats. We take pride in our area and cannot see how this will benefit or even blend with it. The site is bounded by ancient woodland, insufficient study seems to have been carried out on the impact on the flora and fauna of the woodland. At worst the 50m buffer suggested by The Woodland Trust should be enforced. The destruction of 40 acres of irreplaceable ancient woodland, this can never be put back, once it's gone it's gone forever. The local wildlife will be disturbed along with the woodland that will never recover. The sand and gravel quarry will damage the adjacent ancient woodland at Cannebuff, a delicate ecosystem with protected animal and plant species and ancient and land marked trees. In addition to the pollution mentioned in the previous point the working of the quarry itself will damage the root systems and overhanging branches and the woodland will also be severely affected by the changes that will be made to the water table as a result of the proposed borehole. We see many deer's when looking out onto our land. This could wipe out the deer in this area. Furthermore, great crested newts surround this area and they will also be affected. In addition, I have spotted grass snakes on many occasions when walking my dogs these will also be majorly affected by wiping out their habitats. Badgers are also a living species within this area and will affect them majorly. I live in Naboths Vineyard adjacent to the proposal and have watched the population of bats increase exponentially. So much so that my planning application was only approved if I installed bat boxes. The proposal will disturb their habitats and breeding sites which are protected by European

Law. You will also disturb the badger setts in the area which is also illegal. Great crested newts which are also found in the area are also protected from any disturbance by law.

Policy / Need:

The site is not identified in Schedule MD5a or MD5b and as such is not allocated as being a preferred site for the extraction of sand and gravel in the up to date minerals planning policy for Shropshire. In this regard, the current application fails the first and second test of policy MD5 and as such, must satisfy the third part of this policy. It clearly does not satisfy it for the following reasons;

- The proposal would not prevent the sterilisation of the resource.
- We believe this proposal will prejudice the development of allocated sites. The close proximity of the proposed site to the West Midlands conurbation (in the green belt) will give the operators an unfair advantage when delivering aggregate to the largest share of the market.
- We do not believe that this site offers any environmental benefits. In fact, the report acknowledges that mitigation is required because of the negative impacts the quarrying would have. The application completely fails to mitigate against any of the environmental impacts on the land adjacent to the site including the Ancient Woodland, which it also acknowledges will be affected.

The Government's new 25-year environmental plan was published on 11th January 2018. Although not yet enshrined in planning policy it should be considered when deciding this application and the 'Natural Capital should be adopted. Using a natural capital approach, the value of the services England's woods and forests deliver is an estimated £2.3bn. Only a small proportion – 10% – is in timber values. The rest derives from other benefits provided to society, such as human recreation and carbon sequestration. This value is not captured by traditional accounting methods and is too often ignored in management and policy decisions. Current policy is that the planning system should provide biodiversity net gains where possible. The Government will explore strengthening this requirement for planning authorities to ensure environmental net gains across their areas, and will consult on making this mandatory. Beyond the economic benefits, the Government recognises the significant heritage value and irreplaceable character of Ancient Woodland and veteran trees. We are committed to ensuring stronger protection of our Ancient Woodlands, making sure they are sustainably managed to provide a wide range of social, environmental, societal and economic benefits.

Rudge Farm is an owner of rights over approximately half of the site and should therefore appear on the Ownership Certificates and Agricultural Land Declaration accompanying the application. The applicants were apparently unaware of our rights until we informed them in May 2017.

The ecology report in Chapter 8 paints a fairly bleak picture of the current state of this land. It has got in to this condition under the guardianship of the owners. The proposed restoration benefits could all be executed under a Countryside Stewardship agreement that would provide financial assistance for implementation and aftercare, without the need to destroy everything first.

Not on the SAMDev report as a 'preferred site'. JPE specialises in acquiring sites at the end of their life and acquired Seisdon as a tool to get planning permission for Shipley. There is no need for the mineral. According to JPE's website Shire Oak Quarry in Brownhills (also purchased from Tarmac) already supplies the entire West Midlands Conurbation. JPE may have orders to fill but this should not be the responsibility of Shropshire Council. Staffordshire have the capacity to complete these orders as stated by the council in their response. JPE are by their own admission already capable of supplying the areas covered by Seisdon Quarry and can cover the extra capacity due to Shire Oak being given permission for another extension on 6th July 2017 to dig another 1.6 million tonnes. Seisdon is in Staffordshire and Shipley is in Shropshire. Staffordshire are responsible for their own reserves and Shropshire take care of themselves and Telford and Wrekins' needs. They are not required to assist Staffordshire at present. Staffordshire Council although giving their support to this application freely state that they already have 12.7 years of sand and gravel reserves as of 01.01.17 at an extraction rate of 5 million tonnes per year. They will obviously have included in their plan (only recently agreed) the fact that production in Seisdon would cease in June 2018, but this figure will not include the extra 1.6 million tonnes made available by the extension being granted at JPEs Shire Oak Quarry on 06.07.17. Two nearby alternative quarries supplying sand and gravel in Staffordshire are Saredon and Calf Heath – these have both already been allocated extensions in their adopted

plan. The applicant state that 70% of the sand and gravel extracted at Shipley would go to the West Mids conurbation, yet both Staffordshire and South Staffs by their own admission do not require it. According to Shropshire Councils Mineral Plan the county already has a land bank of 16 years (with a need to maintain a minimum of 7 years). Shropshire already has at least 8 permitted sites, 7 of which are operational, plus 2 more at Barnsley Lane and Woodcote Wood (unworked site commitments) where a resolution was made to grant planning permission, but where consent was yet to be issued' These are preferred sites and should be fully exhausted first. NB. Woodcote Wood Site has just been granted permission in early Feb as a new site again demonstrating Shropshire's need is being more than met. The SAMDev report states that 'very little sand and gravel produced in Shropshire is currently exported eastwards to the main markets in the West Midlands conurbation due to the availability of more proximate and higher quality materials closer to these markets' e.g. Shire Oak Quarry. So, again Shropshire Council are saying that they do not require the proposed site. Shropshire have recently approved an 8 year extension covering 50 hectares to Woodlane Quarry near Ellesmere. This will add another 2.1 million tonnes of saleable aggregates at 250,000 tonnes per year to Shropshire's allocation. Shropshire Council and Telford and Wrekin both recently objected to the planning application for a quarry at Pave Lane near Newport to extract 200,000 tonnes of sand and gravel per year over 15 years on the grounds that - there was insufficient need for the site as supply can already be met until 2031. They were also concerned that any increase in supply would affect the financial viability of existing sites. Shropshire already has over 10 years supply from existing quarries. The Shipley applicants claim 50 new jobs will be created but surely the same jobs from the closed Seisdon will be transferred Shipley with no net gain in new employment. Shropshire Structure Plans. The site was not designated for release in the Shropshire Structure Plans and the developers have shown no convincing arguments why this should be overturned. Structure plans are produced at huge expense and go into great detail. If it was suitable and needed it would have been identified in the plans as a suitable site. I understand that both Staffordshire and Shropshire have full supplies of minerals for many years to come so why is there a need for the site? It was not on the SAMdev plan for the very reason that the minerals are not required. This back door attempt to extract minerals at this site, "supported" by considerable misinformation, should not be allowed. There is no evidence it will benefit the local community in any way. Our friends living near the site will have their lives changed for the worse forever. The disruption and mess caused far outweigh any alleged benefits. The UK government states local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; or to retain and enhance landscapes, visual amenity and biodiversity (National Planning Framework, paragraph 81). The quarry doesn't fulfil any of these desires. It would halt outdoor sport and recreation as people will no longer be able to walk in the area, the model flying club will be moved, and the long running shoot of the area will have to relocate. The site is not identified in Schedule MD5b and as such is not allocated as being a preferred site for the extraction of sand and gravel in the up to date minerals planning policy for Shropshire. In this regard, the current application completely fails the first test of policy MD5 and as such, must satisfy the third part of this policy. The proposal would not prevent the sterilisation of the resource as the site is not under any pressure from any other forms of development. In terms of meeting an unmet need, the applicant's argue that the proposed quarry will allow for the continuous provision of sand and gravel mineral resource following the cessation of quarrying activities at Seisdon Quarry (nearby) in June 2018 - a site that is strategically important in terms of sustaining supply of sand and gravel, particularly in to the West Midlands conurbation. However, this is considered to be a wholly misleading argument. There are sufficient minerals sites with planning permission elsewhere in Shropshire to meet the needs of the Mineral Planning Authority (as supported by the site being excluded from the list of preferred locations for future extraction). Furthermore, the site which the applicants claim to be replacing by the proposed development (Seisdon) is located in Staffordshire - an area which also has a healthy landbank of sand and gravel planning consents (in excess of 14 years supply as at 1st January 2017 - Staffordshire Local Aggregates Assessment 2017). Furthermore, Staffordshire is in the process of development a new Minerals Local Plan (draft dated June 2015) - a plan which allocates sufficient sites for the future extraction of sand and gravel (taking account of the closure of Seisdon Quarry).

Heritage:

This site has some significant features. There is an entry in the Shropshire HER recording a letter from a local farmer who is believed to have collected up to 400 fragments of worked flint from within the Site close to the northern boundary adjacent to Alder Coppice. The heritage report states that the flint assemblage 'represents human activity in this area spanning many thousands of years from the Mesolithic the Bronze Age'. The greatest concentration of the material was found in an area of 1 hectare within the quarry site. 'The quantity of flint and the range of artefact type suggest that the Alder Coppice area was utilised throughout Prehistory. Of great importance is the quantity of the early material in particular finds dating from the Mesolithic. Historically, the number of Mesolithic finds identified from Shropshire has been small. This makes the Alder Coppice assemblage an important addition to our understanding of Mesolithic activity in the locality'. A prehistoric enclosure is also mentioned in 11.5.3.5 which together with the flints shows strong evidence of substantial human habitation in this area'. 'Should further evidence be available supporting the re-characterisation of this as being a causewayed enclosure, then a re-appraisal of the significance of this monument will be required as this form of monument would be considered to be of national rather than local importance.' Working of the area which will harm and cause loss to the heritage assets which directly contravenes Shropshire Council's policy.

The report fails to mention a number of listed buildings within the locality. The closest being 7 Lower Rudge (grade II), Shipley Grange Farm House (grade II), The Inn at Shipley or Thornescroft (grade II), Orchard Cottage and Clive Cottage (grade II). A little further away is Patshull Hall (grade I) will also be clearly visible once the trees are removed, along with a further 10+ other listed II and II\* buildings within the grounds. The clear felling of Long Wood will significantly alter the findings of this report as the quarry will have a visual impact on the setting of Rudge Hall and outbuildings, 7 Lower Rudge, The Old Pound, and Patshull Hall and associated buildings and temples. Without amendments this report should not be passed as it is not fit for purpose. Any grant of permission for this site will have a negative impact on this aspect of the local culture and heritage.

There is a Mesolithic Site and a 'buried structure' on both our land and the proposed site. Sufficient archaeological investigations have not been carried out by Shropshire Councils Archaeology Department. Hundreds of flints and arrow heads have been found all over the site of the proposed quarry whilst working the land by hand and should hold great significance.

There is a Royal Observer Corps Post constructed by public funding during the Cold War period .Manned by Observers based in Pattingham as part of the UK's Nuclear Warning and Monitoring Defences. The post is within the 500m boundary of the application. This should be a listed building and protected. We have always been aware of an ancient settlement within the proposed area and a proper archaeological survey should be carried out.

#### Restoration

Who would be responsible for monitoring the ongoing restoration of the proposed site as set out in the application? It should not be down to us to report issues constantly and we would obviously not be allowed on the proposed site for Health and Safety reasons. A fully funded independent monitoring program must be put in place if the proposal is granted.

#### Agriculture and soils

At present the whole site is in agricultural use and predominantly arable. The arable land certainly appears to grow a range of good quality crops and the three fields against the wood are used for high intensity grazing. The soils are good quality for this area. The 8.5ha to be restored to BMV land will not be used for arable production as the whole site is shown to be either grassland or woodland. Due to gradient only Fields 2 and 4 will be suitable for modern agricultural practices. It does not appear that this loss of productive land can be avoided or mitigated. Will 210,000 tonnes of BMV soils retain their quality after sitting in a heap for 18+ years?

Airfield Safeguarding: The extension is partly within an airfield safeguarding zone. A potential for bird strike could be an issue.

#### Security

The presence of a large stock of diesel and expensive plant machinery will certainly encourage trespass and thefts. The proposed site would certainly be a target.

#### Socio-Economic Considerations

The need for sand and gravel is clear and housing needs are widely reported in the media. What isn't so clear is whether this site is required to deliver this resource, at this time, especially given that both Shropshire and Staffordshire have ample allocated sites. The main argument seems to be that the closure of Seisdon is important for JPE to continue to supply its customers. However, the customers can still get sand and gravel from elsewhere as both Shropshire and Staffordshire have ample supply. The application does not consider that a number of other sites are looking to extend operations or reopen existing sites. This includes one of their own quarries, Shire Oak, that was granted an extension of 1.6 million tonnes in August 2017. The extension runs until 2025 and will produce 228,000 tonnes/annum, enough aggregate to cover the loss of Seisdon with 30,000 tonnes/annum to spare. The application also does not consider that South Staffordshire has three dormant sites in the locality that would be in a position to service the markets referred to by the applicant. We also believe that Morville Heath Quarry near Bridgnorth is planning to apply for an extension to its current operation. It is important to look at extensions to existing reserves first to avoid sterilisation of these resources. Woodcote Wood was also granted planning permission last week as a new site (already allocated). It is better placed for supplying Telford, Shifnal, Albrighton, Newport, Whitchurch and Shrewsbury as well as being on a good route into the West Midlands. An application for Pave Lane quarry was turned down on the grounds that Shropshire already had a 15-year supply and it was concerned that additional unallocated sites could have a negative impact on the viability of allocated sites. Therefore, we can see no reason for this application to be granted; the minerals are available from other sites locally, the economic and social arguments are largely irrelevant as the majority of the case presented is for the benefits of the applicant's business. We therefore request that this application is rejected on these grounds and that this position isn't reviewed unless substantial changes to the mineral supply situation are proven.

The employment report says 10 full time jobs will be retained whereas the Transport chapter says 6-10. What isn't clear is how many of these jobs would be in danger if this application wasn't granted. JPE still have other sites and drivers can still haul from other quarries that are not owned by JPE, so it is questionable how many jobs would be under threat.

#### Property devaluation

Shropshire Council will obviously need to be prepared to reduce the Council Tax bills for the 40 plus houses in close proximity to the proposed site should they allow it to go ahead by 20% in line with the reduction in house prices due to the quarry's presence. We have had this figure quantified by a local estate agent.

#### Claverley Preservation Society

The basis for my objection is the report (attached) by the Telford & Wrekin Planning Officer on a similar proposal reference TWC/2016/0437 at Land south of junction A41 and Pave lane, Newport, and in particular section 8.1(A) that, based on his conclusions, the recommendation to the T&WC Planning Committee was that, had an appeal against non-determination not been lodged [and subsequently dismissed in April 2018], PLANNING PERMISSION would have been REFUSED for the following reasons:

1. There is no need for the mineral. Contrary to Policies M15 of the Shropshire and Telford & Wrekin Minerals Local Plan and ER4 of the Telford & Wrekin Local Plan. The Shropshire and Telford & Wrekin Sand & Gravel landbank adequately exceeds the minimum of 7 years required by the NPPF and Planning Practice Guidance. As a result, the proposal would result in an uncontrolled oversupply of minerals provision.
2. The Environmental information submitted with the application does not demonstrate that the site is significantly more acceptable overall than the allocated sites or the preferred area outlined in the Shropshire and Telford & Wrekin Minerals Local Plan, particularly Woodcote Wood which has fewer environmental impacts, a shorter operational period, limited visual impact, less impact on residential amenity and fewer HGV movements. Nor would it offer significant environmental benefits. As such it would have significant harmful effects on the countryside. As such it would conflict with saved policies M14 and M15 of the

Shropshire and Telford & Wrekin Minerals Local Plan; and Policies SP3, SP4, ER4, and ER6 of the Telford & Wrekin Local Plan (Submission Version) and national planning policy.

3. The need for the waste facility as an additional landfill site has not been established and any purported benefits arising from the proposal are significantly outweighed by the loss of best and most versatile agricultural land. As such, the proposal is contrary to Policy ER4 in the Telford & Wrekin Local Plan (Submission Version) and national planning policy.
4. The potential cumulative impact of working both the Woodcote Wood and Pave Lane sites concurrently is not considered sustainable and is contrary to national guidance (para 144 NPPF), Policy ER6 of the Telford & Wrekin Local Plan (Submission Version) and saved Policy M3 of the Shropshire and Telford & Wrekin Minerals Local Plan and national planning policy.

Notes:

- (a) For Pave Lane substitute Shipley
- (b) For the T&WC Policy reference numbers quoted, substitute the equivalent Shropshire Council Policy reference numbers and/or Shropshire Core Strategy and SAMDev Plan
- (c) The Woodcote Wood quarry site (in Sheriffhales Parish) application reference number 17/03661/EIA for the extraction of 2.55 million tonnes of sand and gravel was approved subject to conditions by the Shropshire Council South Planning Committee on 13 February 2018.

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SUPPORT COMMENTS:

Wienerberger Head of Procurement: It is important to Wienerberger that we express our full support to JPE Holdings limited in relation to the planning application for sand and gravel near Shipley. Wienerberger Limited have worked with JPE Holdings limited for many years and we require the ready and proximate source of supply for our manufacturing facilities. There is growing and increasing demand for such material to keep pace with local development needs. As a replacement for Seisdon Quarry, we consider the application site is sustainably located to meet local demand. Equally, it is not just a matter of the type of mineral resource but the way in which it is processed, managed and delivered, in which we have confidence in the applicant, JPE Holdings Ltd, to meet our required specifications. Without a local replacement for Seisdon Quarry and no other alternative sites, supplies of mineral products to the specification we require would have to be sourced from further afield, potentially increasing haulage distances, associated environmental impacts and costs we are concerned that quarry production across the West Midlands and availability of new and replacement supplies not match in a growth in demand in the region. It is important that there is continuity of supply, requiring a timely transition from production at Seisdon Quarry and that proposed at Shipley, ensures fulfilment of both short and long term demand. We are sure that any environmental concerns can be effectively controlled and managed, with the proposals locally and sustainably placed to meet growing demand. We would like to register our support for application 17/05303/MAW and commend it to the council. If permission is granted to JPE Holdings Limited for sand and gravel extraction near Shipley, this will be very reassuring for Wienerberger knowing that we have a strategic raw material available for the foreseeable future. Thank you for your time and consideration.

CPI Mortars Ltd, Chief Executive: We would like to express our support for the above application. Our company, CPI Mortars Ltd, based in Bilston, Wolverhampton, requires the ready and proximate supply of high quality building sand and concreting materials that we use to produce a range of high quality mortars and construction materials. We understand Seisdon Quarry is due to close in a little over 12 months and we consider the application allows for a sustainable replacement meeting local demand. Equally, it is not just a matter of the type of mineral resource but the way in which it is processed, managed and delivered, in which we have confidence in the Applicant, JPE Holdings Ltd, to meet our required specifications....

Besblock Ltd, Managing Director: I would like to express my support for the above application. Besblock is based in Telford and requires the ready and proximate supply of high quality sand and gravel materials in order to



produce a range of high quality building blocks. There is now a shortage locally due to the growing and increasing demand for construction materials, to keep pace with the government constant pressure to build more houses and other local development needs. As a replacement for Seisdon Quarry, I consider the application Site is sustainably located to meet some of the local demand and give us the sand we need to directly replace the current volumes supplied from Seisdon. The ability to guarantee and source such material is critical to my business. Equally, it is not just a matter of the type of mineral resource but the way in which it is processed, managed and delivered, in which I have confidence in the Applicant, JPE Holdings Ltd, to meet our required specifications.

Tarmac, Director of building products: We would like to express our support for the above application. Our company, Tarmac Building Products, i10 Building, Railway Drive, Wolverhampton, West Midlands, WN1 1LH, United Kingdom, requires the ready and proximate supply of high quality building sand and concreting sand materials that we use to produce of a range of high quality mortars and construction materials. We understand Seisdon Quarry is due to close in a little over 12 months and we consider the application allows for a sustainable replacement meeting local demand. Equally, it is not just a matter of the type of mineral resource but the way in which it is processed, managed and delivered, in which we have confidence in the Applicant, JPE Holdings Ltd, to meet our required specifications.

Bromfield Sand & Gravel, Quarry manager: Shropshire is dominated by international producers and therefore independent aggregate suppliers should be encouraged in the area as we genuinely do support the local economy and community. Bromfield Sand & Gravel Co. Limited has material from IPE Holdings Ltd and without the replacement for Seisdon Quarry we would have to source Red Sand from further afield which in tum would lead to increased environmental impacts and costs. We trust that this correspondence gives you a better understanding of the building and construction material market within Shropshire and hope that it aid's you in your decision.

Industry representative: We would like to express our support for the above application. Our company, based In West Bromwich, relies on the supply of high quality sand and gravel materials that we use to produce concrete materials. There is a growing and increasing demand for such material, to keep pace with local development needs....

Industry representative: With the closure of Seisdon quarry another source of materials is important so that affordable housing projects may progress using locally sourced materials; the site concerned would most likely have the least environmental impact on the general area so is a logical choice. Sand and gravel is in short supply at the moment, it is a commodity that is needed. Extra jobs will be created for quarry workers and local building industry. These raw materials are required for the construction industry and the building of affordable housing for our ever expanding population. A good sustainable supply of sand and gravel will be needed for the production of mortar/construction materials for the developing and expanding local areas, especially Wolverhampton. Environmental concerns regarding the Cannebuff and Alder Coppice woodland have been considered, with the woodland being untouched by this development.

## **APPENDIX 3**

### **EQUALITY ACT 2010 - EQUALITY IMPACT ASSESSMENT**

#### **ASSESSMENT OF THE EFFECTS OF PROPOSED QUARRYING PROPOSALS AT SHIPLEY (REFERENCE 17/05303/MAW) ON 2 SENSITIVE INDIVIDUALS IDENTIFIED DURING THE PLANNING CONSULTATION PROCESS**

##### 1. Background

1.1 The Equality Act 2010 sets out current equality law. The Act makes it unlawful to discriminate either directly or indirectly for example because of a disability. Public Authorities have a legal responsibility to assess their activities, and to set out how they will protect people from discrimination on the basis of the following 'protected characteristics in making their decisions:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

1.2 An Equality Impact Assessment (EqIA) is intended to ensure that discrimination does not occur when a public body is performing its statutory functions. The EqIA focuses on systematically assessing and recording the likely equality impact of an activity or policy. There is a focus on assessing the impact on people with protected characteristics. This involves anticipating the consequences of activities on these groups / individuals and making sure that, as far as possible, any negative consequences are eliminated or minimised and opportunities for promoting equality are maximised.

1.3 The EqIA is carried out by drawing on existing research, monitoring information, and consultation. Once this has been completed an action plan can be drawn up and any decisions to change the delivery of an activity or policy can be made. Shropshire Council has a duty to protect against discrimination including with respect to people with disabilities, in making decisions on planning applications.

##### 2. Implications for the current application

- 2.1 The planning consultation process has identified two individuals with particular health-related disabilities who live in close proximity to the site. These issues render the individuals in question more susceptible to some of the potential impacts of quarrying operations than normal members of the public. Given the nature of these disabilities the Planning Authority has a duty to assess these issues under the Equality Act 2010. The individuals in question and their disabilities can be summarised as follows:
- a. A seriously ill child with multiple chronic health issues requiring regular hospitalisation lives with his parents at Naboth's Vineyard which is the nearest property to the proposed quarry. The residential curtilage of the property as identified on a planning application for an extension submitted recently at this property is located 90m south of the edge of the landscaped edge of the quarry site and 130m south of the proposed extraction limit. The property land ownership boundary includes a paddock field which extends northward locally to the margin of the application site. An NHS consultant writing on behalf of the child has advised if there is a deterioration in local air quality as a consequence of the proposed quarrying operations then this could cause respiratory problems with potentially serious consequences for the health of the child.
  - b. An man living on the north side of the A454 at Ridge View some 280m east of the proposed site access was blind from childhood for over 25 years. A professor at Sussex Eye Hospital restored sight in one eye in 1997 using a novel surgical procedure involving artificial re-construction of the eye. Following the operation the man moved to the property in question to assist their recovery away from the city and everyday germs. Unfortunately, after 20 years the sight was lost and the man spent the next 18 months completely blind. The Professor indicates that this loss was possibly due to dust from a nearby building site as the reconstructed eye was very delicate, having no tear ducts or moisture to protect the surface. The consultant has recently repeated the operation in the man's remaining eye, allowing him to see again. The professor advises that the potential for dust and fumes from quarrying operations will present considerable risks to the continued recovery and ongoing health of his only eye. Should this eye become scratched and infected he will undoubtedly lose his sight with no possible chance of recovery or sight restoration.
- 2.2 The main requirement of this assessment is to ensure that the planning decision by the Local Planning Authority takes appropriate of the two sensitive individuals and their particular health disabilities as they relate to the proposed quarrying development. In this respect the main issue of concern is the potential for air quality to adversely affect the health of the individuals. It is not considered appropriate for this planning assessment to consider wider issues such as the potential care needs of the individuals which are a responsibility for other agencies. Dust and air quality are considered in the succeeding section.
3. Applicant's response including proposed mitigation measures
- 3.1 The applicant and the Council's Regulatory Services team has been informed of both the above health issues though personal details have not been disclosed. The Naboths Vineyard situation was drawn to the attention of the Council earlier in the planning

consultation process. In response to this issue the applicant has made a number of amendments to the scheme seeking to mitigate the effects of the proposals on this property. These amendments also have relevance to the situation at Ridge View:

- a. The original Phases 4 and 5 have been subdivided to create a new phase (5b) parallel to the southern boundary of the site. The proposed internal haul road which was to run along the southern margin of the operational area has been moved into a small valley to the north of phase 5b, 106m further north and 250m from the property curtilage of Naboths Vineyard. The remaining Phase 4 and 5 operational areas are now a minimum distance of 250m from the edge of the residential curtilage of Naboths Vineyard, as opposed to 130m under the original phasing plan. It should be noted that the nearest part of the proposed quarry extraction boundary to Ridge View (Phase 5a) is 270m from the property;
- b. The applicant has agreed to accept a 'Grampian' condition stipulating that there shall be no entry into Phase 5b and the area shall remain unworked unless air quality monitoring in the period prior to working of phase 5b confirms that relevant air quality targets can be fully met. A similar condition has been accepted for a strip of land extending for 50m along the south-western boundary of the site facing the Gardenlands site and Ridge View. Extraction within these areas would proceed in accordance with an amenity management plan with enhanced controls. Phase 5b would not be proposed for quarrying development until year 7. The areas facing the garden centre and Ridge View would not be proposed for quarrying until year 6 (for phase 5b) and 10 (for phase 6b). This would allow plenty of time for air quality monitoring and to ensure dust control measures are fully mitigated;
- c. The applicant has agreed to accept a condition requiring submission of a scheme of additional / enhanced deployment of dust mitigation measures during the initial site development stage, with particular emphasis on formation of the landscape screening bunds along the southern margin of the site. Normal measures would include ensuring sufficient water is available for dust control using a water bowser at all times, a visual inspection regime and a requirement to cease any bund formation operations if climatic conditions are unfavourable (i.e. dry and wind blowing from the east or north east – i.e. towards Naboths Vineyard or Ridge View);
- d. The applicant has agreed to accept a condition requiring submission and implementation of a detailed air quality monitoring scheme with identification of trigger levels for action and a requirement for appropriate action in the event that identified trigger levels are approached. The scheme would have a particular focus on monitoring air quality along the southern boundary of the site nearest to Naboths Vineyard and Ridge View.
- e. It is confirmed that the site haul road would be formed in a 2m cutting with a bund to the south. An existing hedgerow along the western margin of the access road would be retained, improved and allowed to grow up to 3m.
- f. The applicant has also agreed to accept a planning condition committing to a formal procedure for dealing with validated amenity complaints, with requirements for investigation and mitigation where appropriate.

3.2 The applicant has emphasised that the air quality information accompanying the application does not suggest that air quality issues would be likely given the following factors:

- The design and phased nature of the site;
- The distance to sensitive receptors including Naboth's Vineyard and Ridge View, (with the plant site being located 480m and 900m from these properties respectively);
- The availability of detailed dust control measures on site;
- The extracted mineral contains a relatively high proportion of finer sand with moisture retention properties leading to a relatively high moisture content (@7%).

3.3 The officer would note that there are currently 5 operational sand and gravel sites in Shropshire and there have been no dust or other amenity related complaints regarding the operation of these sites, some of which are much closer to residential property than Naboths Vineyard and Ridge View and have been operating for sustained periods under phased extraction and restoration schemes. It is also noted that the sensitive properties in question are not located downwind of the site relative to the prevailing south-westerly winds.

#### 4. Advice of Council's Regulatory Services section

4.1 The Council's Regulatory Services section (Environmental Health) have been consulted on the application and the appropriate technical advisor on amenity issues. Their initial response below was to raise no objection subject to conditions:

Regulators Services initial consultation response:

*Having considered the dust assessment submitted with this application I am of the opinion that the mitigation measures proposed are satisfactory and should ensure no significant detrimental impact at nearby residential and commercial properties. As a result I propose the following condition:*

- All dust mitigation measures stated in the Dust Management Scheme, report reference CECB0617-RP10-FINAL produced by Crestwood Environmental Ltd shall be carried out in full for the duration of works on site. Reason: to protect the amenity of the surrounding area.*

*In relation to noise it is noted that mitigation is proposed in section 5-5.2.3 of the Noise Assessment report ref CE-CB-0617-RP17-FINAL produced by Crestwood Environmental Ltd. Hours of operation are also specified in section 5-5.2.4 of the same report. I would advise that both all of these mitigation measures are suitably conditioned. In addition the noise assessment states that a 3.5m high bund to the south of the site and a 2.5m bund to the north of the site is required to bring noise levels down as much as possible. This would result in noise levels of 43.8dB LAeq 1 hour at The Alders and 49.4dB LAeq 1 hour at Naboths Vineyard. I would recommend that these levels are conditioned as the maximum levels to be found at these locations with monitoring undertaken by the quarry to establish that these levels are achieved. It is noted that the*

*levels more than 10dB above background however the assessments are considered suitably conservative and it is noted that over the course of the development noise sources will become lowered in the site reducing noise at nearby receptors.*

- 4.2 Regulatory Services have been informed of the sensitive receptor issues and have made the following supplementary response following a detailed conversation with the officer with respect to Naboths Vineyard:

*I note that there is an individual living in close proximity who may be particularly sensitive to dusts arising from this activity. Having considered if this should be taken into consideration I would note that when carrying out other functions under legislation used by Regulatory Services there is case law to suggest that sensitivity to a particular aspect should not be taken into consideration and instead the impact on the average person should be considered –. This is in relation to the Environmental Protection Act 1990 and Statutory Nuisance which falls under s79 of the Act.*

*However, in respect of planning having discussed this matter with my line manager and legal it is noted that sensitivity could be taken into consideration. Having said this the impacts of dust from the site in question at the premises where there is a sensitive individual is living is not anticipated to cause an exceedance of the air quality objective levels which would trigger action. Indeed the levels would be significantly below the national objective levels set in legislation and therefore I would consider that even though there is a sensitive receptor in the general area (noted to generally be upwind of the development with a prevailing wind hence reduced impacts likely) and due to the additional phasing and positioning and bunding of the site access road I do not consider there to be any dust concerns from the proposed application.*

- 4.3 The officer has subsequently advised Regulatory Services of the presence of a second sensitive receptor at Ridge View, the presence of which has only recently come to light in the planning consultation process. Regulatory Services have advised that the same conclusions apply with respect to this property.
- 4.4 The officer has also asked Regulatory Services whether a year of pre-monitoring of background air quality levels should be undertaken prior to determination of the application in order to fully define the air quality background levels, as suggested by objectors. Regulatory Services have reaffirmed that the proposed planning conditions and amended layout proposals are sufficient to address the identified concerns with respect to air quality.
- 4.5 The applicant's agent has advised in this respect that the air quality report accompanying the application takes account of national DEFRA air quality data which is based on a 1km grid. This data indicates that background air quality is significantly below the level at which action would be required under air quality objectives. The report also predicts that the process contribution from the proposed quarry would be such that it would remain well below national action levels for air quality and within the range of variation of natural background levels.
5. Geographic characteristics of the sensitive properties

- 5.1 With respect to Ridge View it is noted that large arable fields are located within 30m to the north-west and south of the property. Normal farming operations in these fields might reasonably be expected to have a significant effect on local air quality at certain times of the year. By contrast the proposed quarry operations would remain over 500m away for the first 7 years, 270m at their nearest, and would be subject to detailed and comprehensive dust mitigation measures. The nearest fields to the property within the application site are also in arable use so would be expected to generate dust during normal agricultural operations. This contribution to the local dust environment would not apply in the event that the quarry operations proceed. The property is also located within 20m of the A454 and within a similar distance to a large car park associated with the Gardenland Nursery and an adjoining college site.
- 5.2 Naboths Vineyard immediately adjoins a large arable field to the west and is within 40m of a further field to the east. Local air quality therefore has the potential to be affected by normal farming activities. As is the case with Ridge View, arable land further north within the site would not be subject to arable farming if the quarrying proceeds and this would represent an 'offset' for the local background dust climate. The property is located closer to the A454 than the proposed quarry access road, which would be set down in a cutting for most of its length and screened by a mature hedgerow which would be strengthened.
6. Conclusion
- 6.1 The particular sensitivities of the 2 individuals living in proximity to the proposed quarry site have been assessed as part of the planning consultation process and under an Equality Impact Assessment. The applicant has been made aware of these concerns and has agreed to a number of changes to the layout of the site which have been designed to provide appropriate mitigation for the identified issues which refer mainly to air quality issues. These amendments would be reinforced by the recommended planning conditions.
- 6.2 The Council's Regulatory Services section has been consulted and is satisfied that the identified issues can be effectively addressed through the proposed amendments and recommended planning conditions.
- 6.3 The geographic context of the receptor properties has been assessed. DEFRA survey data provided in the applicant's air quality report indicates that the site is in an area where background air quality is generally good and falls significantly below the level at which action is required under national air quality standards. The quarry is upwind of the receptors. The report concludes that the proposed quarry would not be likely to result in any material impact to local air quality given the availability of appropriate dust management controls. It is noted that such controls do not apply for normal farming operations in arable fields adjoining these properties.
- 6.4 It is concluded that the interests of the sensitive receptors can be adequately safeguarded given the design of the quarrying proposals and the available planning conditions. This conclusion is supported by the Council's Regulatory Services section and by experience of operation of other sand and gravel sites within Shropshire.

## **APPENDIX 4**

### **EUROPEAN PROTECTED SPECIES – Consideration of the three tests**

Application name and reference number:

17/05303/MAW | **The phased extraction of sand and gravel, inclusive of mineral processing, all ancillary works, equipment and associated infrastructure and progressive restoration, Land Near Shipley, Bridgnorth Road, Shipley.**

Date of consideration of three tests:

14<sup>th</sup> September 2018

Consideration of three tests carried out by:

Sue Swales  
Natural Environment Team Leader (Test 3)

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

The weight to be accorded to protection of a protected species is proportionate to the potential for a development to give rise to adverse effects to the species. The third test (below) has indicated that the proposed quarrying operations can be controlled by condition to prevent any unacceptable effects to GCN or their habitats. NPPF paragraph 203 advises that ‘it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs’. NPPF paragraph 205 advises that ‘when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy’. Given the ability to mitigate any effects on GCN through use of conditions it is considered that the benefits of mineral extraction in accordance with NPPF205 clearly outweigh any residual effects on GCN following mitigation.

Grahame French, Principal Planner 17/09/18

#### **2 Is there ‘no satisfactory alternative’?**

NPPF 203 advises that ‘since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation’. The applicant’s existing quarry at Seisdon is scheduled to close at the end of 2018. The current proposals are put forward as a direct replacement, producing the same type of mineral into the same market. There are no satisfactory alternatives. Other potential supplies would not produce an equivalent fine sand mineral and would be further from the applicant’s markets, raising viability issues. This is supported by the applicant’s customers (see Appendix 2.2 of this report)



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

I have read the above application and the supporting documents including:

1. Environmental Statement: Volume 6, Ecological Impact Assessment
2. Appendix 6.1: Extended Phase 1 Habitat Survey Report, (24.10.17), by Crestwood Environmental Ltd (Surveys on 24<sup>th</sup> March 2015 and 23<sup>rd</sup> March 2017),
3. Updated Great Crested Newt Population Size Class Assessment Survey, (17<sup>th</sup> October 2017), Crestwood Environmental Ltd
4. Additional Ecological and Arboricultural Information and response to Planning Application Consultation (Planning Ref: 17/05303/MAW), Addendum to Chapter 6 of the Environmental Statement, Ref. CE-CB-0617-RP41 – Final, 31<sup>st</sup> May 2018, Crestwood Environmental Ltd.
5. Letter dated 20<sup>th</sup> July 2018 – concerning GCN, by Crestwood Environmental.
6. Ecology clarifications, Document Reference: CE-CB0617-FN05 – FINAL
7. Email dated 5<sup>th</sup> September 2018 including plan showing additional land available to the applicant for mitigation measures should later changes in the estimated population status require additional provision.

A total of 13 ponds within 500m of the Site (figure E41 of ecological Addendum) were identified. Two ponds (Pond 1a and Pond 1b) are present on site and two others (Pond 2 and Pond J) lie close by to the south and east on the site boundary. A conventional population survey with 6 survey visits identified a small population of GCN (less than 10 individuals) centred on ponds 1a/b and 2. Pond J (3) was dry at the time of the population survey (2017) but held water in 2018 and dense vegetation restricted access to Pond 2.

Of the remaining ponds, two of these ponds (ponds X and Y) were considered to be separated from the site by significant barriers to amphibian dispersal. The remaining 11 ponds were investigated further. Pond G (at Naboth’s Vineyard) could not be accessed but is believed to be dry. Ponds F and H are no longer present. Ponds A and B in Alder Wood were too shallow to sample for eDNA and considered unlikely to support GCN. Pond K had been dry on previous occasions and was similar to A and B. Pond I was excluded from eDNA analysis due to its structure, use and distance from the development Site. Pond I also appears to be a relatively recent feature judging by aerial photos.

Having investigated all ponds within 500m of the application site, Crestwood recommended that only four ponds had potential to support GCNs and these were tested for eDNA - ponds C, D, E and J on the 18<sup>th</sup> April. All returned negative results and GCN had been assumed absent from these ponds.

However, Pond C (c. 440m from the red line boundary) has been re-tested by a resident using an independent ecological consultant and samples were sent to an independent specialist laboratory. This test came back positive. Taking a precautionary approach, SC assumes GCNs of an unknown population size are present in pond C.

SC has considered research and guidance on the movements and habitats of GCN. The density of individual GCNs decreases with distance from the pond, but the distances depend on the surrounding habitats and their connectivity. The largest numbers are normally found in the first 50m or so from the breeding pond. The normal dispersal/foraging distance for a population tends to be to around 250m. Dispersal distances are often greater along good quality, linear newt habitat such as hedges and ditches. A few individuals of the population may travel as far as 1000 - 1300m or more, thus allowing colonisation of new sites. (refer to Great Crested Newt Mitigation Guidelines and Natural England's research report 576.) In GCN trapping exercises, the majority of GCN are found within the first 50 metres of the breeding pond. Very few individuals are caught in pitfall traps over 200m from the pond.

Pond C which has now tested positive is over 400m from the development site and ponds 1a, 1b and 2 lie between this pond and the quarry. It is possible that there are two metapopulations present, one centred around ponds 1a/b and 2, the other around pond C. Despite the long distances (423 – 639m) it is possible that GCN could move in small numbers between the two metapopulations along connecting habitat (particularly the track verges). However, this connection would not be broken by the development.

Connections between ponds 1a/b, 2 and J will be improved by the mitigation for the development, particularly as the tree belt is due to be extended around this corner of the site.

Even if GCN were present in ponds/springs A and B, they are over 200m from the development boundary, within excellent GCN habitat and over 400m from ponds 1a/b and 2. Should GCN move in this direction the mitigation measures proposed should improve GCN habitat and connectivity.

A licence will be required from Natural England and the licence method statement & proposed mitigation will include (but are not limited to);

- A block of tree/scrub planting to the north of ponds 1a/b providing additional terrestrial habitat and connectivity between the breeding ponds and Alder Coppice, planted by the start of extraction and retained through to the restored landscape.
- Use of Temporary Amphibian Fencing to allow trapping GCN out of the worked areas and preventing killing and injury during operation of the quarry.
- Retention of Ponds 1a/b and the surrounding good terrestrial habitat throughout the operation of the quarry as a receptor site for GCN trapped out of extraction areas.
- Provision of additional hibernacula within or adjacent to the breeding ponds.
- Investigating the sustainability of water levels in the existing ponds 1a,1b and 2, and mitigation measures to ensure continued water levels for the required length of time for successful GCN breeding.
- Hedge and tree belts linking Ponds 1a/b and the surrounding field to Ponds 2 and J (3) during and after mineral extraction.
- Provision of additional land outside of the red line boundary to the south of Ponds 1a/b and Pond 2, between these ponds and the Pond C, D, E group, should it be required to mitigate for changes to the GCN population estimates. Should planning permission be granted then commencement of development can be delayed for up to three years and an application to Natural England for an EPS Mitigation Licence

may also be delayed for a similar period. Additional survey work may be required by Natural England and updated surveys are required by planning conditions as a precaution during the years of phased working. The additional land will remain in agriculture unless changes in the estimated GCN population occur and more mitigation land is required to maintain the Favourable Conservation Status of the currently identified small population. The additional land has been shown on a plan attached to the email listed as supporting document 7 above (and attached below) and all GCN mitigation land (currently proposed) will be secured for the long term via conditions or a Section 106 agreement (potential additional GCN mitigation land).

(See above documents for details.)

In view of the above, favourable conservation status of the GCN populations should be maintained and enhanced.

The following conditions regarding GCN should be added to any decision notice:

**Condition**

No site clearance or development shall take place until either:

- a) a European Protected Species (EPS) Mitigation Licence with respect to Great Crested Newts has been obtained from Natural England and submitted with the method statement to the Local Planning Authority; or
- b) a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the Local Planning Authority for prior approval explaining why a licence is not required and setting out any additional mitigation measures proposed. The measures will be implemented as approved.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species.

**Condition**

- a. This permission shall relate to the areas edged red on Figure 2 (Existing Topographic Survey) accompanying the application (Drawing no. CE-CB0617-DW34) hereinafter referred to as the "Site".
- b. Unless otherwise required by the conditions attached to this permission, the development hereby permitted shall be undertaken in accordance with the approved scheme incorporating the following documents and plans:
  - i. The application form dated 3<sup>rd</sup> November 2017;
  - ii. The Non-Technical Summary dated 31/10/2017;
  - iii. The planning supporting statement dated 31/10/2017;
  - iv. The Environmental Statement dated 31/10/2017 and the accompanying appendices.
  - iv. The submitted drawings accompanying the Environmental Statement as amended, namely:
    - Figure 2 - CE-CB0617-DW34 -Topographical Survey;

- Figure 3 - CE-CB0617-DW13c - Amended Working Scheme (dated 10/07/18);
- Figure 4 – CE-CB0617-DW15c - Updated Concept Restoration Plan (dated 10/07/18);
- CE-CB0617-DW21 - Figure 6 Phase 1 & 2 - Years 2-3 (as amended by Fig3);
- CE-CB0617-DW24 - Figure 9 - Phase 5 - Years 9-10 (as amended by Fig3);
- 18531-03 – Site Access Layout.

c. The further information submitted under Regulation 25 of the Environmental Impact Assessment Regulations 2018 comprising:

- Annex 1 - road safety audit;
- Annex 2 - water features survey;
- Annex 3.1 - cultural heritage addendum;
- Annex 4.1 - ecology & trees;
- Annex 4.2 – badgers;
- Annex 5 - updated visual information;
- Annex 6 - amenity protection.

Reason: To define the Site and permission

**Condition**

For each phase of the permitted development, commencing after 2 years from the date of the planning consent the approved ecological measures and mitigation secured through conditions shall be reviewed and, where necessary, updated and amended.

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

Where update surveys show that conditions on the site have changed (and are not addressed through the originally agreed mitigation scheme) then a revised updated and amended mitigation scheme, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the phase. Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that development is informed by up to date ecological information and that ecological mitigation is appropriate to the state of the site at the time phases of development commence, in accordance with wildlife legislation, NPPF 118 and MD12.

**Condition**

30a. A tree planting and habitat creation scheme, prepared in accordance with British Standard 8545: 2014 ‘Trees: from Nursery to Independence in the Landscape – Recommendations’, or its current version, shall be submitted for the approval in writing of the Local Planning Authority prior to the Commencement Date. The approved scheme shall be implemented within the timescales proposed in the tree planting and habitat creation plan and shall include:

- i. Details of the trees and shrubs to be planted in association with the development, including species, numbers, locations and planting pattern, type of planting stock, size at planting, means of protection and support, time of planting (season and phasing as the scheme progresses) and measures for post-planting maintenance.;
- ii. Details as relevant of the specification and location of the barriers to be installed prior to commencement of development (and / or any other measures to be taken), for the protection of ground reserved for the planting identified in a) above.;
- iii. A revised plan showing the extension of the tree belt of a similar width to that in Phase 1 along the southern boundary between Pond J to Pond 2 and Pond 2 to Ponds 1a/b:
- iv. Details of habitat creation and other wildlife features (e.g. hibernacula), including species-rich grassland creation, enhancement or restoration. Schedules of plant species, including details of green hay or seed mixes (if used) also to be provided ;
- v. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- vi. Species of trees, shrubs and herbaceous plants should be native and of local provenance;
- vii. Implementation timetables.

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

b. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the LPA becomes seriously damaged or diseased, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: to ensure satisfactory tree and shrub planting and habitat creation to enhance biodiversity and the appearance of the development and its integration into the surrounding area.

**Condition**

Within 3 months of the date of this permission, a scheme of hydrogeological monitoring scheme (“the HMS”), shall be submitted for the approval in writing of the Local Planning Authority. The HMS shall be based on the information and principles contained within the Environmental Statement and Supplementary Environmental Information. No mineral extraction operations within the first phase of extraction shall take place until the HMS has been approved in writing. The HMS shall include proposals

for monitoring in the following locations at and in the vicinity of the site, including in locations where potential interactions may be encountered between the proposed operations and groundwater:

- i. within the Principal Aquifer (i.e. at deeper levels); and
  - ii. within shallower geology above the Principal Aquifer.
- b. The hydrogeological monitoring scheme shall detail the monitoring approach and criteria for the identification of material changes to local groundwater levels and/or local water features which may be attributable to the consented operations. Details within the HMS shall include but not be limited to:
- i. identification of local water features within the vicinity of the Site (including but not limited to springs, boreholes and wells);
  - ii. monitoring locations;
  - iii. frequency, method and type of monitoring to be undertaken;
  - iv. frequency of submission of monitoring data to the Minerals Planning Authority; and
  - v. mechanisms for review of the monitoring scheme.
- c. Once the HMS has been approved in writing by the Local Planning Authority, it shall be implemented in full thereafter.

Reason: To define the monitoring of the consented mineral extraction operations in relation to the protection of the local water environment from significant harm resulting from any localised interactions, in accordance with Core Strategy Policy CS18.

*Note: This condition is linked to a section 106 legal agreement clause which facilitates hydrological monitoring in appropriate locations in the area surrounding the application site.*

**Condition**

Within one month of the identification of any potential material changes to local groundwater levels and/or local water features, as defined within the HMS (referred to at Condition 24), a scheme of investigation (“the Scheme of Investigation”) shall be submitted to the Local Planning Authority for approval in writing. The scheme shall include:

- i. Proposals to investigate the cause of the material change to local groundwater levels or those local water features identified in the HMS;
  - ii. Measures to mitigate the associated risks, where the cause is attributable to on-site operations hereby consented; and
  - iii. Proposals for subsequent monitoring and reporting in relation to the success or subsequent amendment of mitigation measures undertaken.
- b. Once the Scheme of Investigation has been approved in writing by the Minerals Planning Authority, it shall be implemented in full thereafter.

Reason: To protect the local water environment should monitoring in accordance with the HMS approved under Condition 24 indicate a material change by securing mitigation if necessary in accordance with Core Strategy Policy CS18.

**Condition**

No extraction operations shall take place below 109m above ordnance datum unless the hydrological monitoring scheme required by Condition 24 has confirmed to the written satisfaction of the Local Planning Authority that extraction below this level would not intercept the permanent groundwater table.

Reason: To prevent any deterioration of ground or surface waters ('controlled waters' as defined under the Water Resources Act 1991).

**Condition**

The Dust Management Scheme (Ancient Woodland Specific Aspects) in section 4.1.32, and the recommendations in sections 3.3.20 – 3.3.26 of the 'Additional Ecological and Arboricultural Information and response to Planning Application Consultation (Planning Ref: 17/05303/MAW), Addendum to Chapter 6 of the Environmental Statement, Ref. CE-CB-0617-RP41 – Final' dated 31st May 2018 by Crestwood Environmental Ltd. shall be implemented from the commencement of the development until the restoration phase has been completed.

Reason: To ensure sensitive receptors including the Ancient Woodland and Ancient Plantation Woodland to the north of the site and Great Crested Newt (European Protected Species) habitats are not damaged by dust from quarrying activities.

**Informative**

Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

**Condition**

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall:

- a) identify those areas/features on site that are particularly sensitive for bats, where lighting is likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and
- b) show how and where external lighting shall be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that

areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

**Condition**

Within 6 months of the commencement of development a habitat management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

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

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

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

Section 106 wording will be drafted by the legal department prior to issuing the decision notice to cover the potential GCN mitigation land, should it be required.





Committee and date  
 South Planning Committee  
 25 September 2018

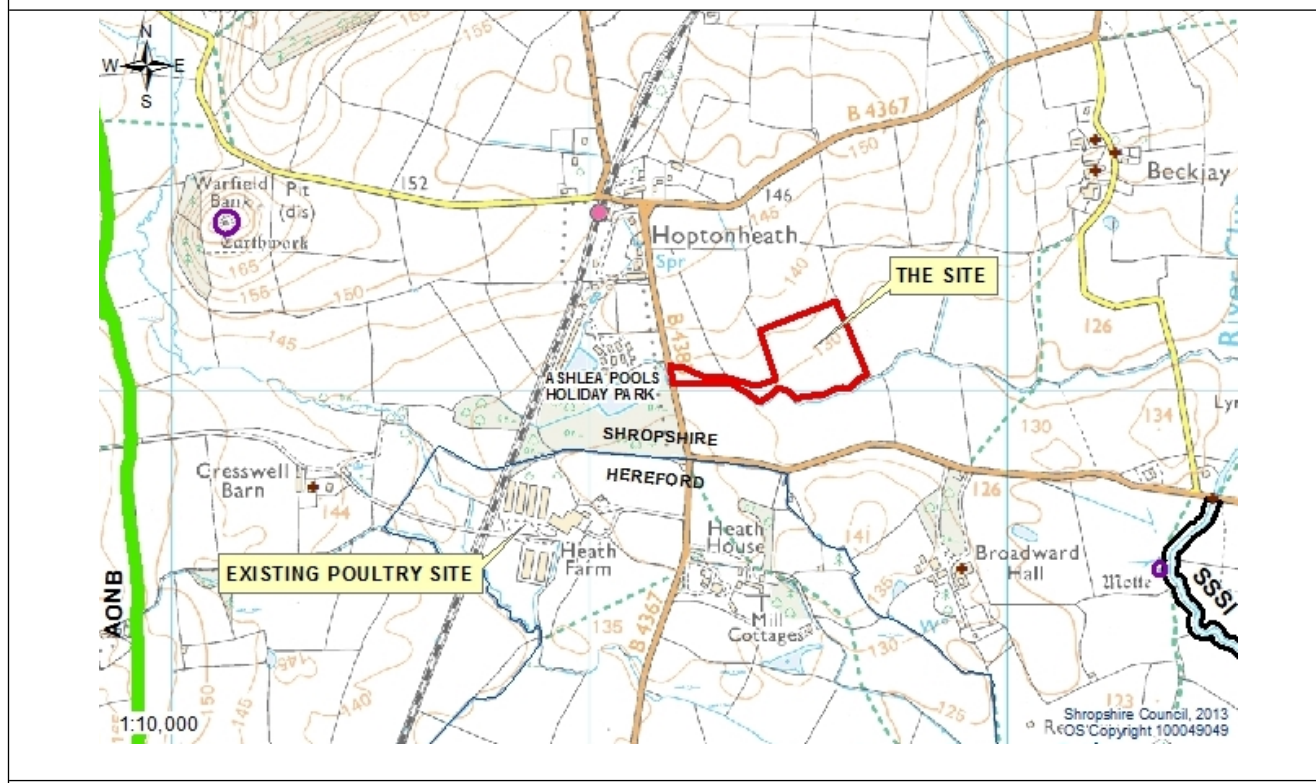
## Development Management Report

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> 17/04546/EIA	<b>Parish:</b>	Clungunford
<b>Proposal:</b> Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme)		
<b>Site Address:</b> Proposed Poultry Units South East Of Hoptonheath Shropshire		
<b>Applicant:</b> Bedstone Growers		
<b>Case Officer:</b> Vincent Maher	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 338525 – 277077



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**Recommendation:- (a) approve subject to the conditions set out in Appendix 2; and (b) delegate to officers authority to negotiate a s106 legal agreement prior to the grant of planning permission to remove manure associated with the development from the Clun Catchment Area Special Area of Conservation (SAC) and ensure the air exhaust scrubber system that will limit ammonia emissions remains operational throughout the lifetime of the development and agree appropriate recourses in case the scrubber system fails or the operator closes it down.**

## REPORT

### 1.0 THE PROPOSAL

1.1 Planning permission is sought to erect four poultry rearing sheds on a 2.5 ha area of land that forms part of a larger farm that includes arable cropping, a farm biogas plant, and an existing poultry unit just over the county border into Herefordshire. The application (as revised since first submission) can be summarised as follows:

- 4 broiler buildings measuring 109m x 24.7m with each shed measuring around 4.89m to ridge height with an air exhaust scrubber system incorporated into each building.
- 10 feed bins, each measuring 7.5m in height.
- A biomass boiler measuring 22.46m x 17.69m with an eaves height of 7.58m to power the sheds.
- A new access onto the B4367 and associated extensive landscaping in the area. This will include just over 1.7 ha of native woodland around the site in belts between 9m and 50m wide which will serve to mitigate ammonia emissions and the visual impact of the proposal.

1.2 An air exhaust scrubber system is proposed as part of the development as a way of capturing ammonia emitted by the birds and addressing odour and dust emissions. This involves installing a filter system behind the fans in the sheds which cleans the used air before it is discharged into the atmosphere. The ammonia is collected and disposed of off-site. The technology purports to remove over 90% of all ammonia emissions and would also remove odour and dust from the operations. This technology is currently used in other EU member states (Belgium, the Netherlands and Germany) but is relatively new in the UK.

1.3 The revised development would accommodate 204,000 birds (originally 216,000 birds but now reduced because of the introduction of the air exhaust scrubber system). Hence, the proposals fall within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017, so the applicant has submitted an Environmental Statement. A number of technical reports accompany the Environmental Statement covering: noise; landscape assessment; ecology; ammonia screening and scrubbing; heritage assessment; an archaeological written scheme of investigation; flood risk and drainage; and a highway assessment. The statement was updated in February 2018 to take account of the exhaust scrubber system and initial concerns raised by officers about the initial landscape assessment. A supplementary landscape and visual impact assessment (LVIA) was prepared. The applicant has supplied further technical information on nitrogen to the Council's ecologist to help her assess ecological impacts. The applicant has further asserted that they have had a contract to supply chickens with a processor for more than four years.

- 1.4 In addition, the applicant submitted further information in May 2018 on existing night time vehicle movements, noise from the site and revised landscaping plans on the B4367 fronting during the processing of this application. As a result the Council has carried out three consultations during the processing of this case.
- 1.5 Pursuant to the grant of planning permission the applicant wishes to enter into a s106 agreement regarding all poultry manure arising from the development requiring it to be exported outside of the River Clun Catchment Special Area of Conservation (SAC) and has sent details of a unilateral undertaking that was prepared in connection with a recent planning appeal on the site.

***Planning history of the site***

- 1.6 A planning application was submitted for an almost identical scheme in 2014 (14/03290/EIA). It differs from the current revised scheme principally in that there was no air scrubbing exhaust system and the number of birds was higher. Officers originally recommended this earlier scheme for approval at the South Planning Committee in December 2014 subject to receiving Natural England comments. The Committee endorsed this recommendation. Clungunford Parish Council subsequently instigated a judicial review and the planning permission was quashed.
- 1.7 The planning application was subsequently reported again to the South Planning Committee in October 2015 following receipt of Natural England's revised comments withdrawing a holding objection. Officers recommended this scheme for approval but the Committee refused the scheme contrary to officers' advice for two reasons: (a) it would represent large scale development in the open countryside which fails to maintain and enhance countryside vitality and character and would damage local tourism interests; (b) and the potential risk of a breakdown in control measures and associated pollution represented an unacceptable risk to the Clun Catchment Area SAC within which the site is located. An appeal was lodged.
- 1.8 The appeal inspector took account of the Council's two reasons for refusal but dismissed the appeal solely on noise grounds. The inspector considered a number of noise sources associated with the development. These include vehicles on the local road network as well as activities on site. At paragraph 29 of the decision, the inspector stated:

*the proposal would introduce noisy activities into an area recognised and valued for its peace and tranquillity, which would be significantly harmful to the character of the area. The proposal would also be likely to result in a reduced appreciation of the area where local residents live and result in noise and disturbance to nearby occupiers' enjoyment of their property.*

- 1.9 The Committee must consider the current proposal afresh whilst taking into account previous decisions and other material considerations. This includes the findings of three rounds of planning consultation, as well as other matters that have arisen since the last appeal decision such as adoption of the SAMDev Plan and the publication of the July 2018 NPPF.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in open countryside close to the county border with Herefordshire. It is south of the settlement of Hopton Heath and to the east of the Ashley Pools Caravan Park. It is some 1.5km from the Shropshire Hills Area of Outstanding Beauty boundary but located within the Clun Catchment Area SAC, an area strictly protected under the EC Habitats Directive. The SAC has been designated due to the presence of Freshwater Pearl Mussel.
- 2.2 The site can be broadly characterised as forming part of a wider “Estate Farmland” landscape characterised by mixed farming land use, clustered settlement patterns, large country houses with associated parkland, planned wooded character and medium to large scale landscapes with framed views.
- 2.3 The site itself comprises a number of open fields used for grazing with hedgerow around the edges. Land levels fall generally in a north west (140m AOD) to southerly (128m AOD) direction.
- 2.4 The development would access onto the B4367. This is a straight road linking Hopton Heath with Bedstone and Bucknell to the south. It has a single lane carriageway in each direction where the speed limit is 60 mph.

## 3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The proposals comprise Schedule 1 EIA development so a committee decision is mandatory under the Council’s Scheme of Delegation.

## 4.0 COMMUNITY REPRESENTATIONS

- 4.1 - Consultee Comments

### 4.1.1 Environment Agency: Comment

Site benefits from an environmental permit under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

EA do not make detailed comments on these emissions as part of the current planning application process. Applicant responsible to undertake relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement and Sanctions guidance.

*(Note: this scheme has been amended since with the introduction of an air exhaust scrubber system. It will not have any roof ventilation associated with other sheds)*

**Flood Risk:** The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map. Whilst development may be appropriate in Flood Zone 1

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

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

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

<http://publications.environment-agency.gov.uk/PDF/SCHO0612BUWH-E-E.pdf>

**Manure Management (storage/spreading):** Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any Plan submitted would be required to accord with the Code of Good Agricultural Practice (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable.

Manure /litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields. Separate to the EP consideration, EA also regulate the application of organic manures and fertilisers to fields under the Nitrate Pollution Prevention Regulations.

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

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

**4.1.2 SC Regulatory Services: Comment**

Has considered the noise assessment and notes the proposed mitigation. Recommends that a condition is placed to ensure that all noise mitigation is carried out in full and maintained for the duration of the land use.

Aware of past decisions on this application and can confirm that the noise assessment proposed is considered thorough and takes into account all uncertainties noted in past applications for this land use at this site.

In relation to odour and air quality, has no conditions to recommend following consideration of these matters.

**4.1.3 SC SUDS: Comment**

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

The drainage proposals in the Flood Risk and Drainage Assessment are acceptable in principle, however, the proposed floor space is greater than 10,000m<sup>2</sup> which is considered to be a Largescale Major Development and the surface water drainage should be designed to a 1 in 10 storm event plus 25% for climate change.

A final surface water drainage plan should be submitted for approval.

**4.1.3 SC Highways: No objection**

Highway Statement is sufficiently robust and demonstrates the likely impact this development might have on the adjacent public highway. Therefore, it is considered that the proposed development, would be acceptable from a highways/ transport perspective.

The Highway Statement suggests that a visibility splay of 2.4m X 215m will be provided at the new site access. However, the submitted block plan indicates a visibility splay of 2.4m X 175m. Ideally the plans/statements should be consistent with the greater visibility splay.

Recommends informatives to prevent mud on the highway and advice on works within or abutting the highway.

**4.1.4 ESP Ltd (Landscape adviser to the Council):****First consultation comments: Objection**

Had a number of initial concerns with the Landscape and Visual Impact Assessment (LVIA) methodology used and application of that methodology and considered it unreliable. It has not been prepared in accordance with best practice. It has not covered a Zone of Theoretical Visibility (ZTV).

**Second consultation comments : No objection**

Has reviewed revised LVIA prepared by Allan Moss Associates Ltd and has viewed the proposed site from a number of perspectives. Advises that it accords with best practice (GLVIA3). Has reviewed landscape mitigation and enhancement incorporated into the scheme. Has considered the scheme in the context of the wider area including the Shropshire Hills AONB.

Considers the LVIA findings reliable and agree with them. Overall, finds that the proposal is likely to have 'Minor adverse' significance on landscape character at a site specific level; 'Moderate/Minor adverse' significance in terms of the immediate adjoining countryside; and 'Minor adverse' significance on the wider landscape and the Shropshire Hills AONB.

Has one concern relating the relationship between the existing hedgerow at the point that the proposed access road joins the highway. The Arboricultural Impact Assessment indicates that a 6m length of existing hedgerow (H1) is proposed for removal to accommodate the new access drive along with a single Wych Elm tree (T1) in order to accommodate the visibility splay.

However, the Access Arrangements Plan indicates that the new entrance would be approximately 16m wide at the point it passes through the boundary hedge. In addition, it suggests that some additional hedgerow may also be affected by the visibility splays. It is therefore unclear as to how much hedgerow is proposed to be removed, and the extent of this will be a factor in the assessment of both landscape and visual effects. It should be noted that its loss needs to be balanced with proposed planting of some 500m of new hedgerow as part of the development.

#### **Other observations**

ESP Ltd have also reviewed photographs that formed part of Clungunford Parish Council submission dated November 2017. Agrees with the assertion in Allan Moss LVIA that photographs 4 and 5 in the objection document from the parish are misleading, on the grounds that the photographs are taken from private land some distance from footpath LX12 on the Herefordshire Trail and are taken with a telephoto or zoom lens showing a very narrow field of view giving an exaggerated appearance of the proposal site.

#### **4.1.5 SC Trees: No objection**

Tree Service has no objection to this application on arboricultural grounds, providing due care is taken to protect existing trees and hedgerows to be retained from damage during development and that the Council secures through conditions the full delivery of the proposed landscape proposals. If the application is granted planning permission in the autumn of 2017 then it is not unreasonable that the proposed landscape mitigation could be established during the 2017-18 planting season and completed in advance or on a parallel time line to the construction works rather than as a subsequent and secondary operation if not done during the 2017-18 planting season then we recommend that conditions should secure the full delivery of the landscape proposal in the first planting season after the commencement of any ground or construction works including the formation of an access point.

Recommend tree protection controls set out in tree condition report and landscape conditions.

**4.1.6 SC Ecology: No objection. Has recommended conditions and informatives.**

Has read the application and following additional documents.

- Preliminary Ecological Appraisal prepared by Craig Emms MSc MCIEEM June 2017.
- Natural England Comment dated 7<sup>th</sup> March 2018.
- A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Bedston Growers Broiler Rearing Unit at Hopton Heath in Shropshire prepared by Steve Smith, 12<sup>th</sup> April 2018.
- Landscape Masterplan SA1465-01 REVA, uploaded to the planning portal 12<sup>th</sup> February 2018.
- Bedstone Growers Total Nitrogen Applied to Hopton Heath Fields No. 7-No. 8 Manure N + Fertiliser. Map showing Bedstone Growers Field numbers/names - received via email from Ian Pick, dated 20<sup>th</sup> April 2018.
- Detail of protection of the watercourse received from Ian Pick via email on 15<sup>th</sup> June regarding sediment runoff protection.

Offers the following additional advice on dormice, bats and River Clun SAC.

**Dormice**

Before the western hedgerow is breached to provide access to the site a pre-removal hand search for Dormice and/or nests should be conducted by an appropriately licensed ecologist, and a watching brief carried out during the removal of the vegetation. In the unlikely event of a Dormouse or Dormouse nest being found at any stage of the hedgerow removal then works must stop and Natural England contacted (via the licensed ecologist) to establish an appropriate course of action. This work should be undertaken outside of the main Dormouse hibernation period (November to April inclusive).

In order to enhance and protect the site for Dormice the wooded watercourse will be protected during development and there will be additional planting of native species. A minimum of 10 dormouse boxes will be installed and maintained for the lifetime of the development in suitable locations along the wooded watercourse.

The applicant has provided a detailed landscape plan (1465.01 Rev C). SC Ecology would recommend that the percentage of Hazel planting is increased in order to enhance the site for dormice – currently no Hazel planting in W2, and only 5% in W1.

**Bats**

In order to enhance the site for bats a number of bat boxes will be installed along the wooded watercourse to the south of the site. A lighting plan will be conditioned to ensure that ecological corridors are maintained.

**River Clun SAC**

The planning proposal includes the use of an ammonia scrubbing system - EMMI Exhaust Air Scrubber System, which reduces ammonia emissions from the poultry units by more than 90%.



All manure will be loaded from the sheds into trailers which will be sheeted and transported away from the site for disposal. The application is subject to a Section 106 agreement regarding manure disposal, which requires all of the poultry manure arising from the development to be exported outside of the River Clun Catchment.

Dirty water will be drained into a sealed dirty water containment tank and therefore will not enter the watercourse.

The updated ammonia modelling submitted in support of this proposal indicates that the nitrogen deposition rate would be: approximately 850 kg/y over the 3 km x 3 km modelled domain. Due to a 90% reduction in nitrogen deposition, due to scrubbing, the applicant has offset the additional 85kg with arable reversion and woodland planting.

The Landscape Masterplan SA1465-01 REVC, uploaded to the planning portal 19<sup>th</sup> July 2018, includes W1 - 12,100m<sup>2</sup> and W2 - 5,175m<sup>2</sup>. A minimum 17,275m<sup>2</sup> of woodland will be planted as part of this proposal within field numbers 7 and 8. Therefore 1.7 hectares of woodland planting will cover an area of land which for the last 5 years has had an average of 244.6 kg/N/ha applied. Therefore the arable reversion/reduction in nitrogen fertiliser being applied will offset the remaining 10% ammonia deposition from the poultry unit.

SC Ecology has concluded that there will be no adverse impact on the integrity of the River Clun SAC, providing works are carried out as proposed and with planning conditions recommended that aim to secure a monitoring strategy at 'source' in order to demonstrate that the ammonia emissions from the unit has achieved a minimum 90% ammonia emission reduction. The strategy will provide a schedule of mitigation measures that could be applied if the actual output is less than 90% reduction.

#### 4.1.6 **Natural England: Comment**

Site within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the River Clun Special Area of Conservation (SAC) which is a European site.

Natural England have reviewed the Council's HRA and acknowledge the mitigation measures proposed. These include:

- the use of an ammonia scrubbing system.
- offsetting the additional nitrogen with arable reversion and woodland planting - a minimum 17,275m<sup>2</sup> of woodland will be planted as part of this proposal.
- additional native species woodland will be created buffering the application from the un-named ditch this will reduce sediment and nutrient run off.
- proposed surface water drainage from the sheds and units will be collected at source in guttering and downspouts and then discharge direct to soakaways.
- all dirty water collected from washing down will be collected via ACO channel drainage and gullies to a piped system and will drain to a sealed 6000 gallon tank

located to the front and south of the buildings. The dirty water will be collected following the washing down and cleaning of the sheds following each crop and will be transferred by vacuum tank to be used damp down the feedstocks and used in association with the AD (Anaerobic Digester) plant. The dirty water will be stored in existing tanks used in association with the AD Unit. The tank will be provided with a high levels alarm system to advise on the level of storage and when the tank requires emptying.

Agree that an ecological monitoring plan is required.

Seek additional clarification around the construction phase of the development, with specific regard to sedimentation entering the watercourse adjacent to the development which connects to the designated site and the safeguards and methods to be put in place to ensure contaminated surface water does not enter the stream. As the development site is so close to the River Clun SAC there is a higher risk of this material reaching the designated site after any accidental release. Previous versions of this proposal incorporated extensive measures to prevent this and the applicant may wish to incorporate them.

*(Note: A revised landscape pan 1465.01 Rev C has been submitted that addresses this and SC Ecology has updated the HRA accordingly).*

#### 4.1.8 **Historic England: No objection**

Recommend a comprehensive scheme of screening should be included within the proposals. The scheme should detail how the impact of the development would be reduced by design, (including materials and recessive colours), and by landscaping so as to minimise the impact of the development upon the wider landscape that includes Heath House, listed II\*, (National Heritage List for England ref: 1180036), and also a scheduled ancient monument, Motte Castle at Broadward Hall, NHLE ref: 1019007). A screening plan should be approved in writing by the Council prior to any works taking place on site.

##### Second consultation

Confirmed no objection. Support SC Archaeology request for written statement of investigation.

#### 4.1.9 **SC Archaeology: No objection**

No known heritage assets within the proposed development boundary. However, immediate surrounding area contains a number of designated assets including the scheduled monuments of Motte castle 510m east of Broadward Hall (National Ref: 1019007). Additionally there are several non-designated heritage assets relating to Bronze Age and later periods located within the immediate area and within the wider landscape.

Heritage assessment concludes no significant impact on any designated or non-designated heritage assets within or adjacent to the study area.

The report concludes that the extent of the ground disturbance associated with the development is quite extensive. In light of that and the extent of the known archaeology in the surrounding area the report suggests that a programme of

archaeological work including geophysical survey and trial trenching, if appropriate, should be considered.

Recommend programme of archaeological work be made a condition of any planning permission for the proposed comprising a geophysical survey in all areas of significant ground disturbance prior to work commencing on the development. Also recommend the standard landscaping condition is included in any planning permission.

#### 4.1.10 **SC Conservation: Comment**

Heath Lodge (grade II listed) to the south and Broadward Hall (grade II listed) to the south east. Other listed buildings lie within the hamlet of Beckjay to the north-east. The site lies outside of the Shropshire Hills AONB, though the boundary is only approximately 1.5km away to the west.

The Heritage Impact Assessment (HIA) states there is limited intervisibility between the site and neighbouring listed buildings, therefore there would be no adverse impact on their relevant settings, including Warfield Bank (Scheduled Monument) and Clungunford and Bedstone Conservation Areas, nor would the proposal degrade their significance. [ any other connection? ] The Inspector states that the accompanying LVIA does not take into account longer range views, where he noted that the proposal would be visible from one public footpath. Overall the Inspector seems to be satisfied that the proposal would not conflict with policy CS17 of the Core Strategy, nor with policy MD13 of SAMDev. However, it is disappointing that the LVIA (referred to in the appeal scheme) has not been updated in order to take account of those long range views which then should have been cross-referenced within the HIA, that should also include a broad analysis of the wider heritage assets such as the Scheduled Monument and the respective conservation areas. It is recommended that there should be a brief summary in the submitted Design and Access Statement to cover this aspect.

Overall, it is considered that the proposal may consist of less than substantial harm as defined in the NPPF. Therefore it is considered that the proposal is on the lesser end of the harm scale, further towards negligible harm, subject to relevant mitigation through conditions on the external facing materials and colour finishes where the colour should be finished in a juniper green (BS 12B29) and their finishes including appropriate landscaping as recommended in Historic England's comments.

#### 4.1.11 **Herefordshire Council: No response received.**

#### 4.1.12 **Shropshire Hills AONB: Objection**

Large scale development represents significant intensification within close proximity of River Clun SAC and River Teme SSSI.

The stream that runs adjacent to the site is designated as an 'Ordinary Watercourse' and therefore a key receptor and pathway to the River Clun SAC only a short distance downstream. The applicant's reference to a 'ditch' would appear to downplay its significance. The Flood Risk Assessment and Drainage Report indicates an intention to divert exceedance flows to this watercourse. This has the potential further contribute to the already unsustainable nutrient and sediment load

and increase flood volumes to increase erosive impact at times of high flows. It is also unclear whether all the poultry manure will be processed by the biomass plant or if any will be spread to land locally, similarly how dirty water arisings are to be used in by the biomass plant and how the digestate produced by the plant are to be disposed of. This should be clarified, as any potential increase in nutrient or sediment load to the River Clun will be unsustainable for pearl mussels. Significant financial resources have been directed at the River Clun to help meet statutory targets, and the AONB Partnership has been closely involved

On this basis the Shropshire Hills AONB Partnership objects to this application. Has identified development plan policy basis for opposing this.

#### 4.2 - **Public Comments**

##### **First round of consultation**

In the first round of consultation (October to December), the Council received around 100 submissions from local residents and businesses, visitors to the area from other parts of the country and from Australia. These objections raised the following matters:

##### 4.2.1 **Principle of development**

- Industrial chicken units/ megafarms/ huge industrial development inappropriate in a quiet rural area. Should go to industrial sites.
- Greater levels of concern about ethics of intensive factory farming. Why not free range farming?
- Why doesn't applicant put this near his home/ why not expand Heath Farm instead? Heath Farm has grown by 25% already.
- Too many poultry sheds in Shropshire/ Herefordshire.
- Contrary to Council's Economic Growth Strategy.
- Why is applicant submitting again? Hasn't changed substantially since last refusal by planning inspector. Council should not accept the application.
- If you approve this, we will get more development on the site in time to come.
- Applicant is a bad neighbour/ doesn't respect neighbours.
- Contrary to development plan (Core Strategy Policies CS5, CS6 and SAMDev Policy MD7b).
- Fails all three tests of sustainable development set out in the NPPF.

##### **Details of the application**

- Information/ images on design and access statement inaccurate/ misleading.
- Where will staff go to the toilet?

##### **Pollution/ health impact**

- Smells will be widespread. We will gag. It will harm children's health. Will be worse in combination with smells from Heath Farm.
- Dust from sheds a problem.
- Light pollution – big change from current situation. 24 hours a day disturbance.
- Noise from site will affect sleep.
- Will cause discomfort/ distress to residents. Will downgrade quality of life.

### **Landscape/ rural impacts**

- Blot on the landscape.
- Would harm stunning / quiet countryside. This is a beautiful setting for painting and the arts.
- Would look like a factory. Will appear like a uniform block.
- Adverse impacts locally, from rights of way and wider ahead.
- Would affect AONB. Applicant has not assessed impacts from wider area.
- Views across Clun Valley would be compromised.

### **Traffic and transport impact**

- Area characterised by quiet country lanes and used by cyclists/ walkers. Many accidents already.
- Road network can't cope. More traffic problems.
- Traffic modelling too low. Doesn't take account of impact of manure being transported off site.
- 24 hour traffic. Traffic will generate noise.
- Main access from site onto fast stretch of road with poor visibility. Traffic hazard.
- Other impacts on B4385, B4385/ B4367 junction and B4385/ A4113.
- Traffic will harm Clungunford River bridge.

### **Economic impact**

- Benefits of application overstated. Will only benefit the farmer. Will not benefit the community.
- Will harm local tourist businesses such as Ashlea Pools Holiday Park, Broadward Hall, Hopton Castle, local B&Bs. Other local businesses have invested in their businesses over the years.
- Much of tourist offer based on area's tranquillity.

### **Post construction**

- Who will enforce conditions?
- Will need a fresh unilateral undertaking if approved.
- What if applicant goes bust? Will leave an eyesore. Council should ask for a bond to restore site.

### **Other matters**

- Will devalue local house prices.
- Will affect my inheritance.
- People can't see planning documentation online/ can't submit objections online.
- Whole community opposes this. Listen to the community. Local community supports Clungunford Parish Council.
- Planning inspector got it wrong. Should have refused on more grounds than noise.

4.2.2 Four letters of support have been received raising the following matters:

- Applicant's business has been a supplier to Cargill Meats for many years. It is highly efficient. Complies with statutory requirements.
- The proposal supports the agricultural industry.

- Located nearby so less CO<sup>2</sup> emissions from vehicle movements.
- The applicant already supports local businesses (supply of biomass fuel, building sheds and electricians).
- Would provide four months of work building the sheds.
- Need to give this application a fair and reasonable hearing.

#### 4.2.3 Other organisations and consultees

##### **National Farmers Union: Support**

As well as supporting the applicant, the NFU makes the following comments about poultry meat:

- The UK has a large market for poultry meat and the growth in the market is forecast to continue. Demand for home grown poultry meat by UK consumers has increased significantly in recent years as poultry meat is an affordable and versatile source of low fat protein.
- Farming contributes significantly to the UK economy. For every £1 that farming contributes to the UK economy, food manufacturers and wholesalers contribute a further £5.
- Rising demand for poultry meat set against background of falling UK food self-sufficiency. Across all foods, self-sufficiency has fallen to 61% in 2016, whilst the UK population is forecast to increase by 9.7 million over the next 25 years to 74.3 million people. Farmers must grow their businesses to increase UK food production.
- Poultry meat supply still relatively tight in many world regions and is further constrained by high feed costs. Fresh poultry meat is imported to the UK from the Netherlands and other countries worldwide. Prepared chicken imports also increasing and are predominantly sourced from Asia.
- Shropshire Council should continue to demonstrate its support for a strong farming industry because global and national demand for food is growing rapidly. The global population is set to grow by 38% by 2050 therefore future reliance on imports of staple food products will simply not be sustainable for a variety of reasons, particularly as the climate changes. Development of poultry sector will safeguard rural jobs, diversify local economy, and contribute towards national goals for sustainable food production.

#### 4.2.4 CPRE Shropshire: Object

Application has not changed since the last appeal scheme. The proposal represents loss of Grade 3 agricultural land.

#### 4.2.5 Clungunford Parish Council: Object

The parish council submitted a 159 page objection comprising a summary of the background to the application including a successful judicial review; an assessment of the current proposal against national and Shropshire planning policy; a review of the previous inspector's appeal decision; and a detailed review of the flaws of the application. The objection is also accompanied by a number of appendices which comprise:

- Photographs of the area.
- A noise study conducted by noise.co.uk Ltd.
- A detailed critique of the transport assessment which queries the assumptions made in the assumptions behind it as they relate to a poultry farm.
- Criticisms of the applicant's use of an anaerobic digester at Heath Farm over the county boundary in Herefordshire and detailed information about a planning application on that site.
- A planning appeal decision from Sussex around whether an anaerobic digester from a farm can operate separately from the farm itself.

The main points that arise from the objection are as follows:

- The Core Strategy does not support the development, particularly as this is not small scale new economic development that diversifies the rural economy; would not maintain or enhance countryside vitality and character and would be likely to have unacceptable, adverse cumulative environmental impacts.
- The proposal is an industrial estate, would affect others including the AONB and has been previously refused permission.
- Queries the data on economic impacts – not much benefit local, would harm local tourism businesses. Nearby Ashlea Pools has consented plots that would take the developer closer to the application site than at present.
- Nearby Heath Farm (in same ownership as application site) has been operating an anaerobic digester in Herefordshire in breach of a planning condition restricting the output of electricity. The farm runs for the sake of the anaerobic digester.
- Odour report flawed. Does not take cumulative impacts into account.
- Noise report flawed. The parish council has commissioned its own study showing that the report did not cover noise from lorries on the external access road or that the noise sources would be impacting at the same time. The study has not covered dust
- The proposal will cause light pollution and potential impacts on the Clun Catchment Area. There is an increased risk of runoff and flood risk.
- There are no staff toilets.
- The highways reports grossly underestimate trip generation movements.
- There are other considerations to take into account. These include: the applicant's activity at Heath Farm; the proliferation of poultry sheds in the county has negative environmental effects; a previous s106 agreement proposed would be difficult to enforce against the spreading of manure in the Clun Valley; the Committee must cover all matters afresh and not be bound by the previous inspector's dismissal of an appeal on noise grounds only.

#### Responses to the parish objection

The applicant has reviewed the parish's objection and offers the following rebuttal response:

- Odour is a matter for the EA to review.
- The noise assessment is robust. It is outside the requirements of BS4142:2014 to submit an assessment of traffic on the public highway.
- The traffic statement is accurate and evidence based.

- There will be no 24 hour lighting. Lighting can be controlled via a planning condition
- The parish overestimate the volume of manure to be produced.

The applicant has also presented new information on night time vehicle movements from trucks serving other chicken plants in the area.

The Council's highway adviser has also reviewed the parish council's highway information. He advises that the parish's own assessment appears equally robust, although it uses some slightly different assumptions to build up a greater number traffic movements, equating to some six additional vehicle movements per hour. However, these additional vehicle movements are not considered to be sufficient to warrant a negative response from a highway safety perspective. The vehicular access for this specific development is directly onto a B road, which is considered to be a 'rural distributor road' with a primary function of moving all traffic between settlements as well as the A road network.

Most rural B roads of this width and nature rarely operate at anywhere near their potential full capacity, therefore can accommodate significantly more traffic than is usually perceived. In the circumstances, even if the worst case scenario (Parish Council) were to be taken into account the additional number of hourly vehicle movements (i.e. 20) would equate to only a small percentage increase (<5%) in the overall capacity of the public highway.

Notwithstanding the above, the operation of a poultry farm is like no other business where efficiencies are maximised wherever possible. Therefore with transport costs being high and one of the principal areas which is constantly reviewed by the operator, then all attempts to reduce the number of unnecessary vehicle movements will likely be made in order to maximise savings. This has the added effect of reducing the operational impact of vehicle movements on the adjacent highway.

#### 4.3 **Second round of consultation (February to March)**

4.3.1 An additional 18 residents wrote in during the second round of consultation. While many of these served to reaffirm the opposition of some residents already voiced to the application, the following additional matters were raised:

- Any new information received must be treated with suspicion. No revisions will address the fundamental objection to the scheme. Extra tree planting will not be sufficient.
- No matter what size the scheme is, the development should not proceed if it makes the community unhappy. Local people continue to support Clungunford Parish Council's objection to the scheme.
- The Council should have exercised its rights under s70A of the Town and Country Planning Act 1990 not to have accepted this new application.
- Need to consider the impacts of this development in combination with the Heath Farm development over the county border particularly with regard to noise and odour.
- Serious environmental impacts with thousands of tonnes of concrete being poured into the site.



- Query vehicle movements and responses by developer to parish's initial objection. No consistency in data prepared. The developer has confused loads with vehicle movements; the parish query bird thinning and stocking ratios. The transport study does not take account of bends in the road and blind spots.
- Proposed ammonia scrubbers untested in the UK. If they fail, catastrophic harm to the River Clun and the SAC.
- Failure to meet animal standards is a material consideration because it will have environmental impacts and therefore contrary to CS Policy CS5 and CS6.
- Proposal will still cause light pollution and harm tranquillity of the area. A E Houseman wrote of the area in "A Shropshire Lad":

*"Clunton and Clunbury,  
Clungunford and Clun,  
Are the quietest places  
Under the sun."*

#### 4.3.2 Clungunford Parish Council

The parish maintains its objection to the scheme. Key points summarised in their second submission are as follows:

- Residents aware that existing objections have been recorded by the Council. Council should not assume that absence of further letters should be taken as a withdrawal of objections.
- Scrubbers proposed are not widely used in the UK. In determining the application, the Council should not rely on the manufacturers' specification. If they fail, Council will not be equipped to deal with damage to Clun area. The scrubbers should be trialled first.
- Council should take into account applicant's activities on nearby Heath Farm. Heath Farm now operation as a power station (because of a bio-digester) rather than for agriculture fed by a monoculture (maize) and manure. Council cannot control manure exports from the application site.
- Revised noise report does not take account of the parish commissioned study and is based on incorrect data re: transport movements. Moreover, the report does not conclude that no impact, rather it downplays impact.
- Odour report not updated.
- Transport study not correct.
- Findings of revised landscape study are subjective.

Parish confirms that the application is contrary to development plan policy and has had a previous refusal on appeal.

#### 4.4 Comments from technical consultees

Additional representations were submitted by SC Regulatory Services covering noise and odour.

##### 4.4.1 SC Regulatory Services

No objection to scrubbing system that seeks to extract air to remove odour, particulates and ammonia. No objection to the proposal in respect of odour or particulates which would include microbes and bioaerosols.

Odour would be emitted from the site during cleaning down at the end of a bird cycle however as this will be only a few days in every cycle and odour emissions in general are expected to be much lower than previously proposed, these odour events will not have a significant impact on the amenity of the area.

Having considered the site and building design, officer considers this assessment suitable and would not expect noise from internal fans to have a detrimental impact on the amenity of those living in the area.

In relation to noise from the biomass boiler this has been assessed in the past and in the noise assessment found above.

The officer queried one of the assumptions in Figure 1 relative to property D (*NOTE: This was subsequently corrected in a refresh of the noise study in May 2018 and the officer is now happy with this*).

In relation to Loading of HGVs the absolute noise levels are predicted to be 25dB as a worst case. I would suggest that, based on noise inside dwellings being reduced by 10dB when passing through an open window, that this level of noise will not have a significant impact on the character and nature of the area or on residential amenity. I do not consider that night time or day time noise from HGV movements on site and loading operations will significantly impact on the area.

Finally feed delivery noise has been assessed and is found to be below background at all sites with the exception of location E where a 2dB increase over background LA90 is expected. I would suggest this noise impact will not be significant as feed deliveries will not take place for the majority of the time.

As a result of the above, following the point of clarification, and considering potential cumulative noise impacts from the above assessed sources, considers there to be no noise issues with this site. Recommends conditions to be placed on feed delivery times to ensure that there are no feed deliveries at night when background noise levels are reduced. In order to reduce the impact of night time HGV movements on the surrounding road network also suggests a condition to limit HGV movements between the hours of 2300 - 0700 hours to two one way movements an hour e.g. one movement to the site and one movement leaving the site.

#### 4.5 **Third round of consultation (May/ June 2018)**

Officers sought comments from the public and other consultees on three additional matters submitted by the applicant. These were: an updated noise report; additional information on vehicle movements past the applications site over a seven day period; and revisions to the front of the site to provide sightlines appropriate for a road where the speed limit is 60mph. This involves the removal of additional hedgerow and trees and further additional planting.

##### 4.5.1 **Residents' comments**

14 more objections have been received at the time of writing which raise the following new matters with regard to this information.

**Noise study**

Noise study needs to be reviewed by an independent expert. Noise from traffic will harm local residents. New information does not change objections.

**Traffic information**

This is biased. Twenty percent increase in night time traffic amounts to two extra movements an hour. Extra night time traffic and noise will harm residents (acceleration, braking etc). Data submitted proves residents' concerns. Extra traffic will cause more potholes. Road network congested already/ local congestion elsewhere. Noise from traffic will harm wildlife.

**Landscape details on front of site**

Will harm countryside contrary to Core Strategy Policy CS5. Will take many years to become established. New planting would dry up the brook. Proposed entrance on a dip in the road which is a rat run for commuters.

Local respondents raised other matters including:

- Proposal will harm local habitats (otters, Bechstein's bat spotted) including through light pollution, will result in an increase in vermin (rats and mice) attracted to the site.
- Large industrial use out of proportion and not suitable for the area. Would harm AONB, Clun Catchment SAC. Smells would affect local people/ local businesses. No economic benefits.
- Applicant a bad neighbour.

**Vermin problems**

Vermin a problem locally. Will get worse. Bait applied on site could affect protected wildlife.

Need to require applicant to achieve COSHH approval.

**4.5.2 Clungunford Parish Council: objection**

Noise –evidence does not deal with the Inspector's concerns from the applicants' last application, in particular:

- Inaccuracies as to inputs and noise measurement are repeated. We rely on manufacturers' advertising material on noise.
- Goods vehicle noise is played down to an unacceptable degree and noise on public roads is not considered.
- Impact on nearby sensitive noise receptors. Breach EU directive. Not aggregated noise from site with off-site noise.
- Traffic –new evidence unhelpful to its case.
- Traffic current using B roads faster than expected confirming parish council's safety concerns. Traffic exceeds 60mph speed limit.
- The applicants are seeking a threefold increase in HGV traffic at unsocial hours.
- Landscaping – parish acknowledges efforts to alleviate landscaping concerns, still considers the proposed development disastrous to the overall landscape of the area. Proposal will still be visible from Stormer Hall.

## THE MAIN ISSUES

- Planning policy context: principle of and justification for the development;
- Siting of the development, scale and design – impact on landscape;
- Odour and dust;
- Noise;
- Traffic;
- Drainage;
- Heritage;
- Ecological issues and section 106 agreement;
- The planning balance; and
- Other matters raised in public comments received during the processing of this application

### 6.0 OFFICER APPRAISAL

#### 6.1 Planning policy context: principle of and justification for the development

##### National Policy:

- 6.1.1 The July 2018 National Planning Policy Framework (“NPPF”) advises that the purpose of the planning system is to contribute to achieving sustainable development (para 7) and establishes a presumption in favour of sustainable development (para 10). This means “approving development proposals that accord with the development plan without delay” and supporting sustainable economic growth (para 11c). There are three dimensions to sustainable development: an economic role, a social role and an environmental role (para 8). Significant weight should be placed on the need to support economic growth through the planning system where it builds on the strength of a local area (para 80). In the rural area, the NPPF advises that the planning system should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses; and c) sustainable rural tourism and leisure developments which respect the character of the countryside. While the NPPF seeks to promote economic growth, it also states that the planning system should help achieve well-designed spaces (section 10), contribute to and enhance the local environment (para 109) and ensure that effects of pollution on health, the natural environment or general amenity are taken into account (sections 12 and 15 in particular).

##### Development plan policy

- 6.1.2 CS Policy CS1 supports investment and new development. In rural areas outside of settlements this will primarily be for “economic diversification”. CS Policy CS13 states that “Shropshire Council will plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth ... In so doing, particular emphasis will be placed on ... supporting the development and growth of Shropshire’s key business sectors ... particularly food and drink production ... [and] ... in the rural areas, recognising the continued importance of farming for food production”. The current proposal promotes further diversification to the business, and the strengthening of poultry farming in the county through sites

such as the application site adds to the diversity of Shropshire's rural economy and fortifies the county's strength in this field as evidenced in other publications by organisations such as the Marches Local Enterprise Partnership area (for example, its Strategic Economic Plan (2014) identifies that 12.2% of the UK poultry comes from the Marches area).

- 6.1.3 Some residents have suggested that the promotion of this business will be at the expense of other local economic sectors including tourism, holiday homes and B&Bs. This matter is considered below through an assessment of the proposal's landscape, odour, noise and traffic impacts.
- 6.1.4 CS Policy CS5 supports agricultural development, provided the sustainability of rural communities is improved by bringing local economic and community benefits. Proposals should however be "on appropriate sites which maintain and enhance countryside vitality and character" and have "no unacceptable adverse environmental impact". Whilst the Core Strategy aims to provide general support for the land based sector, larger scale agricultural ...related development, including ... poultry units ... can have significant impacts and will not be appropriate in all rural locations. The proposal is for more intensive agricultural use of the site and is therefore a use that is at face value consistent with this policy.

## 6.2 **Siting of the development, scale and design: impact on landscape**

- 6.2.1 CS Policy CS6 requires development to be appropriate in scale and design taking account of local context and character. CS Policy CS17 further asserts, among other things, the importance of protecting and enhancing Shropshire's natural environment, heritage and ecological assets. SAMDev Plan Policy MD7b requires applications for agricultural development to be of a scale consistent with their required agricultural purpose and where possible sited close to existing farm buildings. SAMDev Plan Policy MD12 seeks to protect the natural environment. Proposals likely to have a significant adverse effect, directly, indirectly or cumulatively, on it will only be permitted if a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and; b) the social or economic benefits of the proposal outweigh the harm to the asset. In all cases, a hierarchy of mitigation then compensation measures will be sought. In this case, it is necessary to have regard to the AONB even though the site is located some distance from the boundary.
- 6.2.2 Some consideration needs to be given to the justification for site selection before assessing landscape issues, especially as the development is not close to existing farm buildings at Heath Farm. The applicant asserts that there is no further land available for expansion on the existing site at Heath Farm due to boundaries formed by the B road to the west, trees to the north (Decoy Wood), buildings and trees to the east and watercourse to the south. There are already eight sheds at Heath Farm which is a large number of broilers to be housed on a single site. Additional buildings would start to cause operational difficulties during the clean-out period. The flocks are currently cleaned out on a single site basis so there is a very busy clean out period in time for the next flock to arrive. Additional buildings would present a difficulty in cleaning out effectively in time for the next flock. It would also increase the possibility of odour issues occurring during the clean-out period. A site an appropriate

distance from the existing buildings could be operated on a separate timescale – allowing different flock changeover dates from the existing site. This would offer significant benefits in terms of overall site management, efficiency and biosecurity. However, if that site is too far from the existing site, there can be losses in efficient site management (e.g. travel time between the sites, vehicle storage etc). The current site meets these locational criteria.

6.2.3 The initial assessment of site suitability narrowed the choice down to two sites both to the north of Heath Farm. The first is the chosen site, and the second was the adjoining field to the east. The applicant states that these are both a good distance from the holiday park (Ashlea Pools) to the west and the prevailing wind from the south-west blows away from Hopton Heath and the holiday park. The proposed site was chosen due to its greater proximity to the B4367 and greater separation from the cluster of sensitive receptors at Beckjay. In particular:

- It is within 700m of the existing farm buildings which are the hub for management of the farm unit;
- It has sufficient space to accommodate the development and can accommodate the required infrastructure (power, drainage, access);
- It benefits from the screening effect of natural topography and existing vegetation;
- It is not affected by any statutory environmental designations; and
- It is separated from the nearest privately owned residential properties;

The siting of the proposed development can be justified this way having regard to SAMDev Plan Policy MD7b.

6.2.4 The revised scheme is accompanied by a new LVIA consistent with industry best practice which has overcome deficiencies identified by the Council's landscape advisers and SC Conservation in the first round of consultation. The LVIA is also accompanied by a schedule of photographs (see Appendix 1).

6.2.5 The overall findings of the new LVIA are that the proposals will have a 'Minor adverse' significance on landscape character at a site specific level; 'Moderate/Minor adverse' significance in terms of the immediate adjoining countryside; and 'Minor adverse' significance on the wider landscape and the Shropshire Hills AONB. The Council's landscape adviser concurs with this assessment overall having conducted accompanied site visits with the planning case officer to the viewpoints with potential views of the proposed development. The visual receptors identified include walkers, motorists, visitors (Ashlea Pools holiday lodges) and residents of seven dwellings. The influence on susceptibility for users of the promoted Herefordshire Trail long distance recreational route has been used appropriately in reaching judgements on receptor sensitivity and gives an enhanced sensitivity for these receptors.

6.2.6 One minor deficiency in the scheme remains the fact that in order to achieve adequate sightlines onto a road where the national speed limit applies, it would theoretically mean that it would be necessary to remove additional hedgerow (refer drawing 1465.01 Rev C) to achieve 2.4m x 215m sightlines which will take some time to become established. This does not represent a fundamental flaw when taking account of the other factors in the scheme, including the substantial landscaping

proposals. This particular issue was not raised by the inspector. The applicant has agreed to a condition that would require existing hedgerow that would have to be removed to achieve adequate visibility splays to be translocated rather than replanted with new stock.

### **6.3 Odour and dust**

6.3.1 When assessing this aspect of the proposal, it is important to take account of the NPPF's advice about pollution control (para 183). The focus on planning decisions should be whether the development is an acceptable use of the land and the impact of the use rather than the control of processes or emissions which are subject to the pollution control regime monitored here by the Environment Agency (EA).

#### **6.3.2 Odour**

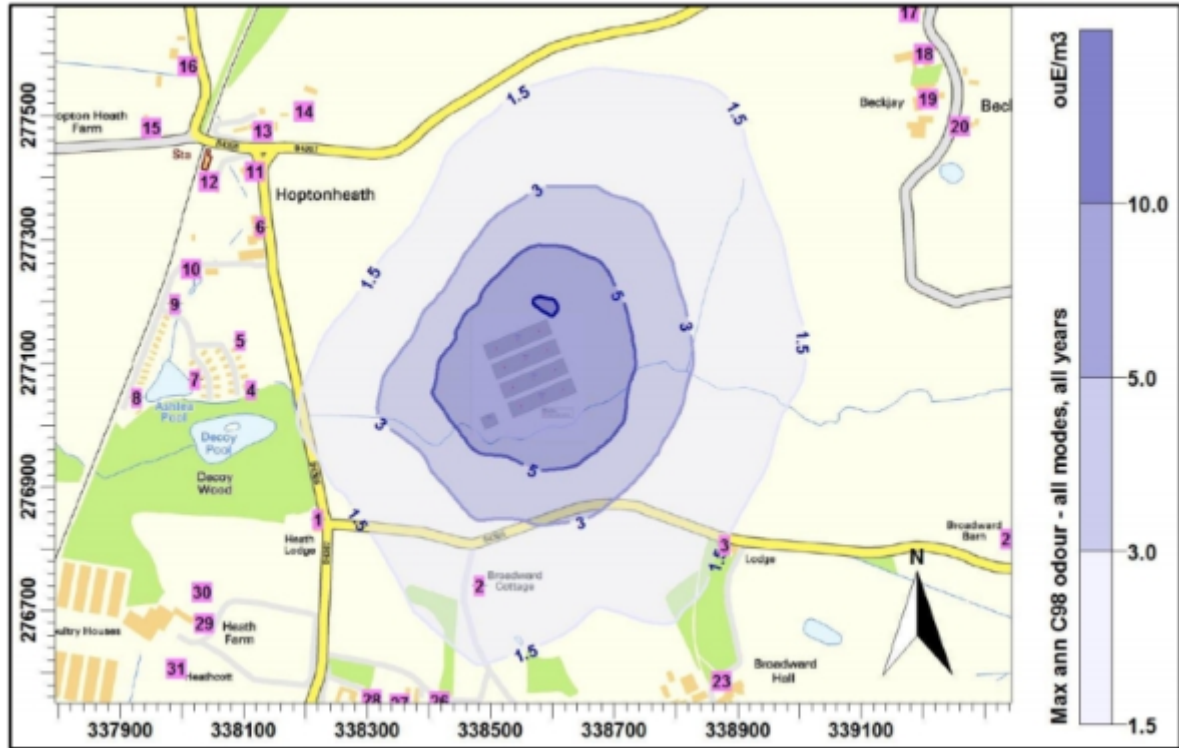
On the subject of odour, the applicant has submitted an odour dispersion modelling study that predicts "98<sup>th</sup>, 99.5<sup>th</sup> and 99.8<sup>th</sup> percentile hourly mean odour concentrations" from 31 receptors. The critical finding of the 98<sup>th</sup> percentile (equivalent to 3.0 ou<sub>E</sub>/m<sup>3</sup> – the indicative criterion for moderately offensive odours applied by the Environment Agency) shows that no dwelling would be affected by the proposal (refer Figure 1).

6.3.3 SC Regulatory Services has reviewed the findings and accords with them. He has not objected to the proposal. It is to be noted that the EA has powers to manage and monitor the development when approved.

6.3.4 Officers have also considered some residents' concerns about the potential cumulative impact of this development with the Heath Farm operations to the south and offer the following observations on this matter.

**Figure 1: Plan from odour report indicating predicted maximum (worst case) odour concentration in the area surrounding the proposed poultry unit**

Figure 6. Predicted maximum annual 98<sup>th</sup> percentile hourly mean odour concentration in the area surrounding the proposed poultry unit



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6.3.5 The prevailing wind throughout Shropshire is from the south west direction. It follows that the only property in Shropshire that could be impacted by odours from the proposed poultry installation and the existing in combination at the same time at Heath Farm is over 700m away from the proposed poultry installation (Beckjay) and some 1400m away from the existing poultry installation at Heath Farm. As a result there is more than enough dispersion to minimise odour to a level that would not be expected to have a significant detrimental impact. There are no other receptors which would conceivably receive odour from both poultry units at the same time. This may occur where odour is to come from both installations at different times. However, it should be noted that modern poultry units generally produce much less odour than units in the past due to technological improvements in aspects such as feed and ventilation.

6.3.6 In addition the proposed poultry installation will have scrubbing technology anticipated to remove the majority of potential odours including 90+% of ammonia and the majority of dusts which are in themselves an odour source or may carry odour into the environment. Due to the scrubbing technology proposed at this site, the proposed cumulative impact of the proposed and existing poultry installation at Heath Farm will not be significantly detrimental to residential amenity in the area as the odour impact of the proposed units will be minimal.



6.3.7 In addition to odour from the growing cycle it is noted that odour occurs when the units are cleaned down at the end of a cycle. This is likely to be a one or two day exercise on the proposed units. With prevailing wind taking odour away from the nearest houses the clean down of the proposed sheds is not anticipated to be significant. It is likely that on occasion it will be noticed in the area however it will be relatively short lived and not considered to have a significant impact on residential amenity and in line with nationally recognised standards stated in Environment Agency guidance. The threshold level for impact is not exceeded.

#### Dust

6.3.8 Turning to dust, DEFRA has carried out research on dust emissions from poultry units. Their advice is that unfiltered emissions from poultry units in terms of particulate matter reduced to background levels by 100m downwind of the highest emitting poultry houses. The research shows that levels of particulate matter are sufficiently diluted over a short distance so as not to pose a risk to those living in the vicinity of poultry operations. The application site is more than 270m from the closest house and therefore beyond the distance where dust issues can occur. Moreover, the air scrubbing system proposed will further serve to reduce the potential for residents to be affected by dust emissions. Finally, dust emissions will be monitored by the EA as part of the permit regime. It is not considered that refusal on the grounds of amenity impact can be justified on this basis.

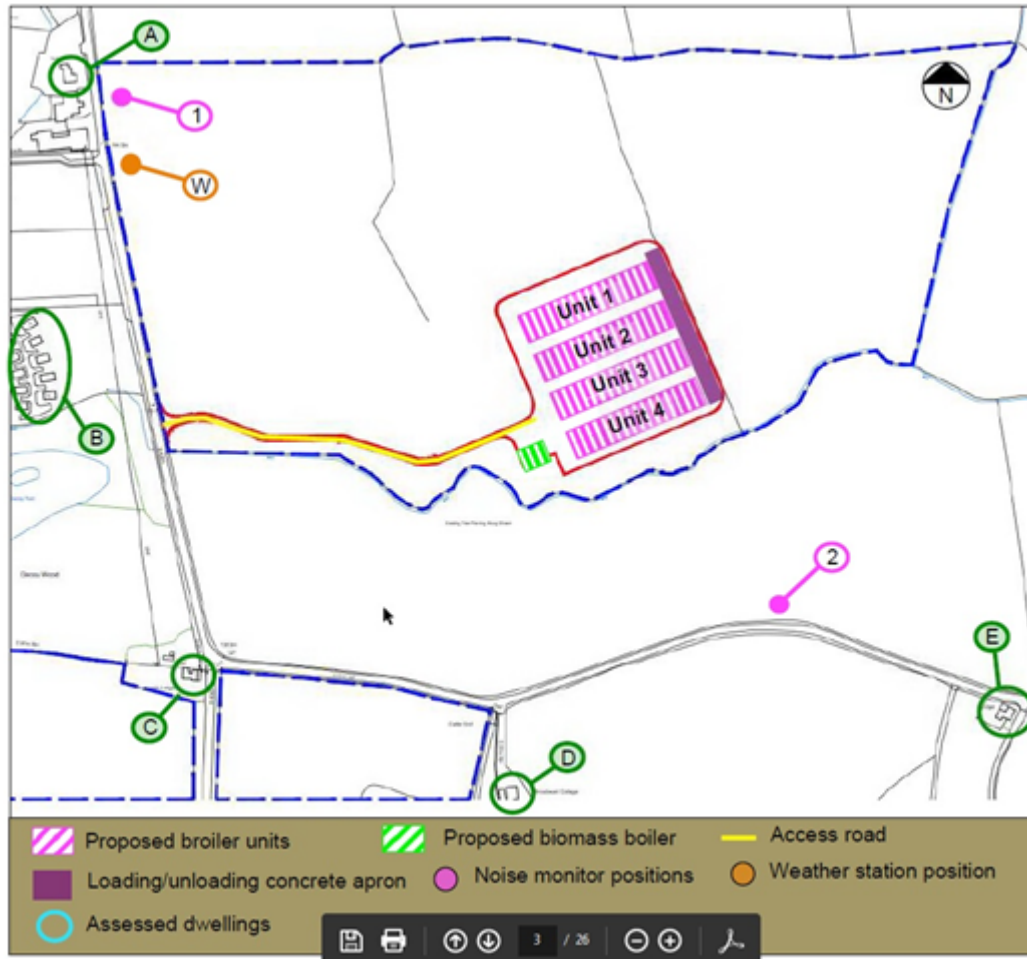
#### 6.4 **Noise**

6.4.1 The applicant has submitted a new noise study by Matrix Ltd (which has undergone two iterations since first submission with the planning application to take account of the air exhaust scrubbing system) to address comments in the Inspector's appeal decision and has provided additional information on vehicle movements that serves to assess the impact of the proposal off site and in the wider area. It has been prepared consistent with the relevant British Standards and assesses noise emissions from the extract fans, biomass boiler, HGVs loading and feed delivery activity including the use of electric forklifts. It has assumed that HGVs would be fitted. The modelling assumes a 3m high acoustic barrier to the rear of the sheds away from the road. The study then assesses the impact of on site activity on the four dwellings and the Ashley Pools Holiday Lodge (see Figure 2).

6.4.2 The main findings of the Matrix noise study are that the impact on all five receptors is low and during night time hours substantially below the World Health Organisation 'Night Noise Guidelines for Europe' L<sub>Amax,F</sub> 42dB threshold limit with regard to sleep disturbance. The calculated 1 hour ambient noise emissions of HGVs travelling along the access road is assessed to be significantly below the existing environmental ambient noise levels during the day and result in very low noise ingress levels via an open window during the night. The Council's Regulatory Services officer concurs with these findings and does not object to the development on noise grounds.

6.4.3 The parish council has commissioned its own noise study. This does not raise any new matter that would justify refuting the applicant's own study.

**Figure 2 Noise receptors considered for Matrix Ltd noise study**



6.4.4 The applicant has also provided data on vehicle movements on the B4367 over a seven day period in May 2018. This data records 1689 vehicles a day passing the site that generally accord with the assumptions in the Highway Statement accompanying the Environmental Statement. The applicant accepts that the proposal will generate some extra traffic during unsocial hours. However, this would be limited to three days per flock over 24 days a year and staged so that no more than one vehicle an hour would leave the site. Officers are of the opinion that this would not have a seriously adverse impact on the living conditions of local residents and additional vehicle movements through the AONB (some 1.5km away) would not affect its tranquillity.

**6.5 Traffic**

6.5.1 The highway statement submitted as part of the Environmental Statement has considered impacts on the highway network during construction and when the development is up and running with manure being removed from site. The statement

asserts that the increase in vehicle movements for 44 of the 48 days of the crop cycle would amount to less than one per day which would have no impact on the road network. During the four day clearance phase associated with chickens there will be up to 13 movements per day but these will occur when the highway is used least intensively. The Council's highway adviser confirms the statement is robust and does not consider the proposal would have any adverse impact on the highway, noting that the B4367. The proposals are capable of complying on balance with Policy CS7.

6.5.2 The parish council has come to a different view on trip generation based on different assumptions about on site activity and movements which gives a greater number of traffic movements.

6.5.3 The Council's highway adviser assumes that the difference between the applicant's and the parish's modelling equates to some six additional vehicle movements per hour. This would not warrant a negative response from a highway safety perspective. He advises further that most B roads of the width and nature of the B4367 rarely operate at anywhere near their potential full capacity, therefore can accommodate significantly more traffic than is usually perceived. It is further asserted that based on a road likely to carry around 1500 to 2000 vehicles per day (the applicant's own study in the week of May 2018 recorded 1689 vehicles a day on average), this higher assumption of the parish's will not have an adverse impact on the living conditions of local residents.

## 6.6 **Drainage**

6.6.1 CS Policy CS18 requires sustainable water management to reduce flood risk and avoid an adverse impact on water quality. The site is located in Flood Zone 1, the least vulnerable area for flooding and is located over a minor aquifer. A Flood Risk and Drainage assessment concludes that the proposals will not give rise to significant adverse effects on water or flooding given that the proposed Sustainable Urban Drainage Systems (SuDS) would restrict site run-off to greenfield run-off rates. A suitable means of dirty water drainage disposal from the proposed development is proposed. Neither the EA nor the Council's Drainage section object to these measures. Appropriate conditions are recommended to address this matter.

## 6.7 **Heritage**

6.7.1 A Heritage Impact Statement and archaeological Written Scheme of Investigation have considered the potential impact of the proposals on individual heritage assets within a 1km area surrounding the proposed development. They conclude there will be no significant impact on any heritage or archaeological features. Neither the Council's Conservation or Archaeology adviser have objected to the scheme in this respect subject to a condition requiring the findings of the archaeological study to be implemented during construction. The proposal would not conflict with CS Policy CS17, SAMDev Plan Policy MD13 or advice in the NPPF (especially para 196).

6.7.2 The study demonstrates and the relevant consultee responses from SC Conservation and Historic England do not assess that the proposal would not affect the setting of any listed building. It is further considered that the proposal will not affect the setting of Stormer Hall or its gardens in Leintwardine by reason of its distance.

**6.8 Ecological issues and section 106 agreement**

- 6.8.1 The development plan and the NPPF place high importance on the protection of biodiversity interests. Planning permission should be refused where significant harm from a development cannot be avoided. CS Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. SAMDev Plan Policy MD12 encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.8.2 The applicant has submitted an ecological survey with the Environmental Statement and provided additional ammonia and nitrogen disposal information during the processing of the application.
- 6.8.3 The Council's Ecologist has assessed this technical data and she has prepared a Habitat Regulations Assessment (HRA) (refer Appendix 3) which includes an appropriate assessment. The HRA confirms that, as the proposal fails the significance test, it is necessary to carry out an appropriate assessment. Taking into account the mitigation measures that form part of the application in the appropriate assessment and with the imposition of appropriate planning conditions, she concludes the proposal will not have an adverse impact on the integrity of the River Clun SAC and River Teme SSSI from ammonia emissions and nitrogen deposition. Some of her suggested conditions have been merged into other conditions (for example, covering landscaping) to avoid repetition of conditions.
- 6.8.4 Her advice on other site specific ecological issues relating to dormice and bats application has been incorporated into planning conditions covering landscaping, lighting to protect and enhance habitat opportunities, identifying a clerk of works to oversee works that could affect dormice. Other conditions have been imposed to protect the River Clun SAC from dirty water run-off.
- 6.8.5 The applicant proposes that no manure would be stored on site following shed cleaning and has offered to enter into a section 106 agreement with the Council requiring the applicant (and his successors) to remove manure from the site and deposit it outside the Clun Catchment Area SAC. Such an agreement meets the three tests for a planning obligation set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). It is: (a) necessary to make the development acceptable in planning terms as a means of protecting the SAC; is (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The Environment Agency, SC Ecology and Natural England advise that an agreement of this sort is necessary and manure management will be regulated at its destination in accord with the Code of Good Agricultural Practice (COGAP) and the Nitrate Vulnerable Zones (NVZ) Action Programme where applicable. A similar arrangement was approved by the South Planning Committee at its 29 August 2017 in connection with a proposal at Footbridge Farm, Tasley (17/01033/EIA).
- 6.8.6 A letter has been received from the applicant's agricultural contractor. This confirms

that all manure generated by the proposed development would be removed to AD sites outside of the Clun Catchment under existing contract arrangements with the applicant. Records of the locations for removal of all manure must be kept under the contract arrangements, so can be readily supplied to Shropshire Council or Natural England should this be required.

6.8.7 Officers have also discussed the operation of the ammonia scrubbers with the applicant's agent to understand what would happen if they were to fail or to be put out of service. The applicant has therefore agreed to extend the heads of terms of a s106 agreement to cover appropriate recourse in case they fail. This could mean, for example, closing a shed temporarily or, over the longer term, providing additional compensatory planting as set out in the original application. Officers consider that a legal agreement covering this matter would also be consistent with the CIL Regulations.

6.8.8 Some residents have queried how an agreement to oversee off site manure removal would be enforced. The s106 agreement will include clauses that cover enforcement of the agreement and courses of action in the event of a breach of agreement. Aside, the Council has powers to sue for breaches of a s106 agreement that it can apply in a speedier and more certain way than would be open to it if it were investigating a breach of a condition on a planning permission.

## 6.9 **Need**

6.9.1 The Parish Council has questioned whether there remains a need for the proposed facility which would supply poultry to an Avara Foods processing facility in Hereford. This follows a recent announcement by Avara Foods (a joint venture between the poultry processor Cargills and another poultry firm) that the company is not intending for any future expansion to take place at its Hereford facility.

6.9.2 The agent has responded that the announcement does not mean that there is no demand for chicken, and is more concerned with the processing capabilities of a single factory. Essentially Avara is confirming that they have sufficient supply into the Hereford factory with current production and their commitments to new projects. The current proposals are for a committed project which has been in the plans of the poultry integrator for around 5 years since the original application was submitted in 2014.

6.9.3 The agent advises that the Hereford Factory is only one of at least 5 factories which are supplied by Shropshire poultry producers, some of whom have a significant demand for new growers at the present time. There is significant, and increasing demand for UK produced chicken, and the country is still importing chicken meat to keep up with that demand.

## 6.10 **The planning balance**

6.10.1 The proposal would generate economic benefits through the further diversification of the farm and would make a further contribution to the county's economic strength in the food sector. This should be given considerable weight in the decision consistent with the AONB and outweigh the less than significant harm to heritage assets identified by the SC Conservation officer. The various studies submitted with the Environmental Statement show the facility could operate without harming the quality

of life of local residents materially and therefore other local economic sectors. The site is in a relatively sensitive location though not a designated landscape and is outside the AONB. The LVIA has shown that the site would generally fit well in its surrounding context.

#### 6.10 **Other matters raised in the public consultation**

- 6.10.1 This application has generated a significant number of objections which officers have carefully considered in drafting this report. The foregoing sections of this report have addressed the relevant “technical” objections. Some residents have suggested the proposal would generate light pollution. The applicant states that the proposal will not be lit 24 hours a day. Rather, a condition controlling lighting on site has been proposed to protect bat habitat that will also serve to restrict lighting on site.
- 6.10.2 A number of other objections received cannot be given any weight in a recommendation (for example, claims about the loss of property values). Others have queried the principle of intensive agricultural development of this form. Animal welfare is covered by other agencies and is not a legitimate land use planning concern. The parish has referred to the applicant’s activities off site in Herefordshire being in breach of planning control. That is a matter for Herefordshire Council to investigate. Some residents have referred to the applicant as a bad neighbour. Such an objection fails to take account of the fact that planning decisions are made relating to the use of the land and not on the basis of what some people think of their neighbour.
- 6.10.3 Some residents have referred to this proposal being a precedent for something larger in the long term. The Council must determine what is before it and any future development proposals would be the subject of a fresh assessment if they were to come in. Finally, the Council cannot and must not withhold permission solely based on the number of objectors.

### 7.0 **CONCLUSION**

- 7.1 The proposal involves the growth of an existing cross county rural business. An assessment of the application against local and national policy shows that the proposal is in principle consistent with the development plan. The proposal would be generally satisfactorily sited and not likely to affect the setting of any heritage asset. Both the Council’s ecologist and Natural England confirm there are no significant ecological issues that arise from the proposal subject to the imposition of conditions and a s106 agreement to manage the disposal of manure and ensure ammonia scrubbers remain operational as a means of protecting the Clun Catchment Area SAC.
- 7.2 The odour study demonstrates that the impacts on nearby houses are acceptable. Noise studies show the activity on site would be acceptable and it has addressed the inspector’s concern at the recent appeal. Measurements of late night traffic counts in the area show that the proposal will not have a serious adverse impact on highway safety or the living conditions of local residents. Planning conditions are proposed to address vehicle movements.

- 7.3 Concerns have been expressed about the impacts on local leisure and tourism facilities. The Environment Agency has not objected and has issued an environmental permit which contains detailed controls with respect to odour and air quality. This will serve to provide further controls during the operations of the site. The site would be downwind of the majority of the nearest properties relative to the prevailing south westerlies and separation distances have been maximised for these properties by placing the shed doors on the eastern facades. There would be some odour impact during shed cleaning and some potential for noise during feedstock delivery.
- 7.4 Officers are content that sufficient information has been submitted to determine the application and the technical documents in the Environmental Statement are satisfactory. Officers have carefully considered all comments and objections received and other material considerations but find nothing to alter their recommendation. It is concluded on balance that the benefits of the scheme are sufficient to outweigh any residual impacts and meet relevant development plan tests, having regard to the available controls and mitigation measures.
- 7.5 A schedule of conditions has been proposed consistent with internal consultee advice but some suggested conditions have been tweaked to make them compliant with the six tests of planning conditions set out in the NPPF.

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

### **8.1 Risk Management**

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10. BACKGROUND

### Relevant Planning Policies

National Planning Policy Framework

Core Strategy (CS) :

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 – Transport

CS8 – Local Amenities

CS13 - Economic Development, Enterprise and Employment

CS16 - Tourism, Culture and Leisure

CS17 - Environmental Networks

CS18 – Sustainable Water Management

SAMDev Plan

MD2 - Sustainable Design



MD7B - General Management of Development in the Countryside  
 MD12 - Natural Environment  
 MD13 - Historic Environment

**RELEVANT PLANNING HISTORY:**

14/03290/EIA Construction of four poultry sheds and feed bins, ancillary works, formation of new vehicular access, erection of biomass building and associated landscaping REFUSE 14th October 2015

Appeal

16/02402/REF Construction of four poultry sheds and feed bins, ancillary works, formation of new vehicular access, erection of biomass building and associated landscaping DISMIS 25th May 2017

**11. ADDITIONAL INFORMATION**

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OWHMLYTDGNH00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
None. See planning portal.
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member  Cllr Nigel Hartin
Appendices APPENDIX 1 – Photographs of site and context taken from LVIA APPENDIX 2 - Conditions APPENDIX 3 - Habitat Regulations Assessment

**APPENDIX 1 PHOTOGRAPHS OF SITE AND CONTEXT TAKEN FROM LVIA**





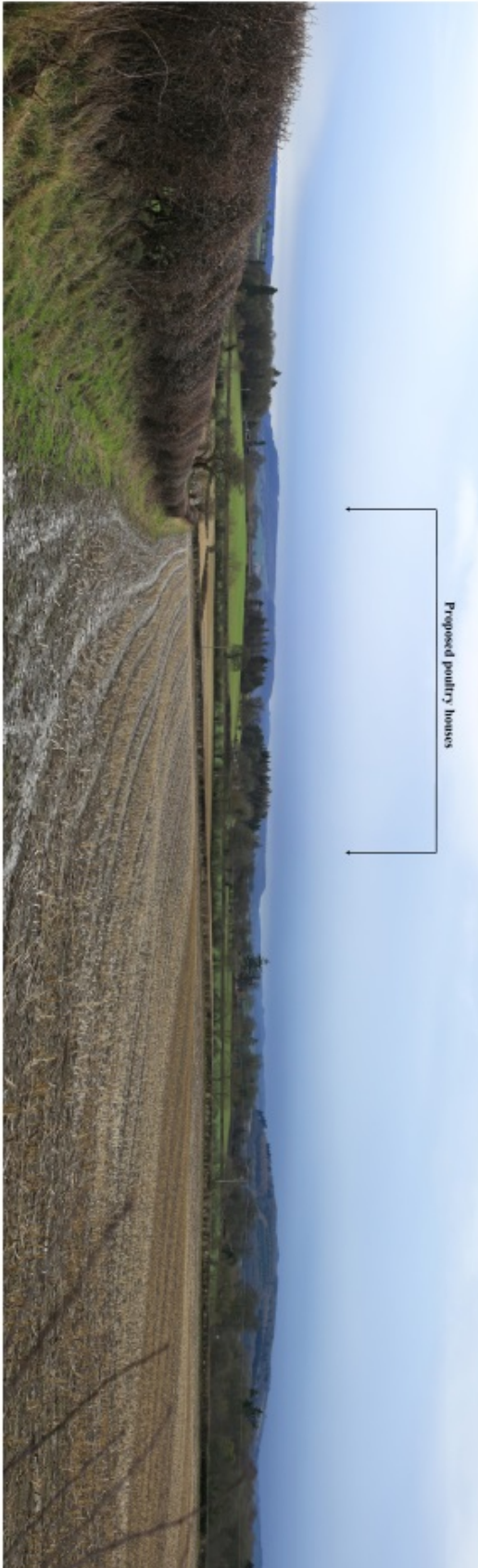
Photograph 3: View from west on B4385.



Photograph 4: View from north-west on Footpath 0521/70.



Photograph 6: View from north on Church Road (B4367).

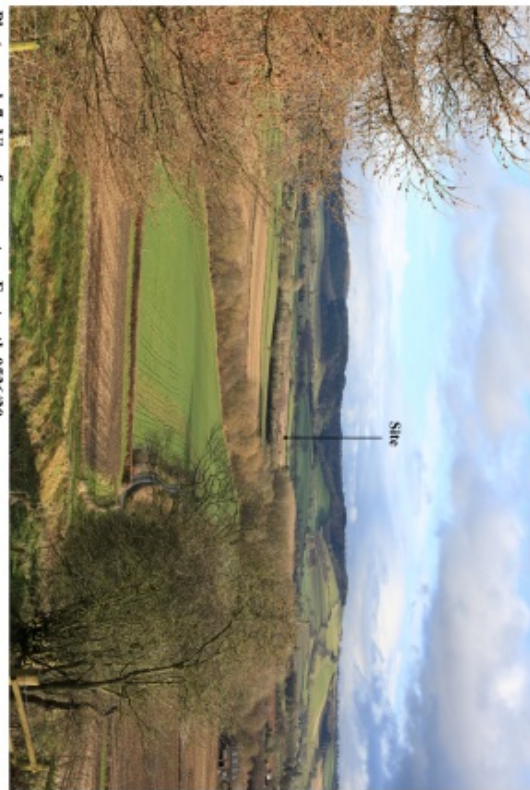


Photograph 5: View from south-east on Footpath 0521/70.





Photograph 9: View eastwards from Hopton Titterhill northern viewpoint.



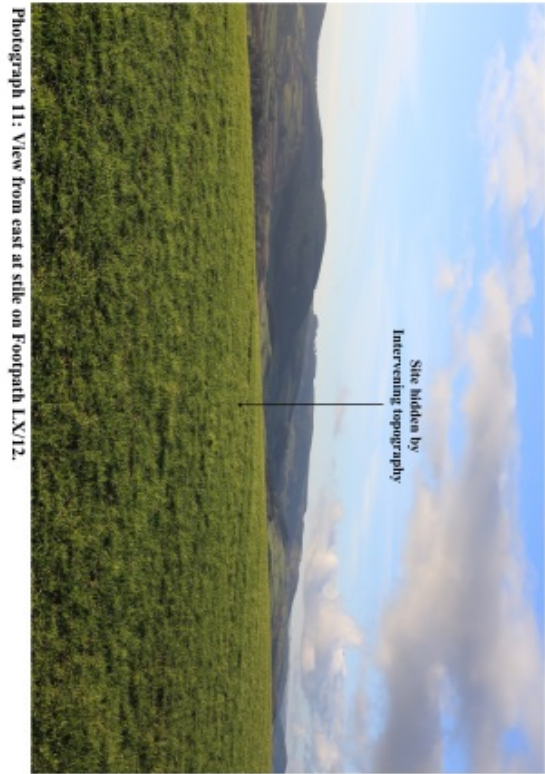
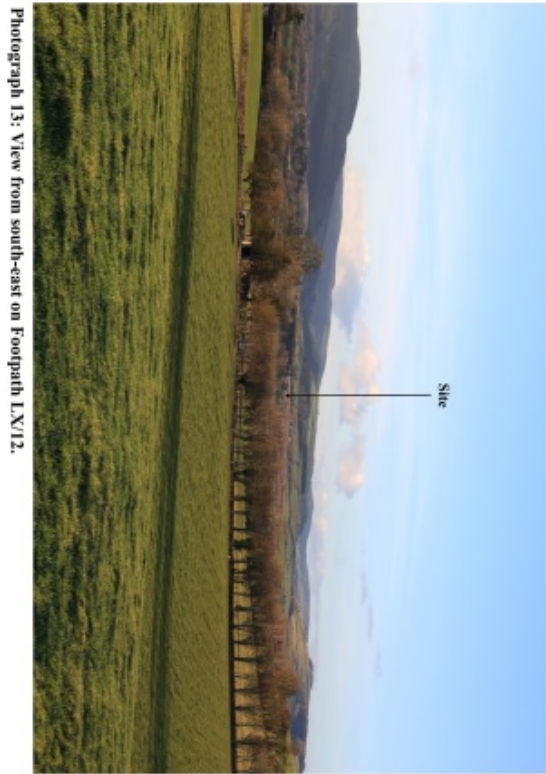
Photograph 7: View from west on Footpath 0536/30.



Photograph 10: View from east on Footpath 0521/57.



Photograph 8: View eastwards from Hopton Titterhill western viewpoint.





**APPENDIX 2****Conditions****STANDARD CONDITIONS**

1. The development to which this planning permission relates shall be commenced within three years beginning with the date of this permission.

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

2. The development shall be carried out strictly in accordance with the approved plans. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

Reason: To avoid doubt and in the interests of good planning and to ensure reduction of nutrient rich run-off and sediment entering the watercourse, to protect the River Clun SAC, a European protected site.

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

3. Notwithstanding the information submitted with the tree works and tree protection measures identified in the tree condition report, arboricultural impact assessment and tree protection plan (Terry Merchant, 13/05/2014, updated on 2/10/2017) and the Tree Location and Protection Plan, no development shall take place until a final tree protection plan and including measures to protect trees has been submitted to and approved in writing by the local planning authority. Thereafter the tree protection measures shall be retained for the lifetime of the development.

Reason: To protect retained trees and hedges contributing to the character of the location from damage and accord with the landscape plan.

4. No development shall take place until a scheme of soft and hard landscaping has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved before the development is first occupied. The submitted scheme shall include:

- a) Means of enclosure, including all security and other fencing
- b) Hard surfacing materials
- c) Minor artefacts and structures (e.g. lighting)
- d) Planting plans, including wildlife habitat and features (e.g. bat box, dormouse box)
- e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
- g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works (fenced buffer of 20m)
- h) Implementation timetables

All planting and seeding shall be carried out in accordance with the approved landscaping plan within twelve months of completion of the construction phase. Any tree, shrub or other planted material which dies or is otherwise lost during the first five years post-planting shall be replaced with a tree, shrub or other plant of similar size and species.

Reason: To ensure landscaping and mitigation/ enhancement measures are carried out and managed in a way that will provide the best conditions for it to reach maturity/use and thereby provide the intended mitigation and amenity benefits in the long term.

5. No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The scheme shall amongst other matters confirm that measures that will be put in place so that there is no possibility of contaminated water entering and polluting surface or ground waters and no possibility of any building material or rubbish must finding its way into the watercourse. The scheme shall be implemented fully in accordance with the approved details for the duration of the construction period.

Reason: In the interests of highway safety and the wider amenity of the area.

6. No development shall take place until a scheme providing for monitoring of water quality at an agreed location on the Folly Brook at its nearest point to the Site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for monitoring to establish baseline conditions prior to the Commencement Date and for monitoring at agreed intervals throughout the life of the permitted development and shall identify appropriate water quality thresholds. The scheme shall be implemented fully in accordance with the approved details.

The Local Planning Authority shall be notified in writing if monitoring under the scheme referred to in this condition indicates that the water quality thresholds have been exceeded. Such notification shall take place not later than one week after such exceedance has first been identified. The developer shall then arrange for an investigation into the cause of the exceedance to be carried out, including, if necessary, by an appropriate hydrological consultant. If the investigation indicates that the cause of the exceedance is attributable to the permitted development then the applicant shall submit mitigation proposals for the approval in writing of the Local Planning Authority. Such mitigation proposals shall be implemented in full within a timescale to be agreed by the Authority.

Reason: To facilitate monitoring of nutrient levels and water quality entering the Folly Brook, to protect the River Clun SAC, a European protected site and to allow for appropriate remedial measures to be undertaken in the event that a problem attributable to the permitted development is identified.

7. No development shall take place, including ground works and vegetation clearance until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the ammonia emissions from the proposed poultry unit to ensure that a minimum reduction of 90% of ammonia emissions is achieved at source. The content of the strategy shall include the following:
  - a) Aims and objectives of monitoring to match the stated purpose.

- b) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- c) Methods for data gathering and analysis.
- d) Location of monitoring.
- e) Timing and duration of monitoring,
- f) Responsible persons and lines of communications.
- g) Review, and where appropriate, publication of results and outcomes.

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

Reason: To protect the biodiversity of the area.

8. No development shall take place until an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall be appointed to ensure that the Dormouse Mitigation and Enhancement Strategy and Method Statement (and other ecological mitigation and enhancement measures) are adhered to. The ECW shall provide brief notification to the Local Planning Authority of any pre-commencement checks and measures in place.

Prior to first occupation / use of the building [or each phase of the buildings], an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the ecological mitigation and enhancement measures appropriate to the approved development. This shall include photographs of installed features such as bat and dormice boxes, woodland planting, and buffer zones.

Reason: To protect features of recognised nature conservation importance and to ensure the protection of dormice in particular which are European and UK protected species and other wildlife.

9. Prior to the commencement of the development a 20m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone. The fencing shall be as shown on a site plan.

Reason: To protect features of recognised nature conservation importance.

10. Notwithstanding the information submitted with this application, no development shall take place until a details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be installed in accordance with the approved drainage details prior to the first occupation of any of the development hereby approved. Details of the flow control structure should be submitted for

approval prior to the commencement of the works. No proposed soakaway shall be placed within 20m of any watercourse.

Reason: To ensure that the surface water drainage system is adequate, to minimise flood risk and to protect watercourses from potential pollution.

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

11. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The plan shall include:
- a) Description and evaluation of the features to be managed;
  - b) Ecological trends and constraints on site that may influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions;
  - f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
  - g) Personnel responsible for implementation of the plan;
  - h) Monitoring and remedial/contingencies measures triggered by monitoring.
- The plan shall be carried out as approved for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

12. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting* (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To protect the amenity of the area and to minimise disturbance to bats, which are European Protected Species.

13. No rainwater contaminated with silt/soil from disturbed ground during construction shall drain to the surface water sewer or watercourse unless a scheme detailing of measures to ensure settlement of silt/soil has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. Any fuels and/or chemicals used on site shall be stored on hardstanding in bunded tanks.

Reason: To protect surface and ground water resources from pollution.

14. Construction works shall not take place outside 06:30 to 19:00 hours Monday to Saturday and at no time on Sundays or Bank Holidays.

Reason: To protect the amenity of the area.

15. No more than 2 single traffic movements (single traffic movement having the meaning of one HGV either moving to or from the site) by lorries transporting birds to or from the Site shall occur in any given hour between the times of 23:00 and 07:00 hours.

Poultry manure removal and feed delivery shall not take place outside the hours of 07:00 to 18:00 hours Monday to Friday, Saturday 08.00 to 13.00 hours and at no times during Sundays and bank or public holidays.

Reason: To protect neighbouring properties.

16. No development or clearance of vegetation shall take place until a wildlife protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a) An appropriately scaled plan showing 'wildlife/habitat protection zones', where construction activities are restricted and where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction (including a fenced buffer of 20m from the bank of the watercourse during construction);
- c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (dormice/nesting birds);
- d) Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
  - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan.

Reason: To protect features of recognised nature conservation importance.

17. A total of 4 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted as shown on a site plan. A minimum of 10 dormouse nest boxes shall be erected on the site as shown on a site plan. All boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats and dormice which are European Protected Species in accordance with Shropshire Local Development

Framework Core Strategy Policy CS17, Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and paragraph 118 of the National Planning Policy Framework.

18. The programme of archaeological work for the development approved by this permission shall be carried out in complete accordance with the specification (written scheme of investigation) by Castlering Archaeology (July 2016).

Reason: The site is known to hold archaeological interest.

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

19. The external materials and colour treatment of all plant and buildings hereby approved shall be finished in colour BS 12B29 (juniper green). The development shall be undertaken in accordance with the approved details, and retained as such for the lifetime of the development.

Reason: To ensure an acceptable appearance to protect visual quality.

### **INFORMATIVE**

#### **Proactive working**

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 paragraph 38 of the National Planning Policy Framework

#### **Ecology**

Hazel dormice are a European Protected Species under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb a dormouse; and to damage, destroy or obstruct access to its resting places. There is an unlimited fine and/or up to six months imprisonment for such offences.

If a dormouse should be discovered on site at any point during the development then work must immediately halt and an appropriately qualified and experienced and Natural England (0300 060 3900) contacted for advice. The Local Planning Authority should also be informed.

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

An experienced ecologist should assess whether any badger setts are present in the hedgerows. If any hedgerow removals are planned within 30m of the sett then it may be necessary to apply for a Licence to interfere with a Badger Sett for the Purpose of Development from Natural England.

The applicant should follow the advice of their experienced ecologist throughout the works. If the applicant does not follow the procedure advised above then they may find themselves vulnerable to prosecution for an offence under the Protection of Badgers Act 1992.

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

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

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

All vegetation clearance, tree removal, scrub removal, conversion, renovation and demolition work in buildings, or other suitable nesting habitat, should be carried out outside of the bird nesting season which runs from March to August inclusive.

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

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

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

## **Highways**

### Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

### Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

The applicant should in the first instance contact Shropshire Council's Street works team. This link provides further details:

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

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



**APPENDIX 3**



**Habitat Regulations Assessment (HRA) Screening Matrix**

Application name and reference number:

17/04546/EIA  
 Proposed Poultry Units South East Of Hoptonheath  
 Shropshire  
 Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme)

Date of completion for the HRA screening matrix:

19<sup>th</sup> July 2018

HRA screening matrix completed by:

Nicola Stone *MSc, Grad CIEEM*  
 SC Planning Ecologist  
[Nicola.Stone@Shropshire.Gov.UK](mailto:Nicola.Stone@Shropshire.Gov.UK)  
 01743-252556

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

Name of plan or project	17/04546/EIA Proposed Poultry Units South East Of Hoptonheath Shropshire Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme)
Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.	<p>River Clun SAC (14.93ha) supports a significant population of Freshwater Pearl Mussel <i>Margaritifera margaritifera</i>. The River Clun SAC is currently failing its water quality targets particularly relating to ortho-phosphates. The current phosphate target for the river and particularly at the SAC is 0.02mg/l. Shropshire Council is working closely with Natural England and Environment Agency on developments within the Clun catchment. Shropshire Council formally consults Natural England on any planning application within this area.</p> <p>Annex II Species that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> <li>• Freshwater pearl mussel <i>Margaritifera margaritifera</i></li> </ul> <p>River Teme SSSI                  The River Teme (441 ha) is designated as a Site of Special Scientific Interest (SSSI) along its whole length. In addition, the SSSI includes the lower reaches of the River Clun. The features for which the SSSI is of special interest are: Type VI sandstone river with mudstones and hard limestones; Type VII river showing mesotrophic status derived from an oligotrophic catchment; Otter; Twaite Shad; White-clawed Crayfish; Freshwater Pearl Mussel; Riffle Beetle Assemblage.</p>

<p>Description of the plan or project</p>	<p>Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme). The proposed application will house 204,000 broilers.</p> <p>SC Ecology has identified the following potential effect pathways which have been addressed by the applicant with appropriate supporting documents:</p> <ol style="list-style-type: none"> <li>1. <i>Possible impact of ammonia emissions and nitrogen deposition on the River Clun SAC.</i></li> <li>2. <i>Possible increase in sediment flow to the southern stream impacting upon the designated features of the SAC.</i></li> <li>3. <i>Increase on phosphate/nitrogen from spreading additional digestate on the land.</i></li> </ol>
<p>Is the project or plan directly connected with or necessary to the management of the site (provide details)?</p>	<p>No</p>
<p>Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?</p>	<p>Applications for dwellings or employment projects generating waste water are being assessed against an interim guidance note agreed with NE and EA.</p> <p>The mitigation and compensatory measures included within the proposal has led SC Ecology to conclude that the proposal will not adversely affect the integrity of the site. SC Ecology considers that this application does not need to be assessed in combination with applications in the River Clun catchment.</p> <p>Please refer to reasoned statement below.</p>

**Statement**

**Justification;**

The information provided by the applicant is summarised below and listed under the appropriate potential effect pathway;

**1. Possible impact of ammonia emissions on the River Clun SAC**

- Pre-application report from the Environment Agency 13/03/2014
- The Environment Agency has granted a permit for the works proposed under planning application 17/04546/EIA.
- The EA has screened out the ammonia impacts from the proposed development on SAC, SPA and Ramsar sites within 10km; SSSIs within 5km; NNRs, LNRs & LWS within 2km. The EA have stated that detailed modelling is not required.

**Supporting Evidence;**

- A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Bedston Growers Broiler Rearing Unit at Hopton Heath in Shropshire prepared by Steve Smith, 12<sup>th</sup> April 2018.
- The proposal includes the use of an ammonia scrubbing system - EMMI Exhaust Air Scubber System, which reduce ammonia emissions from the poultry units by >90%.
- The updated ammonia modelling submitted in support of this proposal indicates that the nitrogen deposition rate would be: approximately 850 kg/y over the 3 km x 3 km modelled domain. Due to a 90% reduction in nitrogen deposition, due to scrubbing, the applicant has also offset the additional 85kg N with arable reversion and woodland planting.

- The Landscape Masterplan SA1465-01 REVA, uploaded to the planning portal 12<sup>th</sup> February 2018, includes W1 - 12,100m<sup>2</sup> and W2 - 5,175m<sup>2</sup>. A minimum 17,275m<sup>2</sup> of woodland will be planted as part of this proposal within field numbers 7 and 8. Therefore 1.7 hectares of woodland planting will cover an area of land which for the last 5 years has had an average of 244.6 kg/N/ha applied. Therefore the arable reversion/reduction in nitrogen fertiliser being applied will offset the remaining 10% ammonia deposition from the poultry unit.
- SC Ecology has concluded that there will be no adverse impact on the integrity of the River Clun SAC & River Teme SSSI from ammonia emissions and nitrogen deposition.

**2. Possible increase in sediment flow to the southern stream impacting upon the designated features of the SAC.**

**Supporting Evidence;**

- Drawing number 1465.01 dated 19<sup>th</sup> July 2018, prepared by Allan Moss Associates Ltd, showing location of protective Hy-Tex Terrastop silt filter fabric fence which is to be erected prior to commencement of development.
- Additional native species woodland will be created buffering the application from the un-named ditch this will reduce sediment and nutrient run off.
- The proposed surface water drainage from the sheds and units will be collected at source in guttering and downspouts and then discharge direct to soakaways.
- All dirty water collected from washing down will be collected via ACO channel drainage and gullies to a piped system and will drain to a sealed 6000 gallon tank located to the front and south of the buildings. The dirty water will be collected following the washing down and cleaning of the sheds following each crop and will be transferred by vacuum tank to be used damp down the feedstock's and used in association with the AD (Anaerobic Digester) plant. The dirty water will be stored in existing tanks used in association with the AD Unit. The tank will be provided with a high levels alarmed system to advise on the level of storage and when the tank requires emptying.

**3. Increase on phosphate/nitrogen from spreading digestate on the land.**

- There will be no spreading of digestate from the new proposed poultry sheds within the Clun catchment.

**Conclusion**

Providing the following conditions are on the decision notice and are appropriately enforced Shropshire Council has concluded that the proposed development will not impact on the integrity of the River Clun SAC or River Teme SSSI.

20. No works shall be carried out other than in accordance with the approved plans. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

**Reason: To ensure reduction of nutrient rich run-off and sediment entering the watercourse, to protect the River Clun SAC, a European protected site.**

21. Biodiversity Monitoring Strategy Condition

No development shall take place, including ground works and vegetation clearance until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the ammonia emissions from the proposed poultry unit to ensure that a minimum reduction of 90% of ammonia emissions is achieved at source. The content of the strategy shall include the following:

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- c) Methods for data gathering and analysis.
- d) Location of monitoring.
- e) Timing and duration of monitoring,
- f) Responsible persons and lines of communications.
- g) Review, and where appropriate, publication of results and outcomes.

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

22. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- a) Means of enclosure, including all security and other fencing
  - b) Hard surfacing materials
  - c) Minor artefacts and structures (e.g. lighting)
  - d) Planting plans, including wildlife habitat and features (e.g. bat box, dormouse box)
  - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
  - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
  - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works (fenced buffer of 20m)
  - h) Implementation timetables

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

23. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The plan shall include:
- a) Description and evaluation of the features to be managed;
  - b) Ecological trends and constraints on site that may influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions;
  - f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
  - g) Personnel responsible for implementation of the plan;
  - h) Monitoring and remedial/contingencies measures triggered by monitoring.
- The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

**Reason: To protect features of recognised nature conservation importance.**

### **Informative**

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

### **The Significance test**

SC Ecology has identified that the proposed works in application No. 17/04546/EIA for the Proposed Poultry Units South East Of Hoptonheath, Shropshire - Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme), has potential effect pathways that could have a likely significant effect on the River Clun SAC (as detailed above). The Habitat Regulation Assessment process cannot be satisfied and an Appropriate Assessment is required.

### **The Integrity test**

An Appropriate Assessment has been undertaken and mitigation has been proposed and secured through that planning process which should mean that the proposal will not have an adverse effect on the integrity of the River Clun SAC.

**Conclusion;**

SC Ecology has concluded that the proposed works under planning application No 17/04546/EIA, Proposed Poultry Units South East Of Hoptonheath, Shropshire - Erection of four poultry sheds with control room/stores; landscaping scheme (amended scheme), will not adversely affect the integrity of the European Designated Site at the River Clun SAC or the River Teme SSSI providing the development is implemented in accordance with the above conditions and submitted documents.

**Conclusions**

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

**Guidance on completing the HRA Screening Matrix****The Habitat Regulation Assessment process**

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
  - (b) is not directly connected with or necessary to the management of that site,
- must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

**Habitat Regulation Assessment Outcomes**

**A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.**

**If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.**

**Duty of the Local Planning Authority**

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.



Committee and date

South Planning Committee

25 September 2018

## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 18/00945/FUL	<b><u>Parish:</u></b>	Morville
<b><u>Proposal:</u></b> Erection of one affordable dwelling with detached 2-bay garage block		
<b><u>Site Address:</u></b> Proposed Exception Site Dwelling NE Of The Barn Underdon Bridgnorth Shropshire		
<b><u>Applicant:</u></b> Mr Neil Williams		
<b><u>Case Officer:</u></b> Sara Jones		<b><u>email:</u></b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 368100 - 291843



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**Recommendation:- Refuse**

It is acknowledged that Shropshire has an acute housing need for affordable homes, and in this case the basis of the application is a specific medical need, level access and the applicants desire to remain in the local area due to community involvement. The proposal would however constitute development that is poorly sited in relation to the surrounding built form of this part of Underton and would unnecessarily encroach into the open countryside. As such the site would not reflect the local character of the dwellings in the area by reason of it being set back from the roadside and accessed via a long private drive. Whilst it is noted that this drive serves the existing barn conversion currently occupied by the applicants this dwelling was created through the re-use of an existing farmstead which is part of the countryside landscape and not part of the settlement.

As such the proposal would be contrary to Policy MD7a 'Managing Housing Development in the Countryside' of Shropshire Council's SAMDev Plan, Policy CS5 'Countryside and Green Belt' of the Core Strategy and Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD).

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

- 1.1 This application seeks full planning permission for the construction of an affordable dwelling house and detached garage under the Councils Single Plot Exception Site scheme on land north east of The Barn, Underton.
- 1.2 The dwelling would be a single storey building with the accommodation confined to the ground floor and consisting of two bedrooms with en-suite facilities and an open plan sitting room with dining area and kitchen.
- 1.3 The proposed dwelling would have an individual appearance the walls being clad in timber and the roof covered in tiles. The building has been designed to include a significant element of roof, areas of glazing and also traditional features such as a chimney.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located within an area defined by planning policy to be open countryside. It is located to the western side of the settlement of Underton and accessed via a private drive which serves the existing barn conversion known as The Barn. The private drive joins the highway some 500 metres to the east. The site occupies an elevated position, the land falling away to the east.
- 2.2 Permission to convert former agricultural buildings was approved in 1990 (planning permission 90/0399). Planning permission has more recently been refused for the erection of a holiday let dwelling on this site on the grounds that it would not be located in a position within or adjoining a settlement which meets the criteria set out in Core Strategy Policy CS16, and would not be required in connection with any established tourism development at the site. In addition the building was, by reason of its substantial two storey massing, overtly domestic features including projecting



canopy roof over the balcony area and use of a palette of material not in keeping with the local area, considered not to promote or reinforce local distinctiveness and would detract from the visual amenity and rural character of the area, and would therefore be contrary to policies CS6 and CS17 of the Shropshire Core Strategy and also paragraph 60 of the NPPF.

- 2.3 Furthermore an application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use has recently been determined as requiring planning permission as the works required in order to implement the scheme appeared to extend beyond the scope of that allowed under Class Q. The building subject of that application lies to the south of The Barn currently inhabited by the applicants.

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

- 3.1 The Ward Member has requested that the application is determined by the Planning Committee. The Senior Planning Officers in consultation with the chairman and vice chairman have considered this request and concluded that the application does raise issues which warrant consideration by Committee.

### **4.0 Community Representations**

Please Note: All responses are available to view in full on the Council's website. Where consultees have made more than one set of comments, the latest comments are set out first below, in order to show where any earlier concerns have been overcome.

- Consultee Comments

- 4.1 Morville Parish Council - No objections.
- 4.2 SC Affordable Housing – (31.05.2018.)
- 4.2.1 Confirm that Mr Williams and Ms Miles have demonstrated strong local connections to the administrative area of Morville Parish Council. After considering the couples housing needs and personal circumstances, they confirm that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied in terms of eligibility.
- 4.3 SC Affordable Housing – (17.04.2018.) Further information requested.
- 4.4 SC Trees – (06.09.2018.)
- 4.4.1 Confirms that whilst there are still some reservations regarding proximity of the proposed dwelling to offsite trees, the most recent version of the Site Layout Plan SA27652/06 Rev E is considered to be acceptable from an arboricultural perspective.
- 4.4.2 The submitted Arboricultural Report (Old Oak Tree Care, 30th May 2018) proposes suitable measures to be taken to enable construction of the proposed dwelling without causing significant damage or harm to retained and adjacent trees. However, the layout of the scheme has altered since the report was prepared and

thus a new Tree Protection Plan will be required.

- 4.4.3 The scheme requires extensive cut and fill works to provide an elevated platform for the dwelling. Detailed method statements will also be required, with engineering specifications and drawings as appropriate, showing how the proposed development platforms will be achieved on site without encroaching significantly into the root protection area (RPA) of offsite trees Hw12, Hw13, As10, As11 and Ok5. This may entail the use of substantial retaining walls or gabions or other such feature, constructed outside, or with minimal incursion into, the RPA of adjacent trees.
- 4.4.4 Therefore, whilst there is no objection in principle to this application on arboricultural grounds, should permission be granted recommend conditions requiring a final tree protection plan and further arboricultural method statement to be agreed with the Local Planning Authority.
- 4.5 SC Trees – (16.07.2018.)
- 4.5.1 The Arboricultural Report (Old Oak Tree Care, 30th May 2018) identifies the trees within and adjacent the site and assesses their condition and suitability for retention in light of the proposed development. It describes the arboricultural impacts of the proposals and suggests measures for mitigation of damage to retained onsite and adjacent trees.
- 4.5.2 I agree that the most significant tree is the mature oak identified as Ok5 in the tree report, which has been classified as a category A tree in accordance with the criteria of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction. Category A and B trees are generally regarded as being the most suitable for retention and protection during development of a site. Tree Ok5 is located offsite but overhangs the western boundary. I agree that it is important to avoid causing damage or harm to this tree as a result of any approved development taking place. Suitable tree protection measures have been provided in the tree report.
- 4.5.3 I also do not object to the loss of three category C silver birch and a hybrid poplar in order to create a new access point to the site. These trees are within the site and have no wider amenity value.
- 4.5.4 I do, however, disagree with the classification of ash trees As10 and As11 as category C. The tree report records these mature trees as being in good structural and physiological condition and in my opinion they should be more correctly classified as category B. The tree report states that these trees cannot be considered as valuable assets to the area, questioning their longevity due to likelihood of dying from Chalara die-back disease of ash. However, it is not certain that these particular trees will succumb to the disease, nor, if they did, how far into the future that might be. What is known, however, is that heavy pruning of a mature ash tree will stimulate fresh growth that is more susceptible to infection from Chalara. The tree report recommends removing all overhanging branches from these trees up to 5m above ground level, as access facilitation pruning to enable construction of the proposed development.

- 4.5.5 In my opinion it would be preferable to amend the layout, so as to move the proposed dwelling slightly further from the eastern boundary and thereby reduce the need for significant pruning works to trees As10 and As11. First analysis of the Proposed Site Layout plan (SA27652/06 Rev C, Berrys, Feb 2018) suggests that there is scope to move the dwelling slightly diagonally across the site towards the northern corner, taking it out of the canopy spread of ash trees As10 and As11. This would have the additional benefit of also moving the dwelling further away from the mature oak tree Ok5, which would help to ameliorate proximity related concerns (such as excessive shading, overhang, leaf fall, tree safety and overbearing presence) arising from having the front of a single storey dwelling practically touching the canopy of a mature tree.
- 4.5.6 I would appreciate a response to this suggestion to slightly adjust the layout from the applicant or their agent, prior to forming my final opinion on this application.
- 4.6 SC Trees – (30.04.2018.)  
Additional information is requested in order to demonstrate the arboricultural implications of the proposed development.
- 4.7 SC Ecology – (16.08.2018.)  
Recommend conditions and informatives.
- 4.8 SC Ecology – (26.04.2018.)  
Additional information is requested relating to ecology, bats and environmental network.
- 4.9 SC Highways – No objections.  
*“It is considered that it is unlikely that the addition of one dwelling here, will significantly adversely affect highway safety or local conditions.”*  
  
*“The access from this proposed property is onto a private road which junctions with the highway, the junction being adequate.”*
- 4.10 SC Drainage – Recommend informative.
- 4.11 - Public Comments  
Site notice displayed/dated 12.04.2018. Expired 03.05.2018.
- 4.12 One representation received from the CPRE  
*“In the instance of this particular case, it is apparent that Shropshire Council’s Housing Enablement Officer has accepted that the eligibility criteria have been met. We are confident that you will be able to rule on a suitable site location in line with the rules within the SPD about site location within named loose-knit settlements.”*  
  
*“We also note the comments made by Berrys on 8 May and their reference to our website. We do indeed fully endorse Shropshire Council’s “single plot” rural exception site rules, which as well as enabling local people to continue to live*

*locally, also help Shropshire Council to reach a higher percentage of affordable housing across the county than would otherwise be the case. As to the housing targets being too high, we are aware that Berrys as a firm submitted nearly 60 separate representations during the latest consultation on the Local Plan Review, mostly endorsing the high housing targets, or higher, currently preferred by Shropshire Council's Planning Policy team."*

4.13 One representation received in support of the application.

## **5.0 THE MAIN ISSUES**

Principle of development  
Siting and visual impact considerations  
Residential amenity  
Ecology  
Drainage

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'.

6.1.2 Paragraph 11 of the National Planning Policy Framework (NPPF – 2018) builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

6.1.3 The National Planning Policy Framework ('NPPF') has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.

6.1.4 Principally, the site is outside of the development boundary of any Market Town, Key Centre, Community Hub or Cluster, as defined within Shropshire Council's Site Allocations and Management of Development ('SAMDev') Plan. The site is therefore defined in planning policy terms as being within the open countryside.

6.1.5 Policy CS5 states that development may be permitted where it constitutes accommodation for an essential countryside worker or named individuals with strong local connections who are in demonstrable housing need. Such developments falling under the criteria of being for an essential rural worker or for affordable housing are subject to prior completion of a legal agreement to control both initial and future occupancy and to cap the resale value. This is discussed further within Shropshire Council's Type and Affordability of Housing Supplementary Planning Document ('SPD').

6.1.6 The Council's Single Plot Exception Site policy includes households who occupy accommodation which is deemed to be unsuitable for either their current or

reasonably foreseeable future needs for a medical condition or mobility issue. In this case Shropshire Council's Affordable Housing team confirms that the applicant is eligible for an affordable dwelling under the Council's Single Plot Exception Site scheme.

6.1.7 Amongst other criteria, Shropshire Council's Type and Affordability of Housing SPD prescribes a maximum floor space of 100 square metres for owner-occupied affordable homes on single plot exception sites in order to help to ensure that they remain affordable to other local people in housing need in the future. It is important to note that this limit currently does not include any detached outbuildings such as garages. The SPD also specifies a maximum plot size of 0.1 hectares. In this case the proposed dwelling would not exceed the 100 square metre threshold and the plot size would be less than 0.1 hectare.

6.1.8 Given that the applicant is eligible for a single plot affordable dwelling, the acceptability or otherwise of this particular proposal rests on an assessment of the material planning considerations set out below.

## **6.2 Siting and visual impact considerations**

6.2.1 SAMDev Policy MD2 'Sustainable Design' and Core Strategy Policy CS6 'Sustainable Design and Development Principles' require development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. Proposals are required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.

6.2.2 Development is encouraged where it is sensitively designed, reflects the needs of the local community and contributes towards infrastructure and affordable homes for local people. This is largely echoed within Policy CS5 'Countryside and Green Belt' of the Core Strategy and MD12 'Natural Environment' of the SAMDev Plan which seeks to protect, maintain and where appropriate enhance the local environment; and Policy CS17 'Environmental Networks' of the Core Strategy.

6.2.3 This is a sensitive case in that whilst it is noted that there is an acute affordable housing need throughout Shropshire, planning policy is very clear that new development will be strictly controlled in order to protect the countryside, as such both matters should be awarded significant amounts of weight.

6.2.4 The proposed dwelling would be accessed off the private drive which serves the existing barn conversion. This drive winds up from the public highway between existing dwellings known as Westholme and Underton Cottage to The Barn some 500 metres from the highway. The settlement of Underton is characterised by development which addresses the public highway running through the settlement. The proposed site is divorced from the settlement being located some 250 metres from the public highway up a private driveway. As such it is considered that the proposal would not meet the locational criteria of Policy MD7a 'Managing Housing Development in the Countryside' of Shropshire Council's SAMDev Plan, Policy CS5 'Countryside and Green Belt' of the Core Strategy and Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD).

6.2.5 Whilst the proposed dwelling would have an individual design not necessarily considered to be in keeping with the local vernacular, the site is not particularly prominent and, in the light of para. 127 ( c ) of the NPPF which states that decisions should ensure (amongst other criteria) that developments :

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

6.2.6 The design is considered reflective of contemporary materials and design. The siting within the application site has been amended to take in account the constraints imposed by the existing trees and reduce the need for significant pruning works to trees. The proposed building would not be particularly prominent, and its impact on the visual amenity of the landscape character of the area would be limited, it is nevertheless considered that the proposed location of the building, would not be appropriate development in the countryside and no justification has been identified to warrant such development contrary to adopted local planning policies.

### **6.3 Residential Amenity**

6.3.1 Core Strategy Policy CS6 seeks to safeguard residential amenity. It is accepted that the erection of a dwelling as proposed would be to a large extent screened from the existing dwellings by the existing trees and considered that the separation distances are sufficient to ensure that there would be no undue loss of residential amenity by virtue of loss of privacy, overbearing or overshadowing impacts.

### **6.4 Ecology**

6.4.1 Any new development in the open countryside must ensure that it does not result in harm to any protected species and increase biodiversity to be compliant with the requirements of Section 15 of the National Planning Policy Framework. The application has been supported by an Ecological Assessment (Greenscape Environmental) which has been assessed by SC Ecology Team.

6.4.2 There are ponds within 250m of the site. The pond to the north is dry, and the pond to the south is said to be separated by a stream. Natural England's rapid risk assessment comes out as green (offence highly unlikely) due to the size of the development and distance from the pond. Greenscape Environmental have provided a reasonable avoidance method statement which may be conditioned should planning permission be granted.

6.4.3 It is considered that appropriate conditions and informatives would ensure that ecological interests are protected.

### **6.5 Drainage**

6.5.1 Details submitted with the application confirm that the foul drainage would be disposed of via a septic tank and that the surface water would be disposed of via soakaways. A Foul Drainage Assessment form has also been submitted with the application. The Councils Drainage Team and raise no objection subject to informatives. The drainage will require approval under building regulations to

ensure that it functions satisfactorily.

## 7.0 CONCLUSION

7.1 it is acknowledged that Shropshire has an acute housing need for affordable homes, and in this case the basis of the application is a specific medical need, level access and the applicants desire to remain in the local area due to community involvement. The proposal would however constitute development that is poorly sited in relation to the surrounding built form of this part of Underton and would unnecessarily encroach into the open countryside. As such the site would not reflect the local character of the dwellings in the area by reason of it being set back from the roadside and accessed via a long private drive. Whilst it is noted that this drive serves the existing barn conversion currently occupied by the applicants this dwelling was created through the re-use of an existing farmstead which is part of the countryside landscape and not part of the settlement.

7.2 As such it is considered that the proposal would not meet the locational requirements of Policy MD7a 'Managing Housing Development in the Countryside' of Shropshire Council's SAMDev Plan, Policy CS5 'Countryside and Green Belt' of the Core Strategy and Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD).

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol

Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### 8.3 Equalities

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

### 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD7a Managing Housing Development in the Countryside  
MD12 The Natural Environment  
MD13 The Historic Environment  
S3 Bridgnorth Place Plan Area

SPD on the Type and Affordability of Housing



RELEVANT PLANNING HISTORY:

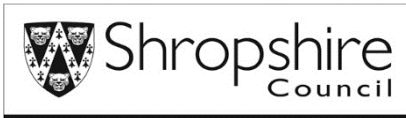
11/04105/FUL Application under Section 73a of the Town and Country Planning Act 1990 for change of use from private stable yard to commercial equestrian livery; construction of manege and erection of detached holiday let (part retrospective) NPW 15th November 2011  
 11/05373/FUL Erection of one detached holiday let with formation of new driveway; installation of septic tank drainage system; landscaping scheme WDN 14th March 2012  
 13/04683/FUL Erection of a dwelling to be used as holiday let; installation of septic tank REFUSE 23rd May 2014

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

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

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Committee and date

South Planning Committee

25 September 2018

## Development Management Report

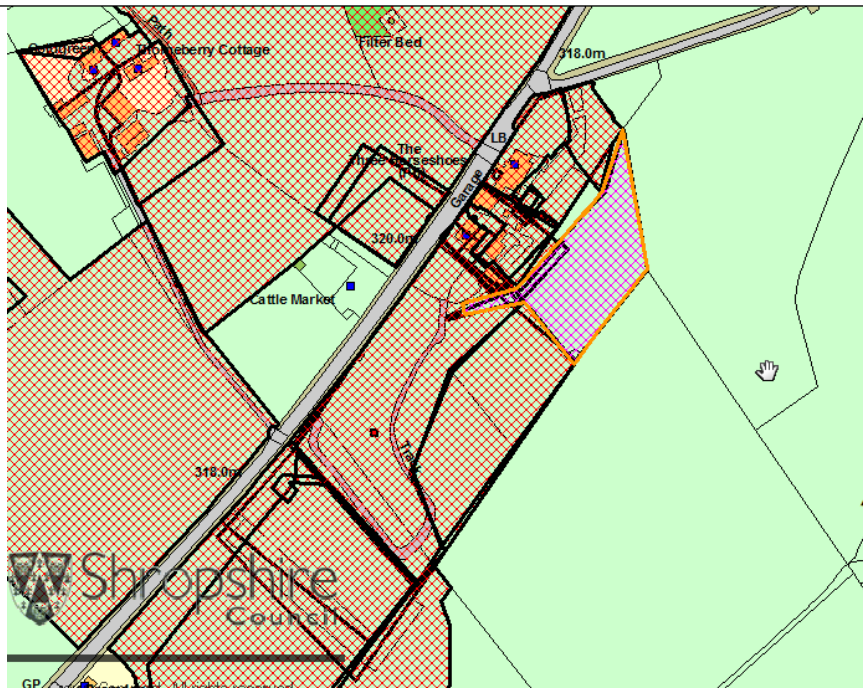
Responsible Officer: Tim Rogers

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> 18/02109/FUL	<b>Parish:</b>	Wheathill
<b>Proposal:</b> Change of use of land for the storage of touring caravans (unoccupied) and associated ground works and landscaping.		
<b>Site Address:</b> Wheathill Touring Park Caravan Site Wheathill Shropshire WV16 6QT		
<b>Applicant:</b> Wheathill Touring Caravan Park		
<b>Case Officer:</b> Vincent Maher	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 359913 – 281760



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

**REPORT**

**1.0 THE PROPOSAL**

1.1 Planning permission is sought to provide a storage area for up to 34 vehicles associated with an existing pub/ caravan site complex. This will effectively increase the current storage capacity from 30 parking bays for overnight visitors to a total of 64. To achieve this storage area, the applicant proposes to excavate a substantial area (around 1,000 sqm). Some of the soil/ rock will be excavated and some will be used to create a “berm” that would be landscaped with a mix of gorse, broom, some hedgerow and wildflower. At its deepest point, the caravan storage park would be around 9m below the top of the berm. This work is proposed to minimise the proposal’s impact on the area both close by and in the context of the wider countryside. A concrete retaining wall would be built at the back of the excavated area.

1.2 The application is accompanied by a landscaping plan that show a mix of windflower, hedgerow and tree planting; a design and access statement; an ecology report (from 2015) and a topographical survey. The applicant has also provided a long distance photograph of the site to help show the site in its context. This helpfully shows the site in the context of its setting relative to the surrounding hills.

*Figure 1 View of the site from Blackford*



1.3 The applicant advises that the Wheathill Touring Park has the highest rating from the Automobile Association (the AA), its five pennant rating. This is given to parks that are “of an extremely high standard, set in attractive surroundings with mature landscaping, exceptional facilities, security and customer care”. The applicant states this facility has proved popular with visitors in recent years and storage of existing caravans makes a contribution to the financial viability of the business. Demand for the on-site storage exceeds the existing facility’s capacity. The applicant states that expansion would generate one additional job.

***Planning history of the site***

- 1.4 At its December 2015 meeting, the South Planning Committee approved an application for use of agricultural land to facilitate extension of existing touring park; 25 all-weather touring pitches; estate road and services; erection of toilet block; landscaping (reference 15/04281/FUL). The application was accompanied a unilateral undertaking (UU) by the applicant not to make any further planning applications for touring caravan pitches on land wholly within their control at Wheathill. This application does not deviate from that UU in that it is for storage. The site benefits from other permissions associated with its pub and tourist uses.
- 1.5 The applicant submitted a pre application query for the current proposal (PREAPP/17/00615) and officers indicated that they would not be likely to support this proposal because of its likely impact on the Shropshire Hills Area of Outstanding Natural Beauty (the AONB). The applicant has subsequently submitted a more accurate topographical survey and additional landscape drawings to address this matter and provided more information about the applicant’s business.
- 1.6 The Council is obliged to take this new information into account as well as comments from consultees as well and other material considerations including the new NPPF released in July 2018.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is in open countryside located to the rear of the Three Horse Shoes pub and touring caravan complex on the B4364 Ludlow to Bridgnorth Road within the AONB. The site forms part of the Pasture Hills landscape. The key characteristics of this category are: prominent sloping topography creating a medium to large scale landscape with filtered views, hedged fields (many with ancient origins), pastoral land use and a dispersed settlement pattern.
- 2.2 The site forms part of an extended plateau within a valley setting. Land levels rise to the rear of the site away from the road. There are two rights of way that come close to the edge of the site where the proposed storage area would be located.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council opposes the application and this officer recommendation is contrary to the views of the parish. The Local Member (Cllr Shineton) would like this application to be determined by the Committee. The Chairman of the South Planning Committee has agreed this case that the material planning considerations warrant this application being determined by the Committee.

**4.0 COMMUNITY REPRESENTATIONS**

- 4.1 - Consultee Comments
- 4.1.1 **SC Ecology: No objection subject to a lighting plan condition and informatives.** An ecological assessment was carried out in 2015. This would normally be considered out of date but, given lack of ecological value on this site, in this case is considered acceptable.

**4.1.2 SC Trees: No objection.**

Number of trees and hedgerows might be affected by the proposal in particular a large oak to rear of pub and on eastern boundary of development. Need therefore for a tree protection plan and securing through conditions the very highest specification for design / delivery of landscape mitigation that including consideration of soil types/ compaction and water/ nutrient gradients that serve as constraints on a man made bund.

**4.1.3 Shropshire Hills AONB: Objection.**

- Agree with officer's recommendation at pre application stage not to support proposal.
- Degree of landscaping works to limit visual impact are a testament of impact site will have on landscape as a whole. Digging a big hole to hide stored caravans is a major development according to national policy.
- Storage of caravans could be easily accommodated at nearby enterprise parks outside the AONB. Remote storage offered by many other caravan site owners. Storage does not have to be on site for business to be profitable.
- AONB Partnership objected to previous application because of landscape impact.
- Concerns about gradual increase in footprint by sidestepping unilateral undertaking.
- Site already exceeds AONB Management Plan guidelines.

**4.1.4 SC Rights of Way/ Ramblers – No comments received.**

**4.1.5 SC SUDS - No objection**

Recommend sustainable drainage scheme through an informative.

**4.1.6 Wheathill Parish Council - Objection.**

- Long planning history – this is the twelfth application. Applicant signed a unilateral undertaking not to expand.
- Proposal would reshape caravan site. Resulting berm would look man made especially when viewed from Blackford on the Shropshire Way.
- Would harm AONB including through excavation of 1000 sqm area of site. Replacement planting would take years to become established.
- Unsuitable site – could have storage at enterprise park at Ludlow or elsewhere.
- Unviable investment proposal. Applicant charges £380 a caravan a year. Would an additional £13k return justify so much work? Application may be a foothold for more development.

The parish has submitted photographs of the site when viewed from Blackford and so has the applicant's agent.

**4.2 - Public Comments**

26 letters of support from residents and some business including Salop Leisure raising the following points:

- Local area has benefited from applicant's investment on site in recent years. Site was a rundown pub, now very well maintained and organised.
- People need to store caravans instead of towing them. More storage means visitors will not need to drive caravans on the road.
- Storage area will disappear when site is landscaped.
- Should not stop development just because it is in the AONB.
- Applicant has been in the business for 40 years. Well known, uses local electricians and tradespeople when possible. Has supported Ludlow Homecare.
- Extra storage will benefit other businesses (spend on pubs, shops).
- Need to allow all rural businesses to grow post-Brexit including the promotion of more tourism in Shropshire.

Five letters of opposition received raising the following points:

- Applicant has submitted lots of applications. Last scheme controversial. Has previously said no further expansion. Now acting by stealth.
- Massive excavation – 1000 sqm – will hit rock, how will applicant reconfigure this site/ remove rock?
- How will they plant on a clifftop?
- Planting will take 20 years to become established.
- Contrary to NPPF and AONB.
- Most people supporting do not live or work in Wheathill.
- Ecology assessment out of date. Site rich in flora and fauna. Wrong to see semi improved grassland destroyed and native species cut down.

## 5.0 THE MAIN ISSUES

- Principle of the development: a review of relevant national and local policy;
- Siting of the development, scale and design including its impact – impact on landscape;
- Other matters raised in comments received during the processing of this application

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of the development: a review of relevant national and local policy

#### National Policy:

- 6.1.1 The new July 2018 National Planning Policy Framework (“NPPF”) advises that the purpose of the planning system is to contribute to achieving sustainable development (para 7) and establishes a presumption in favour of sustainable development (para 10). This means “approving development proposals that accord with the development plan without delay” and supporting sustainable economic growth (para 11c). There are three dimensions to sustainable development: an economic role, a social role and an environmental role (para 8). Significant weight should be placed on the need to support economic growth through the planning system where it builds on the strength of a local area (para 80).

6.1.2 In the rural area, the NPPF advises that the planning system should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; and c) sustainable rural tourism and leisure developments which respect the character of the countryside. While the NPPF seeks to promote economic growth, it also states that the planning system should help achieve well-designed spaces (section 10) that contribute to and enhance the local environment (para 109).

6.1.3 The new NPPF continues to attach the highest level of protection to the AONB. Decision makers should give great weight to conserving and enhancing its landscape and scenic beauty (para 172). However, the new NPPF provides additional advice on development in AONBs. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Interestingly the NPPF leaves it to the decision maker to determine what a “major development” is and the decision maker must take into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

#### Development plan policy

6.1.4 CS Policy CS1 supports investment and new development. In rural areas outside of settlements this will primarily be for “economic diversification”. CS Policy CS13 supports rural enterprise schemes provided they accord with Policy CS5. Policy CS16 seeks to deliver high quality, sustainable tourism facilities that promote connections between visitors and Shropshire’s natural, cultural and historic environment. At the same time, it is necessary to ensure that the development complies with CS17 (Environmental Networks) and SAMDev Plan Policies MD7b and MD12 (The Natural Environment).

#### AONB Management Plan

6.1.5 The management plan does not have development plan status but some weight should be applied to it as it helps interpret how SAMDev Plan Policy MD12 will be applied. It is therefore worth quoting its advice on tourism infrastructure in full:

#### ***Tourism and recreation development and infrastructure***

*The siting, design and specification of new developments for tourism and recreation should be to high standards of environmental sensitivity and sustainability. The following guidelines are recommended:*

- *Single developments of more than around 10 accommodation units are less likely to be supported in small settlements and open countryside.*
- *Large parks of static caravans, cabins or chalets are likely to be intrusive.*
- *Smaller sites with good landscaping are preferable, as are facilities for touring caravans and camping which generally have a low impact by virtue of fewer permanent structures.*

*Built facilities for recreation should only be allowed where their location and the activities they support are compatible with the special qualities of the AONB.*



6.1.6 Arising from the foregoing detailed review of policy, two questions arise when considering if the principle of the development is acceptable. These are:

1. whether the proposal represents major development as defined by the new NPPF (para 172);
2. how a decision maker should resolve advice in the NPPF that requires great weight to be applied to proposals that generate economic growth and at the same time to conserving the landscape and scenic beauty of the AONB.

6.1.7 On the first question, officers submit that this is not a major development in that it is not seeking permission for substantial building work (for example, a new enclosed commercial storage building for the caravans or new units of tourism accommodation or indeed new caravan pitches). Rather, the works equate to a large park for vehicles and the extensive excavation works are needed to reduce the scheme's visual impact on the AONB. In this respect, the excavation works could not be equated to the size of a quarry. The site is visible from the road and two rights of way and an open storage area could affect its character significantly but the applicant's decision to sink the car park is an unusual way of mitigating its impact. Therefore the provisions of para 172 of the NPPF do not apply.

6.1.8 Turning to the second question, it is clear that there are conflicting economic and environmental matters to take account of in this application. The applicant has made reference to his own five pennant award from the AA and the economic benefits arising from the scheme both for the viability of the business and the pub and the additional rural employment it would generate. These are not significant in themselves on this site although the expansion might further enhance the reputation of the AONB for tourism. However, both national and local policy place great emphasis on protecting the landscape too. The relevant AONB Management Plan policy seeks to disperse tourism facilities into smaller sites but, critically, it does not rule out more intensive development that exceeds 10 pitches and, indeed, the South Planning Committee approved a development in excess of this threshold in 2015. Ultimately, the acceptability of the proposal will turn on the effectiveness of the landscaping and screening proposals. This is considered below.

## 6.2 **Siting of the development, scale and design: impact on landscape**

6.2.1 CS Policy CS6 and SAMDev Plan MD2 require development to be appropriate in scale and design taking account of local context and character. CS Policy CS17 further asserts, among other things, the importance of protecting and enhancing Shropshire's natural environment. SAMDev Plan Policy MD7b requires applications for agricultural development to be of a scale consistent with their required agricultural purpose and where possible sited close to existing farm buildings. SAMDev Plan Policy MD12 seeks to protect the natural environment. Proposals likely to have a significant adverse effect, directly, indirectly or cumulatively, on it will only be permitted if a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and; b) the social or economic benefits of the proposal outweigh the harm to the asset. In all cases, a hierarchy of mitigation then compensation measures will be sought.

- 6.2.2 There are two critical viewpoints to take into account when assessing this proposal. The first is to consider it close up and, in particular, that run close to the edge of the site. The second is further afield from including from Blackford.
- 6.2.3 Close up, it will not be possible to see the caravans in storage from the footpath to the eastern side of the site both because of the depth of excavation and the mounding proposed. Much of the landscaping will be grass and wildflower which will become established quickly. There are likely to be limited and oblique views into the site from the public footpath that runs along the south eastern boundary of the site but the view into the storage area needs to be understood in the context of a wider camp and, moreover, with the planting of additional trees along the hedgerow, the impact will be very limited and localised. It would be necessary to impose tree protection and landscape maintenance conditions consistent with the advice of the SC Trees officer.
- 6.2.4 Further afield, when viewed from Blackford (refer Figure 1), it is clear that the expanded site will sit well and be contained within a valley setting especially if a lighting condition is imposed as recommended by the county ecologist. A low level lighting condition will both protect the area for bats but further serve to mitigate the proposal's impact on the wider area. Thus it is submitted that it shows a reasonable level of compliance with the foregoing policy considerations.
- 6.2.5 The development will involve a significant amount of excavation work. The applicant has agreed to a construction environmental management plan to mitigate the impact of the construction works on the locality.
- 6.10 **Other matters raised in the public consultation**
- 6.10.1 Officers have reviewed all comments made for and against this case. There may be other sites where caravans could be stored outside of the AONB but the applicant has carefully thought through a plan to reduce its visual impact when viewed from two critical receptors. It is also irrelevant where the supporters and opponents of the scheme come from. The county ecologist does not find any reason to withhold permission.
- 6.10.3 Some residents have referred to this proposal being a foothold for further expansion. The Committee must determine what is before it and any future development proposals would be the subject of a fresh assessment.

## **7.0 CONCLUSION**

- 7.1 This is a finally balanced case where it is necessary to resolve potentially conflicting economic and environmental concerns. The proposal will support an existing business although its economic benefits do not appear to be substantial. On the other hand, national and local planning policy place great weight on protecting the AONB. Uniquely, this proposal has taken unusual measures to disguise its visual impact and for this reason it is recommended that permission is granted subject to appropriate conditions.
- 7.2 The report has already considered a range of conditions. The applicant has signed a UU restricting the expansion of the site for caravans for overnight visitors. A further condition in this recommendation reinforces that control.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## **9.0 FINANCIAL IMPLICATIONS**

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account

when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. BACKGROUND

### Relevant Planning Policies

National Planning Policy Framework

Core Strategy:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

CS16 - Tourism, Culture and Leisure

CS17 - Environmental Networks

CS18 – Sustainable Water Management

SAMDev Plan

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

## 11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=P8F8QLTDL700>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Design and Access Statement Ecology Report
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member
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Cllr Gwilym Butler Cllr Madge Shineton
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Appendices APPENDIX 1 - Conditions
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## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

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

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

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

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

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

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

4. The details submitted in accordance with condition 3 above shall include:
  - a. a plan showing the position of every tree on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;
  - b. a schedule in relation to every tree identified listing:
  - c. information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and, any proposed pruning, felling or other work;
  - d. in relation to every existing tree identified to be retained on the plan referred to in a) above, details of:
    - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,

- all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
- areas of existing landscaping to be protected from construction operations and the method of protection.

In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars.

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

5. No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by the local planning authority. The CEMP shall provide for:

- hours of excavation and construction activity on the site;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- wheel washing facilities; and
- measures to control the emission of dust and dirt during excavation;

The approved CEMP shall be adhered to throughout the construction period for the development.

Reason: This detail is required to avoid congestion in the surrounding area and to protect the amenities of the area.

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

6. Prior to the first use of the development hereby approved a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting shall be carried out in complete accordance with the approved details.

Reason: To minimise disturbance to bats, a European Protected Species and to preserve the landscape and scenic beauty of the Shropshire Hills Area of Outstanding Natural Beauty.

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

7. The site shall be used only for the storage of caravans only and not be used as holiday accommodation. No static caravans shall be stationed thereon.

Reason: To restrict caravan accommodation with the Shropshire Hills Area of Outstanding Beauty and to accord with the application as submitted and a unilateral

undertaking that formed part of planning application reference 15/04281/FUL which seeks to restrict further expansion of caravan accommodation for tourist use.

## INFORMATIVES

### **Nesting birds informative**

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

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

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

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

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

### **General site informative for wildlife protection**

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.



The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

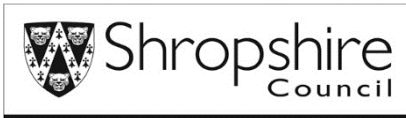
If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

### **Landscaping informative**

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

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<u>Committee and date</u>
South Planning Committee
25 September 2018

## Development Management Report

### SCHEDULE OF APPEALS AND APPEAL DECISIONS

AS AT 25 SEPTEMBER 2018

<b>LPA reference</b>	14/04328/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr David Hughes
<b>Proposal</b>	Erection of two dwellings with garages; formation of vehicular access
<b>Location</b>	Land Adjoining Castle Grange Linney Ludlow Shropshire
<b>Date of appeal</b>	26.01.2018
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	06.06.2018
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	16/02739/FUL
<b>Application Callin</b>	Callin in by Secretary of State
<b>Committee or Del. Decision</b>	Committee
<b>Proposal</b>	Erection of 5No retail units, car parking, reconfigured access, landscaping and associated works
<b>Location</b>	Land Adjacent To Sainsburys Supermarket Old Smithfield Bridgnorth
<b>Date of callin</b>	24.04.2017
<b>Date site visit</b>	
<b>Date of decision</b>	13.06.2018
<b>Costs awarded</b>	
<b>Decision</b>	Grant Permission

<b>LPA reference</b>	17/02428/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mark David Steele
<b>Proposal</b>	Siting of 3 temporary wooden structures, bell tent along with a kitchen area and WC / shower block to include change of use from agricultural land to a Glamping site
<b>Location</b>	Proposed Campsite At Highfield Farm Hilton Bridgnorth
<b>Date of appeal</b>	19.06.2018
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	17/03346/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Roger Lawrence
<b>Proposal</b>	Erection of detached dwelling; formation of vehicular access; installation of package treatment plant
<b>Location</b>	Proposed Dwelling North Of Manor Lodge Cottage Astley Abbots
<b>Date of appeal</b>	19.06.2018
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	16/02535/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Bill and Margaret Reece
<b>Proposal</b>	Conversion of an agricultural building to a dwelling
<b>Location</b>	Proposed Dwelling NE Of The Hollows Stiperstones Shropshire
<b>Date of appeal</b>	26.01.18
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	07.09.18
<b>Costs awarded</b>	No - refused
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	17/04678/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Mark Bradley
<b>Proposal</b>	Change of use of land for the siting of two timber holiday lodges for visitor accommodation and installation of package treatment plant
<b>Location</b>	Former Haulage Yard Bourton Road Much Wenlock Shropshire TF13 6AJ
<b>Date of appeal</b>	17.4.18
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	25.6.18
<b>Date of appeal decision</b>	7.9.18
<b>Costs awarded</b>	No - Refused
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	17/03346/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Roger Lawrence
<b>Proposal</b>	Erection of detached dwelling; formation of vehicular access; installation of package treatment plant
<b>Location</b>	Proposed Dwelling North Of Manor Lodge Cottage Astley Abbots Bridgnorth Shropshire
<b>Date of appeal</b>	19.6.18
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	14.8.18
<b>Date of appeal decision</b>	10.10.18
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	17/04078/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Nick Beard
<b>Proposal</b>	Erection of 2No flats
<b>Location</b>	Proposed Development Land North Of 17 Maple Close Ludlow
<b>Date of appeal</b>	17.04.18
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	20.07.18
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

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## Appeal Decision

Site visit made on 14 May 2018

**by Susan Ashworth BA (Hons) BPL MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> June 2018**

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**Appeal Ref: APP/L3245/W/17/3191976**

**Land adjoining Castle Grange, Linney, Ludlow, Shropshire SY8 1EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by McCartneys against the decision of Shropshire Council.
  - The application Ref 14/04328/FUL, dated 24 September 2014, was refused by notice dated 27 June 2017.
  - The development proposed is erection of 2 no. detached dwellings.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issue in this case is whether the site represents a suitable location for housing having regard to local and national policies, with particular regard to the effect of the development on the character and appearance of the area and, linked to that, whether the proposal would preserve or enhance the character or appearance of the Ludlow Conservation Area.

### Reasons

*Whether the site represents a suitable location for housing*

3. The development plan for the area includes the Site Allocations and Management of Development (SAMDev) Plan 2015 and the Shropshire Local Development Framework Adopted Core Strategy 2011 (the Core Strategy).
4. Policy CS1 of the Core Strategy sets out the Council's strategic approach to new development which is expanded on in Policy MD1 of the SAMDev. Policy CS3 provides for housing and employment development within the development boundaries of market towns, such as Ludlow, which respects the distinctive character of each town and in the case of Ludlow, its historic character. Policy S10 sets a guideline of 875 homes to be provided in the town within the plan period 2006-2026, mostly on allocated sites but also on windfall and infill sites within the town development boundary.
5. Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev sets out that new market housing will be strictly controlled outside market towns and only permitted in specified circumstances, including where the development meets evidenced local housing needs and other relevant policy requirements. Policy MD3 sets out that where a settlement housing guideline is unlikely to be met,

- additional sites outside settlement boundaries may be acceptable having regard to criteria set out in MD3 (2) and to other relevant local plan policies.
6. These policies are consistent with the core planning principles set out in the National Planning Policy Framework (the Framework) which, amongst other things, require that planning should take account of the different roles and character of different areas, contribute to conserving and enhancing the natural environment and reducing pollution, conserve heritage assets and actively manage patterns of growth.
  7. The proposal seeks permission for two open-market dwellings on part of a larger parcel of agricultural land, located adjacent to a sharp bend in the Linney, a narrow road on the western fringe of Ludlow. The site lies outside the development boundary for Ludlow as set out in the SAMDev and is within the Ludlow Conservation Area.
  8. Although the site adjoins the residential property Castle Grange, it is largely open and free from development and visually forms a continuous part of the wider countryside beyond it. The large area of open space on the opposite side of the Linney adds to the area's rural character. There is a residential caravan on a spur off the Linney beyond the site, largely hidden from view, but the Council advises that it is temporary. Accordingly the site appears as part of the countryside and is distinct from the more built-up urban area to the south-east. The development would result in an urban encroachment into the space to the detriment of the area's rural character and appearance. Moreover, as the site lies outside the development boundary the proposal would conflict with the strategic aims of Policies CS5 and MD7a.
  9. The Council advises that it can currently demonstrate a five-year housing land supply in accordance with the requirements of the Framework and I have no evidence to the contrary. As set out in the policies outlined above, additional sites outside settlement boundaries are only required if the housing guideline is unlikely to be met or if there are other over-riding material considerations. The appellant's view is that the housing guideline for Ludlow set out in Policy S10 is unlikely to be met because of the limited opportunity for windfall development within the settlement boundary. Nevertheless the Council sets out that a significant number of the required dwellings have already been completed and that planning permission has been granted for a further 640 dwellings.
  10. I have been referred to two appeal decisions relating to proposals for housing development outside the settlement boundaries<sup>1</sup> which were allowed despite being contrary to Policy S10. These were proposals for large scale housing schemes which would deliver 215 and 137 dwellings respectively with a significant proportion of affordable homes. Neither of those sites were located in a conservation area. In contrast, the proposal before me is for two dwellings and is not therefore comparable in terms of the benefits it would deliver and is within a conservation area, the impact on which I will discuss below. Consequently those cases are not directly comparable to the current appeal in terms of the balance of considerations. Moreover, the Inspector in the second appeal was very clear that the development plans reliance on windfall sites for new housing was not unreasonable and I am unconvinced that the granting of planning permission in those cases indicates that the housing guideline is unachievable.

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<sup>1</sup> Appeal Refs: APP/L3245/W/15/3001117 and APP/L3245/W/15/3137161



11. My attention has been drawn to documentation relating to the Local Plan Review which includes a review of housing land. However, this review is at an early stage and the document is yet to be examined. Accordingly it can therefore carry only limited weight and does not outweigh the current adopted policies.
12. On the basis of the evidence before me therefore, I am unconvinced that the requirements of Policy S10 would not be achieved during the plan period. Even if that were the case, Policy MD3 requires in effect that development on sites outside the settlement boundary should comply with other relevant local plan policies and this is a matter to which I now turn.

### *Conservation Area*

13. The Ludlow Conservation Area includes a significant amount of open countryside to the west of the settlement, including the appeal site. That open space is an important part of the character and appearance of the conservation area, significant in terms of the historic relationship of the castle and town to the land which surrounds it, and as a setting to, and affording views of the castle and town centre which are located in an elevated position.
14. The proposed development has been carefully sited towards the northern boundary of the site and the houses positioned end-on to the road to maintain an open vista through to open countryside when travelling west along the Linney. Nevertheless, the entrance to the site and its domestic nature would be apparent and I am unconvinced a condition to restrict domestic paraphernalia or cars from the south side of the property would be reasonable, even taking into account the revised position of the car parking space. Accordingly there would be some harm to this important visual link. The development would also be clearly apparent in the Linney from the south. Furthermore, the proposal, which has been designed as a house with attached converted barn to give the appearance of a single homestead, would introduce a development of significant scale and massing into the space, as such eroding the contribution the space itself makes to the character and appearance of the conservation area and its significance as a heritage asset.
15. I acknowledge the conclusions of the appellant's Landscape and Visual Impact Assessment that the proposal would not cause any significant interruption of views of the castle, nor views from the town centre towards the countryside. Nevertheless there would be some loss of view from within the conservation area to the countryside beyond, which currently makes a positive contribution to the heritage asset's significance. Whilst additional landscaping is proposed to screen the development I am unconvinced it would sufficiently mitigate against the detrimental impacts of the scheme.
16. Consequently the proposal would not preserve or enhance the character or appearance of the conservation area, contrary to policies CS6 and CS17 of the Core Strategy and Policies MD2, MD13 and S10 of the SAMDev which seek to ensure that development, amongst other things, protects, conserves and enhances the historic context, character and significance of heritage assets.
17. In terms of the approach set out in paragraph 134 of the Framework, the harm caused by the proposal to the significance of the heritage asset would be less than substantial. In that case, the harm needs to be balanced against the public benefits of the proposal.

18. The public benefits of the proposal in this case lie in the provision of two additional units of residential accommodation in an accessible location within walking distance of the shops and services of Ludlow. In addition there would be some economic and social benefit attached to the development. Nevertheless, these benefits would be limited. On the opposite side of the balance paragraph 132 of the Framework requires that great weight should be given to the heritage asset's conservation. Consequently the benefits of the scheme do not outweigh the harm the proposal would cause to the character and appearance of the conservation area.

#### **Other Matter**

19. I note that the appellant has prepared an alternative scheme for consideration by the Council. Such a scheme does not form part of this appeal and has no bearing on my decision. Moreover, I can only determine the scheme before me and cannot comment on the merits of an alternative scheme.

#### **Conclusion**

20. For these reasons, whilst I acknowledge the limited public benefits of the proposal, these benefits are not sufficient to outweigh the policy requirements set out above, nor the harm to the character and appearance of the area and the conservation area that I have identified. Therefore, taking into account all other matters raised, the appeal is dismissed.

*S Ashworth*

INSPECTOR



Ministry of Housing,  
Communities &  
Local Government

Mr Alistair Ingram  
Barton Willmore LLP  
7 Soho Square  
London  
W1D 3QB

Our ref: APP/L3245/V/17/3174452

13 June 2018

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY ZIRAN LAND (BRIDGNORTH) LIMITED  
LAND ADJACENT TO SAINSBURY'S SUPERMARKET, OLD SMITHFIELD,  
BRIDGNORTH WV16 4EF  
APPLICATION REF: 16/02739/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Karen L Ridge LLB (Hons) MTPL Solicitor who held a public local inquiry on 7-10 November 2017 into your client's application for planning permission for the erection of class A1 units, car parking, reconfigured access, landscaping and associated works, in accordance with application ref: 16/02739/FUL, dated 10 June 2016.
2. On 21 April 2017, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be granted for the development. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. He has decided to grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Matters arising since the close of the inquiry**

4. A list of representations which have been received since the inquiry closed is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

## **Policy and statutory considerations**

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of The Shropshire Council Core Strategy (CS) which was adopted in March 2011 and the Shropshire Council 'Site Allocations and Management of Development' (SAMDev) Plan which was adopted in 2015 (IR4.1). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR4.2.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'); as well as the 'Bridgnorth District Council Retail Study – 2006 to 2021' and the Council's Draft Air Quality Action Plan.
8. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### *Emerging plan*

9. The Council is in the very early stages of a Local Plan Partial Review and the parties agree that only very limited weight can be given to the review at this stage (IR4.3).
10. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the Review is still at a very early stage and likely to be subject to change, the Secretary of State gives it very limited weight.

## **Main issues**

### *Retail impact due to the proposed units*

11. For the reasons given at IR11.3-11.4, the Secretary of State agrees with the Inspector at IR11.4 that the proposal should be treated as being edge-of-centre for the purposes of the policy tests. He also agrees with the Inspector (IR11.5-11.8) that, as there are no other available or suitable sites which are sequentially preferable to the application site, the sequential test is passed; and he further notes that all three main parties are agreed on this matter.
12. The Secretary of State has gone on to give careful consideration to the Inspector's analysis of the retail context (IR11.9-11.15). He agrees (IR11.11) that the Bridgnorth District Council Retail Study 2006-2021 provides a respectable base upon which to conduct an assessment and with the Inspector's conclusion that the evidence indicates that the town centre is a viable and vital centre with no underlying issues.
13. For the reasons given at IR11.16-11.42, the Secretary of State agrees with the Inspector's conclusion at IR11.43 that the trade diversion from Bridgnorth town centre would be around 3%; but that that would not have a significant adverse impact on the vitality and viability of the town centre. He further agrees with the Inspector (IR12.1) that the proposal would act as a logical extension to the town centre and would improve the retail offer of the centre in terms of comparison goods retailing, thereby making a modest reduction in

the comparison goods expenditure currently leaking out of the district, improving the vitality of the town centre, and reducing travel to other centres. Overall, therefore, the Secretary of State gives the economic benefits moderate weight in favour of the proposal.

#### *Retail impact due to a reduction in car parking*

14. The Secretary of State has given careful consideration to the Inspector's analysis of the impact on retailing resulting from the reduction in car parking (IR11.44-11.103). He agrees with the Inspector that there would be no shortage of car parking spaces in the study area on weekdays (IR11.101), but that there would be a 40 space shortfall on Saturdays between 1200 and 1300 hours and a smaller shortfall of 6 spaces between 1300 and 1400 hours (IR11.102). However, like the Inspector, the Secretary of State notes that this analysis relates only to the 4 car parks in the study area; and he further agrees that the advent of live-time information on parking availability would bring a benefit in directing drivers efficiently to available spaces and could potentially encourage the use of alternative car parks or other transport modes to finish journeys into town.
15. Hence, the Secretary of State agrees with the Inspector at IR11.103 and IR12.2 that, although the proposal would result in a reduction in car parking from current levels and would bring with it an increased demand, the impact of the proposal in terms of car parking reduction would not be significant in retail terms. He also agrees with the Inspector at IR12.3 that, although in combination the retail impact from trade diversion and car parking effects would be around £1.32m of comparison goods turnover, this would not amount to a significant adverse impact on the vitality and viability of the town centre.

#### *Other matters*

##### *Air quality*

16. The Secretary of State agrees with the Inspector (IR11.104-11.105) that the proposal would not compromise the objectives set out in the Council's Draft Air Quality Action Plan.

##### *Heritage considerations*

17. For the reasons given at IR11.106-11.108, the Secretary of State agrees with the Inspector that, as the proposal would close the gap between Sainsbury's and the Health Centre in a respectful manner, it would represent a small improvement to the setting of the Bridgnorth Conservation Area, thereby satisfying the statutory and framework tests. The Secretary of State gives this moderate weight in favour of the proposal. For the reasons given at IR11.109, the Secretary of State agrees with the Inspector that the proposal does not contribute to the significance of the Innage Gardens Conservation Area or form part of its setting. He also agrees with the Inspector at IR11.110 that the programme of works set out in the Written Scheme of Investigation for the adjoining site of archaeological interest could be secured by condition (see Condition 7 at Annex B).

##### *Fallback and other material considerations*

18. For the reasons given at IR11.111-11.116, the Secretary of State agrees with the Inspector at IR11.117 that the landowners could exercise their rights to reduce the car park to provide 136 spaces without any further proceedings or, alternatively, that the risk of forfeiture proceedings is more than a theoretical possibility. He therefore also agrees that, if either of these scenarios came to pass, they would represent a worse position than that proposed as a result of the application scheme and are therefore material to any determination.

## **Planning conditions**

19. Having considered the Inspector's analysis at IR10.1-10.6, the recommended conditions set out at the end of the IR and the reasons for them, and national policy in paragraph 206 of the Framework and the relevant Guidance, the Secretary of State is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex B should form part of his decision.

## **Planning obligations**

20. Having had regard to the Inspector's analysis at IR10.7-10.10, the planning obligation dated 8 November 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR10.7-10.10 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.

## **Planning balance and overall conclusion**

21. For the reasons given above, the Secretary of State considers that the application is in accordance with the development plan policies referred to in paragraph 6 above and with the development plan overall, and that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
22. The Secretary of State therefore concludes that planning permission should be granted, subject to conditions.

## **Formal decision**

23. For the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants planning permission subject to the conditions set out in Annex B of this decision letter for the erection of class A1 units, car parking, reconfigured access, landscaping and associated works, in accordance with application ref: 16/02739/FUL, dated 10 June 2016.
24. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
25. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

## **Right to challenge the decision**

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act

27. A copy of this letter has been sent to Shropshire Council and the Bridgnorth Chamber of Commerce, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Jean Nowak*

Authorised by the Secretary of State to sign in that behalf

## Annex A Schedule of representations

### SCHEDULE OF REPRESENTATIONS

#### General representations

<b>Party</b>	<b>Date</b>
Alistair Ingram Barton Willmore	8 February 2018
Steve Robbins Bridgnorth Chamber of Commerce	8 February 2018
Sue Bailey Gough Bailey Wright	19 January 2018



## **Annex B List of conditions**

- (1) The development hereby permitted shall be commenced before the expiration of three years from the date of the grant of planning permission.
- (2) The development shall be carried out strictly in accordance with the following plans and drawings, unless otherwise varied by condition in this permission:
  - Site location plan: SK14/69/11
  - Site plan: SK/69/12 revision G
  - Ground floor plan: SK14/69/13 revision E
  - Roof plan: SK/69/14 revision B
  - Proposed elevations: SK14/69/16 revision E
- (3) Construction and/or demolition works shall take place only between 0800 hours to 1800 hours on Mondays to Fridays, and between 0800 hours to 1300 hours on Saturdays. No works shall take place on Sundays, Bank Holidays or any other public holidays.
- (4) The development hereby permitted shall be for no more than five A1 retail units, of which no single unit shall have a gross floor space greater than 806 square metres (including mezzanine floor space) and no more than 186 square metres of the total gross floor space of the whole development hereby permitted shall be used as a coffee shop.
- (5) No deliveries or collections to or from the retail units shall be received or despatched between the hours 0900 hours to 1800 hours on any day of the week (including Bank Holidays and Public Holidays).

### **PRE-COMMENCEMENT CONDITIONS**

- (6) Prior to the commencement of the development hereby approved, including any works of demolition, a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout all periods of construction and demolition and shall include details of the following:
  - Details regarding the loading/unloading and storage of plant and materials used in constructing the development;
  - Provision of parking for the vehicles of site personnel, operatives and visitors;
  - Construction traffic arrangements and routeing.
- (7) No development approved by this permission shall commence until the implementation of a programme of archaeological work has been secured in accordance with the Written Scheme of Investigation (WSI) submitted by CgMs Consulting and dated March 2016.
- (8) Prior to the commencement of any above ground works, samples and details of the materials to be used in all external surfaces (walls, roofs and other external areas) and the hard-surfacing of all areas (including the car park and public walkways) shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out only in accordance with the approved details.

- (9) No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in full prior to the development being brought into use.
- (10) No development shall commence (including works of vegetation/site clearance, ground levelling and demolition) and no equipment, materials or machinery shall be brought on to the site, until a Protection Scheme has been submitted to, and approved in writing by, the Local Planning Authority. The Protection Scheme shall include details of the trees, woody shrubs and hedges to be retained on the site, as well as measures for their protection and the protection of vegetation adjacent to the site. The scheme shall be based upon the Heads of Terms of the Arboricultural Method Statement at appendix 2 of the Arboricultural Report by acs consulting dated April 2016 and shall include an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP) prepared in accordance with, and meeting the minimum standards recommended in *British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction- Recommendations* or any version which supersedes it.
- (11) All pre-commencement protection measures detailed in the approved AMS and/or TPP shall be fully implemented to the written satisfaction of the Local Planning Authority before development commences and before any development-related equipment, materials or machinery are brought onto site. Thereafter the approved measures shall be maintained throughout the periods of demolition and construction of the development, unless such time as all equipment, machinery and surplus materials have been removed from the site. The development shall be implemented in strict accordance with the approved AMS and/or TPP. Any tree protection area fenced in accordance with this condition shall be treated as a construction exclusion zone and as such vehicles shall not traverse this zone, materials shall not be stored or placed within this zone, ground levels within the zone shall not be altered and no excavation shall take place within this zone, without the prior written consent of the Local Planning Authority.
- (12) Prior to the commencement of development hereby permitted a service management plan shall be submitted to, and approved in writing by, the Local Planning Authority. This plan shall include details of the measures to prevent delivery vehicles entering the area immediately to the rear of units 4 and 5 as depicted on site plan SK14/69/12 Revision G. The approved measures shall be kept in place for the duration of the retail use.
- (13) Notwithstanding the details shown on drawing reference SK14/69/12 Revision G (site plan) and drawing 1008 001 Revision B (Landscape Strategy), prior to the commencement of development hereby permitted, details of the pedestrian link from the rear car parking area to the front of the retail units shall be submitted to, and approved in writing by, the Local Planning Authority. These details shall include:
- A marked, and lit, pedestrian route to the rear of the car parking and motorcycle spaces; and
  - A marked, and lit, pedestrian link to the side of unit 5 which shall be a minimum of 1.8 metres in width.
  - Details of surveillance and other design features to ensure safe design and prevent crime within the rear car parking area and the pedestrian link.
- The pedestrian link and other features shall be provided in accordance with the approved details prior to first occupation of any of the retail units hereby permitted and shall be permanently retained thereafter.

- (14) Prior to the commencement of development, a temporary car park management plan (depicting public car parking on the site to be provided at all times during the construction period) shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall include details of the following:
- A minimum number of car parking spaces;
  - Management arrangements including financial charges and the enforcement of such arrangements;
  - The location and access of the car park during construction phases;
  - Any protective barriers necessary to separate the public areas from the construction site.

The approved temporary car park management plan shall be implemented in full prior to the commencement of development and adhered to throughout the construction period.

- (15) Prior to the commencement of development, details of the raised platform at the vehicle access point to the rear car park depicted upon plan SK14/69/12 Revision G shall be submitted to, and approved in writing by, the Local Planning Authority. The platform shall be constructed in accordance with the approved details prior to the first retail unit coming into use.

#### **CONDITIONS PRE-OCCUPATION OR DURING DEVELOPMENT**

- (16) Prior to the first use of any of the retail units hereby approved, a tree planting scheme, prepared in accordance with *British Standard 8545:2014 Trees: From Nursery to Independence in the Landscape- Recommendations*, or any version superseding it, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall include the following:
- (a) Details of the trees and shrubs to be planted in association with the development, including species, locations and density and planting pattern, type of planting stock, size at planting, means of protection and support, planting period and date of completion, and measures for post-planting maintenance and replacement of losses;
  - (b) Details as relevant of the specification and location of the barriers to be installed (and/or measures to be undertaken) for the protection of ground reserved for the planting identified in (a) above and details of a timescale for implementation of all of these measures.
- (17) The approved scheme of tree planting and other measures required by condition (10) shall be implemented as specified and in full within the timescale approved by the Local Planning Authority. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies, is uprooted or removed, or, in the opinion of the Local Planning Authority becomes seriously damaged or diseased, another tree or shrub of a similar specification to the original shall be planted in the same location during the first available planting season thereafter.
- (18) Prior to any of the retail units hereby permitted first being brought into use, a suite of artificial nesting boxes suitable for a range of species shall be erected on the buildings in accordance with details which have been submitted to, and approved in writing by the Local Planning Authority. The details shall include the types and locations of the boxes.

- (19) Prior to any of the retail units hereby permitted first being brought into use two electric vehicle charging points shall be provided in a location in the car park which has been approved in writing by the Local Planning Authority. The charging points shall be installed as approved and shall be maintained and retained for a period of at least 10 years from the date of installation.
- (20) Prior to any of the retail units hereby permitted first being brought into use the car parking spaces depicted on Site Plan: SK14/69/12 Revision G shall be constructed and laid out with materials which have first been approved in writing by the Local Planning Authority.

END OF CONDITIONS



# Report to the Secretary of State for Housing, Communities and Local Government

by Karen L Ridge LLB (Hons) MTPL Solicitor  
an Inspector appointed by the Secretary of State

Date: 14 February 2018

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Town and Country Planning Act 1990

Shropshire Council

Application by

Ziran Land (Bridgnorth) Limited

Inquiry Held on 7, 8, 9 and 10 November 2017

Land adjacent to Sainsbury's Supermarket, Old Smithfield, Bridgnorth WV16 4EF

File Reference: APP/L3245/V/17/3174452

## CONTENTS

	PAGE
Background and Procedural Matters	3
The Site and its Surroundings	4
The Proposal and Planning History	5
Planning Policy	6
Matters Agreed Between the Council and Applicant	8
Matters Agreed/Disputed Between the Applicant and the Chamber	9
The Case for the Applicant	9
The Case for the Council	16
The Case the Chamber of Commerce	23
Other Oral and Written Representations	35
Planning Conditions	38
Planning Obligations	39
Inspector's Conclusions	41
Recommendations	64
List of Appearances	65
Lists of Documents	66
Annex A- List of Acronyms	70
Annex B-Recommended Conditions	71

**File Ref: APP/L3245/V/17/3174452**

**Land adjacent to Sainsbury's Supermarket, Old Smithfield, Bridgnorth WV16 4EF**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 21 April 2017.
- The application is made by Ziran Land (Bridgnorth) Limited to Shropshire Council.
- The application Ref. 16/02739/FUL is dated 10 June 2016.
- The development proposed is the erection of class A1 units, car parking, reconfigured access, landscaping and associated works.
- The reason given for making the direction was in the light of policy relating to the power to call-in planning applications the Secretary of State concluded on the facts of this case that it was appropriate to do so.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: *the consistency of the proposal with the development plan; its consistency with policies in the National Planning Policy Framework, in particular those set out in Section 2, Ensuring the Vitality of Town Centres and any other matters the Inspector considers relevant.*

**Summary of Recommendation:** That planning permission for the development is granted subject to the conditions outlined and with the benefit of the obligations in the section 106 agreement.

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## **Background and Procedural Matters**

- 1.1 A pre-inquiry meeting was held to discuss administrative and procedural arrangements on the 15 August 2017<sup>1</sup>. The Inquiry sat on 7, 8, 9 and 10 November 2017. I undertook unaccompanied site visits to conduct an inspection of the site and its surroundings and the wider Bridgnorth area before the Inquiry and whilst it was in progress. I also visited the site and Bridgnorth on a Saturday in December 2017 and during a weekday in January 2018 during the times requested by the parties.
- 1.2 The Council has considered the proposal at a committee meeting on two occasions. In accordance with its officer's recommendation, on the second occasion the committee resolved to approve the development and grant planning permission<sup>2</sup>. The resolution is dated 7 March 2017 and was made prior to the decision of the Secretary of State to call the application in for his own determination.
- 1.3 The local Bridgnorth Chamber of Commerce (the Chamber) applied for and was granted Rule 6 party status<sup>3</sup> and duly appeared at the Inquiry. The Chamber opposes the grant of planning permission on the grounds that it would have a significantly adverse impact on the vitality and viability of the town centre by virtue of trade diversion and by reason of the loss of parking.
- 1.4 A Statement of Common Ground (SCG) was agreed between the Applicant and the Council.

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<sup>1</sup> A note of the meeting appears at CD J.5 and directions at CD J.6.

<sup>2</sup> Officer's reports and minutes of committee meetings at CD D.1.1/2 and D.2.1/2.

<sup>3</sup> Rule 6(6) The Town and Country Planning (Inquiries Procedure)(England) Rules 2000.

- 1.5 An executed agreement<sup>4</sup> under section 106 of the Act (the s106 agreement) was made between the Applicant, the landowners and the Council and is before the Inquiry. It contains covenants to pay a car park signage contribution prior to the commencement of development and a promise to share occupation of the car park with the Council by way of licence. The Applicant does not dispute the necessity for the obligations.
- 1.6 The Council submitted a proof from Dr Andrew Wrigley who provided written evidence on heritage and design matters. Since his evidence was uncontroversial he was not called to give oral evidence and he was not cross-examined. The Chamber had submitted a proof with appendices from Mr Cooksey but chose not to call him as a witness. His proof of evidence is to be treated as a written representation from a local resident in a private capacity. Mr Cooksey also chose to make oral representations on his own behalf as a local resident.
- 1.7 Following the close of the Inquiry the Chamber contacted the Planning Inspectorate with further information relating to 3 separate matters<sup>5</sup>. One of the matters related to a query about signatures on the copy section 106 agreement being redacted and does not take the evidence any further. A second concern was raised about the veracity of information given on walking distances from various points. I indicated that I had conducted full site visits and would rely upon my own impressions
- 1.8 The third matter related to information about Parking Contravention Notices (PCNs) supplied to a local newspaper by the Council under a Freedom of Information Act (FOI) request. The basis on which the information was provided was clarified by the Council during the Inquiry. This led to a further article in the local newspaper. In these circumstances I accepted this additional information together with the newspaper article and invited comments upon it from all parties<sup>6</sup>. Comments have been received from all three parties and included as Inquiry Documents 19, 20, 21 and 22. All of the comments have been taken into consideration.
- 1.9 I have noted the concern of the Chamber that, in answering the FOI request, the Council gave erroneous information or that there was a material non-disclosure of some description. The Council has now produced the original requests and it is clear that it answered the request in good faith. I am satisfied that the additional comments have finally cleared up any misunderstandings between the parties.

## **The Site and Surroundings**

- 2.1. The site location plan and proposed plans are at CD A.2. The boundary of the application site is identified in red on the site location plan drawing reference SK14/69/11. The computer generated images at CD B.1 provide a sense of the

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<sup>4</sup> Inquiry document 10.

<sup>5</sup> See the email of 14 January 2018 timed at 22.31

<sup>6</sup> Email from The Planning Inspectorate to all parties dated 24 January 2018 timed at 11.06



context in which the proposed development would be situated and how it would look in relation to existing development.

- 2.2. The application site comprises some 0.87 hectares of an existing surface level car park, commonly referred to as the Smithfield car park. The car park is owned by Sainsbury's and operated by the Council pursuant to a licence agreement<sup>7</sup>. The car parking licence agreement between Sainsbury's and the Council allows Sainsbury's to alter the configuration of the car park to carry out the development of the land under a previous planning permission for a DIY unit with 136 car parking spaces. The Council's position is that Sainsbury's would be able to reduce the parking on the site to 136 spaces without the need for any further planning permission.
- 2.3. The application site is immediately adjacent to a Sainsbury's supermarket and a further car park associated with that use. The Bridgnorth Hospital and Northgate Health centre lie immediately to the north of the site, with the town centre lying to the east. The site is accessed via 'Old Smithfield' which travels north connecting into the northern routes around the town. A pedestrian link runs from the car park to Whitburn Street which connects into the eastern end of the High Street.
- 2.4. The site is within the development boundary for Bridgnorth. The south and western parts of the site fall within the defined Town Centre boundary of Bridgnorth and the remainder of the site adjoins this boundary and is not subject to any designations on the Proposals Map.
- 2.5. Bridgnorth town is centred upon two key shopping areas separated by the River Severn, High Town and Low Town. The main part of the town is on the higher ground of High Town with the main shopping streets running off Northgate. Bridge Street runs over the river Severn and provides linkages to the Low Town area which contains a smaller selection of shops.

### **The Proposal and Planning History**

- 3.1 The application relates to a proposal for the erection of five modern units, car parking, a reconfigured access, landscaping and associated works. The proposal involves 5 x Class A1 retail units containing floorspace of 2,575 square metres (gross) as well as 158 car parking spaces which would include 11 disabled parking bays. Unit 1 is proposed to be a coffee shop (186 square metres) with the remaining 4 units to be occupied by Class A1 comparison goods retailers occupying a total gross floorspace area of 2,839 square metres. The 4 identified retailers are Peacocks, Mountain Warehouse, Poundstretcher and Pets at Home.
- 3.2 The application was supported by a Design and Access Statement, Planning Statement, Retail Assessment, Statement of Community Involvement, Transport Statement, a Written Scheme of Investigation for Archaeological Works, Arboricultural Report and layout drawing, Landscape Strategy Plan, Drainage Summary Statement and a Phase I Desk Study and Phase II Geo-Environmental Investigation<sup>8</sup>.

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<sup>7</sup> CD B.2 Existing Car Park Management Agreement

<sup>8</sup> Core Documents A.7 to A.17 inclusive

- 3.3 The proposal is represented by details depicted on the Site Plan<sup>9</sup>, the Ground Floor Plan<sup>10</sup>, the Roof Plan<sup>11</sup>, Typical Sections<sup>12</sup> and Proposed Elevations<sup>13</sup>.
- 3.4 Full details of the planning history of the site are set out in section 3.0 of the Statement of Common Ground and accompanying documents are to be found in section G of the Core Documents (CD). They are relevant to any consideration of the fallback position and will be considered in detail later in this report.
- 3.5 Briefly I record that compulsory purchase proceedings were commenced in or around 1992 to acquire land including the application site for the purposes of a car park. Proceedings were discontinued when the land was acquired by negotiation. The rebuttal evidence of Ms Townend sets out the position in full. Subsequently the land was acquired by Sainsbury's. In April 2005 outline planning permission was granted. This permission relates to a larger parcel of land which includes the application site. It was for a DIY retail warehouse and associated garden centre, extension to Sainsbury's store, erection of 4 retail units, construction of car parking and relief road, relocation of indoor market and provision for dedicated outdoor market. Reserved matters approvals have been given for some of the elements of this permission and the Council and Applicant agree that implementation has taken place<sup>14</sup>. The Chamber does not accept that there is a realistic fallback position.

## Planning Policy

- 4.1 The development plan, for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, includes The Shropshire Council Core Strategy (CS) which was adopted in March 2011 and the Shropshire Council 'Site Allocations and Management of Development (SAMDev) Plan adopted in 2015. The Bridgnorth Place Plan 2015-2016<sup>15</sup> which summarises and prioritises local infrastructure needs to support sustainable development for the town of Bridgnorth and is acknowledged as forming part of the local plan. The Bridgnorth Town Plan identifies the need to retain free short term parking on the High Street. It does not identify any other issues in car parking as a priority.
- 4.2 The policies which are most relevant include:
- CS policy CS1 which sets out a strategic approach to development, including the delivery of 27,500 new homes over the plan period 2006-2026, as well as 290 hectares of employment land. It records that Shrewsbury acts as a sub-regional centre and that Market Towns and other Key Centres will maintain and enhance their role in terms of providing services and employment and continuing to function as Main service centres. Bridgnorth is identified as a Market Town in the east.

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<sup>9</sup> SK14/69/12 Revision G [CD A.2.2]

<sup>10</sup> SK14/69/13 Revision E [CD A.2.3]

<sup>11</sup> SK14/69/14 Revision B [CD A.2.4]

<sup>12</sup> SK14/69/15 Revision B [CD A.2.5]

<sup>13</sup> SK14/69/16 Revision E [CD A.2.6]

<sup>14</sup> § 4.10 Statement of Common Ground

<sup>15</sup> CD E.5.2

- CS policy CS3 concerns 'Market Towns and Other Key Centres' and states that *"The Market Towns and other Key Centres will maintain and enhance their roles providing facilities and services to their rural hinterlands, and providing foci for economic development and regeneration"*. Bridgnorth is defined as a 'Principal Centre'.
- CS policy CS6 sets out the 'Sustainable Design and Development Principles' of the plan, it requires *"proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and the use of public transport can be maximised and the need for car based transport to be reduced"*.
- CS policy CS7 concerns 'Communications and Transport' and seeks to *"meet, social, economic and environmental objectives by improving accessibility, managing the need to travel, offering options for different travel needs and reducing the impacts of transport"*.
- CS policy CS8 seeks to protect existing facilities, services and infrastructure, as well as promoting the timely provision of additional facilities.
- CS policy CS13 'Economic Development, Enterprise and Employment' reiterates the thrust of CS3 placing emphasis upon *"Supporting the revitalisation of Shropshire's Market Towns, developing their role as key service centres, providing employment and a range of facilities and services accessible to their rural hinterlands"*.
- CS policy CS15 'Town and Rural Centres' acts to *"support the delivery of appropriate comparison and convenience retail...In accordance with national planning policy, and having taken into account sequential and impact assessments where relevant, town centres will be the preferred location for new retail, office and other town centre uses"*.
- CS policy CS17 seeks to identify and protect environmental assets.
- CS policy CS18 sets out principles in relation to sustainable water management.
- SAMDev policy MD1 'Scale and Distribution of Development' provides that *"sustainable development will be supported in Shrewsbury, Market Towns and Key Centres..."*
- SAMDev policy MD2 provides guidance as to what constitutes 'Sustainable Design' indicating that proposals need to demonstrate that they are *"Protecting, conserving and enhancing the historic context and character of heritage assets"* and *"demonstrate there is sufficient existing infrastructure capacity..."*.
- SAMDev policy MD8 'Infrastructure Provision' requires that *"Development should only take place where there is sufficient existing infrastructure capacity or where the development includes measures to address a specific capacity shortfall which it has created"*.

- SAMDev policy MD10a provides a presumption in favour of retail proposals within Primary Shopping Areas. Outside such areas policy MD10b requires an impact assessment to be undertaken for retail proposals in excess of 300 square metres.
  - SAMDev policy MD12 seeks to protect the natural environment by requiring Habitats Regulations Assessments where appropriate and by ensuring that proposals likely to have a significant adverse effect are only permitted when there is no satisfactory means of avoiding such impacts and subject to suitable compensation and mitigation measures.
  - SAMDev policy MD13 'Historic Environment' requires that *"wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including its settings"*.
  - SAMDev policy S3 provides the 'Bridgnorth Town Development Strategy', it reiterates the requirement of CS3 to maintain and enhance the town's role *"by making provision for the needs of the town and surrounding hinterland..."*
- 4.3 The Council is in the early stages of a Local Plan Partial Review and the parties agree that only very limited weight can be given to the review at this stage.
- 4.4 Relevant national policy is to be found in the National Planning Policy Framework (the Framework) as well as national Planning Policy Guidance (PPG).
- 4.5 The Council and Applicant contend that the proposal is in conformity with development plan and national policy. The Chamber oppose the proposal on the basis that it contravenes key local and national policies aimed at preserving the vitality and viability of town centres.
- 4.6 The most recent Retail Study for Bridgnorth is the 'Bridgnorth District Council Retail Study 2006-2021' dated August 2006<sup>16</sup>. This study formed part of the evidence base to the SAMDev which was adopted in 2015.

### **Matters Agreed Between the Council and Applicant**

- 5.1 The Council and Applicant entered into a Statement of Common Ground (SCG) which records all matters agreed between these two parties. The statement sets out agreements in relation to the application history and planning history of the site and other factual matters.

#### *Retail Impact*

- 5.2 The two parties agree that the application site is located partly within the town centre boundary and partly outside it. As such they are agreed that the site should be treated as 'edge of centre' in terms of any assessment against retail policies. It is agreed that there are no sequentially preferable sites which are available, suitable and viable for the development proposed. The parties further agree that the proposal complies with the sequential test set out in paragraph 24 of the Framework and CS policy CS15.

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<sup>16</sup> CD E.5.1

- 5.3 It is further agreed that Bridgnorth is a healthy, vital and viable town centre and that the proposed development would not result in a significant adverse retail impact upon the town centre.

*Highways and other matters*

- 5.4 The Council and Applicant agree that there is no objection to the proposal on highways or transportation grounds including parking provision, subject to the agreed conditions and the section 106 obligations. There are no design objections. There is no objection from the Council in relation to air quality considerations subject to the provisions in the section 106 agreement and the provision of charging points for electric vehicles.

**Matters Agreed and in Dispute Between the Applicant and the Chamber**

- 5.5 Helpfully there is a schedule setting out the main points of agreement and differences between the Applicant and the Chamber in terms of the retail impact assessment. It is included at Inquiry Document 12.

**The Case for the Applicant**

- 6.1 This summary contains all material points in relation to the Applicant's case. It is taken from the submissions made and evidence given on behalf of the Applicant and from other documents submitted to the Inquiry.
- 6.2 The overarching issue is whether the proposal complies with local and national retail planning policies, particularly in respect of its impact on the vitality and viability of Bridgnorth town centre. This can be sub-divided into two issues: firstly is the proposal likely to have significant adverse impacts on the vitality and viability of the town centre by virtue of the amount of trade that it will draw from the existing centre? Secondly would the reduction in car parking caused by the proposal result in the existing town centre losing trade to such an extent that it will threaten the vitality and viability of that centre?

*Trade Draw*

- 6.3 The original retail impact assessment (RIA) and the evidence of the Applicant have been scrutinized by the Council's retail expert who does not disagree with any of the professional judgments made. The Council therefore accepts the retail evidence of the Applicant in relation to any potential impacts on the town centre by way of trade draw; the potential claw back of leaking expenditure and the conclusion that the overall impact on the centre would not constitute a significant adverse impact. In his original assessment Mr. Newton (the Applicant's retail expert) estimated a 4.7% impact on the comparison goods turnover. This has been revised to 2.5%. It is important to note that the National Planning Policy Framework and PPG seek to avoid a significant adverse impact on the town centre as a whole, not on any individual components. It follows that the impact on the town centre as a whole is considerably less than 2.5%. The Council and Applicant's experts are in agreement that the impact would not be significantly adverse.
- 6.4 The case put forward on behalf of the Chamber of Commerce (the Chamber) is that the retail impact assessment figures are an under-estimate. However, no alternative figures have been provided to make good this point. All that has

been provided is a series of discrete criticisms, none of which stand up to scrutiny.

- 6.5 Under-estimate of scheme turnover: The retail line up has now been agreed. Whether 80% or 85% is applied as net floor ratio makes no material difference to the out-turn figure of a 2.5% impact (and net floor space can be conditioned at 80% if necessary). The retail expert of the Chamber took no issue with a scheme turnover (with identified occupiers) of £4.79m. His only criticism was that the same growth had not been applied to the scheme turnover figure up to 2022 as had been applied to the town centre turnover. However, this approach is disputed. Firstly, the scheme will not exist until 2022 and therefore it cannot benefit from efficiency improvements between now and 2022. Secondly, as a modern purpose built scheme, it would be provided from day 1 in the most efficient and effective form for that retailer.
- 6.6 Even if an efficiency growth rate was applied to the proposal, the correct growth to apply is the compound based year on year rates taken from the Retail Planner Table 4b. This would increase turnover by a factor of 10.6% in 2022, taking the turnover from £4.79m to £5.3m, which in turn would increase the town centre impact (on comparison goods only) to 2.81%. Finally, even if the Applicant were to concede the point entirely and to apply a growth rate to the turnover using the calculation favoured by the Chamber, the turnover figure would increase to £5.77m and this would equal an impact of 3.1% only (if other aspects of the Applicant's calculations are accepted). In short, this point does not advance the case of the Chamber, because the impact remains below the 4.7% which Mr. McCallum accepts does not equal a significant adverse impact.
- 6.7 Town centre turnover: the town centre turnover estimates in the RIA are accepted by Mr. McCallum on behalf of the Chamber. Professional judgments need to be made about how much of the turnover of the proposal would be drawn from the town centre and what proportion would come from expenditure currently leaking from the study area (clawback). The Applicant's judgment is that the proposal would draw £1m from the town centre, namely 23.7% of the total drawn from the Study Area (£4.31m)<sup>17</sup>.
- 6.8 Approximately 76% of its trade would represent study area expenditure that is currently being spent outside the study area. This judgment is based on a number of factors. There is significant leakage from the study area; the scheme is more likely to compete with facilities outside the Study Area; the retailer line up for this development includes retailers who are based outside the study area, and the Householder Shopper Survey<sup>18</sup> shows that shoppers are travelling to those locations to buy goods of the type that would become available within Bridgnorth. In addition the Chamber contend that national retailers are under-represented in Bridgnorth, whereas it has a good offer of independent traders catering for the "quirky" and "cool". This proposal would therefore complement the existing offer, increasing the likelihood that people would stay within the study area.

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<sup>17</sup> See PN para. 7.20, final bullet point, p.24

<sup>18</sup> Mr Hanafin appendix 4

- 6.9 The RIA is based on a clawback of £3.31m<sup>19</sup> which represents only 5% of the total £60m that is currently leaking out. In contrast, Mr. McCallum provided very little reasoning for disputing the clawback figure, and the factors he identified for disputing the figure are not persuasive. This is because the occupiers are now known and are national retailers and the larger centres are much larger than Bridgnorth and would continue to attract people from the study area. In fact the Applicant assumes a clawback of only £3.3m out of total leakage of £60m.
- 6.10 Mr. McCallum then contended that the retailer line up was insufficiently attractive to secure even this modest level of clawback, but provided no evidence to back up this assertion. It was also contradicted by his acceptance that people left the study area to visit these very same retailers outside the study area. Mr. McCallum suggests that a more reasonable trade diversion figure would be 30% of the proposal turnover, which would equate to a town centre impact of 10%. If 30% trade draw is applied to the updated proposal turnover the draw from the town centre would be £1.73m which represents an impact on the comparison goods sector of 4.3% which would not be a significant adverse impact.

#### *Loss of Car Parking*

- 6.11 If granted planning permission, the proposal would result in a reduction in town centre parking. Before looking at the extent of the reduction and its likely impact it is vital to place the matter in its proper context. The starting point is to recognize that the town centre offer has to improve if the acknowledged problem of significant leakage is to be addressed. This leakage is holding back economic performance in the study area and it gives rise to unsustainable travel patterns. The evidence identifies comparison goods capacity within Bridgnorth in excess of that which this proposal would provide and a specific need for larger retail units.
- 6.12 All of the relevant development plan policies provide that the market towns must maintain and enhance their role in providing facilities and services to their rural hinterlands and provide a focus for economic development and regeneration. Policy CS15 in particular supports the delivery of appropriate comparison goods retailing. The evidence shows that Bridgnorth is failing to fulfill this role because it is not stemming the comparison goods leakage. In short, the policies of the development plan support this proposal.
- 6.13 It is the agreed position that there is no sequentially preferable site, and that this site is partly within the centre and partly edge of centre. It is extremely well connected to the town centre, lying within a short walking distance and connected by safe and convenient walking routes. So, if Bridgnorth town centre is to expand and provide comparison goods, units of the size that will attract national retailers, this is the only policy compliant site available.
- 6.14 The site also provides the potential for linked trips and improvement to the vitality and viability of the town centre. Whilst it is accepted that the reduction in car parking is a minor dis-benefit of this scheme, this has to be weighed

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<sup>19</sup> £4.31m turnover drawn from the study area minus £1m draw from the town centre

- against the fact that by providing additional retail offer and choice, this would increase the attractiveness of the centre. Even more importantly there would be the opportunity for linked trips which would reduce car movements as well as off-setting trade diversion. The trade diversion figure takes no account of the extent to which the proposal would induce more customers to shop in the existing town centre. If the scheme is built it would function as part and parcel of the town centre, leading to what would in effect be an expanded centre.
- 6.15 Both local and national policy place an emphasis on taking measures to promote travel by non-car modes. It is also undeniable that providing ample (and cheap) car parking is likely to dissuade people from using non-car modes of travel. So whilst the Chamber points to the fact that the vast majority of people travel to the town by car, this is in fact all the more reason for taking steps to encourage people to change their travel behaviour. Further, there is no evidence before this Inquiry that the town centre is not well served by public transport.
- 6.16 National policy makes no mention of increasing the quantity of car parking in town centres. The Chamber has misinterpreted national policy by assuming that "quality" includes "quantity". Increasing the quantity of car parking is very much an exception to the rule of bearing down on anything which encourages the use of the private car, and only to be done if there is evidence that the vitality of a town centre is under threat. That is not the case here. Policy looks for improvements in the quality of car parking in town centres and that is what this development would deliver. In addition to better signage at the Innage Lane car park, the Smithfield car park would be improved by the provision of parent and child spaces, improvement of its surfacing and marking out, electric vehicle charging points, motorcycle parking spaces and cycle stands.
- 6.17 There are no parking standards in the development plan. The Planning Practice Guidance deprecates the use of maximum standards, providing instead that Councils should ensure provision is appropriate to the needs of the development and not reduced below that which could be considered unreasonable. The proposal would provide 158 parking spaces which the Council considers reasonable.
- 6.18 The Chamber's case is based on the false premise, wholly unsupported by policy, that there is an obligation upon a developer to provide car parking not only to cater for its own development, but for existing developments. There is no policy support for such an approach, and no rational argument has been put forward as to why this developer is responsible for the needs of the hospital. There is no evidence at all that the hospital car park is inadequate for its own needs. If lack of parking for the hospital was of such concern, it would manage its car park so that it could be used by hospital patrons only.
- 6.19 Having set out these important points of context, it is necessary to consider the degree to which this proposal would reduce car parking provision. In this respect, it is important not to concentrate on absolute capacity pre and post development, but to look at actual demand pre and post development and ask to what extent that demand would be catered for.
- 6.20 It is important to consider all of the car parks in the study area. All of these car parks are within 4-5 minutes' walk of the town centre. They are all suitable and the Applicant's surveys show that all are very well used. The only systematic



and objective evidence provided about the current level of usage of the relevant car parks is that provided by the Applicant. The Chamber has only provided evidence relating to the Smithfield car park. The fact that this car park may be full at any given time does not show that there is no suitable parking available for the users of the town centre. In order to demonstrate that, it would be necessary to show that all of the other study area car parks were also full at the same time. Mr. Robbins' evidence does not do that.

- 6.21 The only other evidence provided by the Chamber was the Parking Contravention Notice data. The data simply shows that a lot of people overstay in the car parks. These are people who have found a space. Given there is no evidence to show that there is a lack of long-stay car parks in the town, the data shows nothing other than that people in Bridgnorth overstay in the car parks.
- 6.22 It was suggested that the Applicant's 2017 data was not representative because car park demand may have been suppressed by road closures. The evidence shows that the road closures were mainly at night and that when there were 24 hour closures these were on non-survey days. The road works were short term, sporadic and did not affect all routes into the centre. No evidence is available as to whether the road works were operational on Saturdays. All of this taken together suggests that the road works are unlikely to have had any significant effect on the data.
- 6.23 There is data available to the Inquiry from 2015 which provides a control sample as far as road works are concerned because all other matters remained the same. The level of use of the car parks was approximately the same in 2015 as it was in 2017. Mr. Robbins had no answer to this, other than to speculate that the 2015 survey days may have been unrepresentative too.
- 6.24 The current parking situation: The data is unequivocal: there is always spare capacity during the weekdays, including Fridays, in the study area car parks. There is a short window of a few hours on Saturdays<sup>20</sup> when all of the car parks in the study area are full. Mr. Robbins' survey data confirms that there are always spaces during the weekdays, and also shows that the lack of availability on Saturdays is not for the whole day but for a few hours only.
- 6.25 Parking demand post development: It is submitted that the 70 spaces estimated by the Applicant is reasonable. It is based on TRICs, a standard approach and methodology which has been verified by the Highway Authority. The Chamber invites the Secretary of State to apply maximum parking standards derived from withdrawn guidance and directly contrary to up to date guidance which expressly states that the maximum standards should not be applied. It is then necessary to make a deduction for linked trips. The Applicant's estimate for linked trips is based on public and verifiable research<sup>21</sup>.
- 6.26 The Chamber sought to argue that demand will increase in future because of the closure of the Westgate car park. There is no evidence before the Inquiry as to how many members of the public park at this car park generally or on

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<sup>20</sup> 5hrs on table 5, approx. 3 hours on Table 7

<sup>21</sup> Mr. Hanafin paragraph 7.1.6 and tables 11, 12, 13 and 14 which are based upon a post-development demand (adjusted for linked trips).

Saturdays (the latter is relevant because there is spare capacity within the study area car parks on all days save for Saturdays so displacement during the week would not cause a problem in any event). Further there is no evidence as to who parks there or why, or whether parking in the town would suit their purpose.

- 6.27 The Chamber also argued that increased housing provision in the district will increase the pressure on town centre car parking. Either the development plan considers it acceptable for there to be an increase in housing and use of the town centre despite what is a current lack of parking space on Saturdays, or if it is not considered acceptable the planning process will require the applicants for those sites to mitigate their impact on the town centre to an acceptable level.
- 6.28 Importantly the town centre is vital and viable. No one has identified a threat to it. If people from the new housing will not increase turnover in the town centre because on the Chamber case there will be nowhere for them to park and therefore they will not visit, this cannot undermine the vitality and viability of the town centre.
- 6.29 Car parking provision: there would be 126 spaces to the front of the units. There is no reason at all why the 32 spaces at the rear should not be counted. It would be a modern, well designed car park with a generous width walkway that people can use to enter and leave the car park, segregated from cars and delivery vehicles and well lit. There would be no conflict between service vehicles and pedestrians/shoppers because deliveries would be restricted to outside peak shopping periods.
- 6.30 With 158 spaces there would be no shortage of spaces in the study area on weekdays. There would be a shortage on Saturdays. Assuming that the existing demand is equal to the full capacity of the car parks in the study area and adding the development demand shows that there would be a shortage of parking spaces for a 3 hour period on Saturdays. This would peak at a shortage of 96 spaces<sup>22</sup>. If the additional 56 spaces at Innage Lane are provided on Saturdays (an approach that the Highway Authority accepts), the shortage on Saturdays is reduced to 2 hours only, peaking at a shortage of 40 spaces<sup>23</sup>.
- 6.31 There is no reason why more efficient use should not be made of the Innage Lane car park to cater for Saturday demand. There is no evidence to suggest that the coach parking space may already be used on Saturdays<sup>24</sup>. The letters from the schools objecting to the rebadging of the coach spaces for weekend use as car parks are clearly premised on the misunderstanding that the coach spaces are to be removed during the week.
- 6.32 The extent of the shortfall: in all reality the shortfall would be less than 2 hours and the maximum peak of a 40 space shortage on Saturdays. This is because 20% of visitors are parking for more than 3 hours (albeit we do not know for how much more than 3 hours). In addition there are a considerable number

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<sup>22</sup> Mr. Hanafin Table 12

<sup>23</sup> Mr. Hanafin Table 14

<sup>24</sup> In any event the additional 56 are not factored into Mr. Hanafin's figures until Table 14 (i.e. if they are to be treated as existing spaces they would simply be factored in the earlier tables, thereby reducing the current shortage on Saturdays).

who hold car park permits. Whilst there is no method of being definitive, limiting parking to 3 hours and removal of the permits is likely to improve through-put and reduce the peak shortage.

- 6.33 In conclusion, the loss of spaces in absolute numbers (which would be 120 not 150) is irrelevant. The development would require 41 spaces making the appropriate reduction for multi-trips, not 100. There is no evidence to support the assertion that people would not be able to park on a Friday. The number of people who would not be able to park on a Saturday would be 40 between 12:00 hours and 13:00 hours and 6 people between 13:00 hours and 14:00 hours. Applying a figure of 46 people over 52 Saturdays and 2 persons in a car, together with an assumed spend of £20, gives a loss of £0.1m. Adding this to a town centre impact of 2.5% or 3% or 4.3% would not equate to a significant impact.
- 6.34 The assumption that those who cannot park during the peak two hour period on a Saturday are simply lost to the town, never to change their shopping habits either to come earlier or later or another day or by other means of transport is flawed. The amount of car parking in Low Town and the relative accessibility between that parking and High Town by the railway and by bus suggests that there is ample scope to encourage at least some shoppers and many visitors to make greater use of those car parks, thereby reducing congestion and air pollution in the town centre.
- 6.35 Whilst there may be some negative impact on town centre turnover from the slight reduction in car parking, this would be negligible and in all probability offset by the uplift in sales from linked trips by those who visit the proposed development who would otherwise not have come to Bridgnorth.

#### *The Fallback Position*

- 6.36 Neither the Applicant nor the Council, in resolving to approve this application, has relied on the fallback position. The case for concluding that there would be no significant impact on the vitality and viability of the town centre (from either trade diversion or loss of custom as a result of the reduction in car parking) is overwhelming. However, if the Secretary of State concludes that the trade diversion is acceptable but that the loss of car parking is not, the fallback position is relevant.
- 6.37 If the application is refused, the overwhelming likelihood is that Sainsbury's would exercise its rights under the car park management agreement and forfeit the license. It is not plausible to argue that the Council is not in breach, or that the Council can rectify the breach in the time provided for in the agreement. The reasons for this are set out in the evidence of the Council to this Inquiry, which publically records the legal advice of the Council Solicitor that the Council is in breach and would be unable to avoid a forfeit of the license. It follows from this that if Sainsbury's brings proceedings, the Council would not defend them. There is no commercial reason why Sainsbury's would not seek to enforce the car park management agreement. The site generates no income for Sainsbury's and is virtually a nil value asset. It can change this by simply exercising its contractual powers and extinguishing the car park, thereby removing the only reason why redevelopment is being prevented by the planning system.

6.38 Alternatively, it can simply build out the existing consented scheme. Neither the Council nor the Chamber contend that this scheme is not capable of being built out, having been lawfully implemented and therefore “saved”. The Chamber says there is no market for DIY but there are no conditions restricting the comparison goods retailing from the store once built. Once built out and trading, there could be no planning justification for refusing an application to remove the condition that currently forbids sub-division, or indeed external changes to make the consented store into a number of standalone units.

### *Conclusions*

6.39 For all of these reasons the Applicant submits that this is a proposal which accords with the development plan and there are no material considerations which indicate that planning permission should be refused. Therefore both in accordance with section 38(6) of the 2004 Act and paragraph 14 of the National Planning Policy Framework it should be granted planning permission. The Inspector is respectfully invited to make this recommendation to the Secretary of State, and the latter is respectfully invited to accept that recommendation.

### **The Case for the Council**

- 7.1 This summary contains all material points in relation to the Council’s case. It is taken from the submissions made and evidence given on behalf of the Council and from other documents submitted to the Inquiry.
- 7.2 The planning application which is the subject of this Report was first presented to the South Planning Committee on 10 January 2017 where the Committee noted a “minded to refuse” decision. The application was then subsequently re-presented to the Committee on 7 March 2017 where, subject to the completion of a s106 agreement, the Committee resolved to approve the application. The s106 agreement is to provide financial contributions toward reconfiguration of the Innage Lane Car Park and general car park signage around Bridgnorth.
- 7.3 The application was called-in by the Secretary of State by way of letter dated 21 April 2017. The Council’s position has not changed since its resolution to grant permission and the Council invites the Inspector to recommend that the application be approved.
- 7.4 This application is to be determined by reference to a development plan which is up-to-date. The Council has assessed the proposal against Core Strategy policies CS1, CS3, CS6, and CS13<sup>25</sup> and it finds no conflict. Similarly the proposal has been tested against SAMDev policies MD1, MD2, MD10a, MD13 and S3 and it finds no conflict. It is the Council’s case that the proposal represents sustainable development, that it accords with the development plan and that it should be granted planning permission.
- 7.5 Whilst the Council consider that the proposal accords with the development plan, the Chamber raises objections which go to that conclusion. Those matters are explored below.

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<sup>25</sup> Summarised at section 4 above

### *Retail Impact Assessment (RIA)*

- 7.6 The only RIA before the Inquiry is that undertaken by the Applicant, originally submitted with the Application it has been updated for the purposes of the Inquiry. The Framework<sup>26</sup> requires that a sequential assessment be undertaken as part of the retail assessment. Each party agrees that there are no sequentially preferable sites. The Framework further requires an assessment of:
- “-the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- the impact of the proposal 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 time the application is made..”*
- 7.7 Paragraph 27 of the Framework then directs that where an application *“fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused”*. It is agreed there has been no proposed investment identified in the centre nor is there any committed investment. There is existing investment insofar as that relates to the investment made by town centre businesses in their businesses and that is no different to any centre.
- 7.8 It was further agreed<sup>27</sup> that the correct approach in the present case is to undertake a ‘standard’ RIA exercise following the usual methodology before then going on to consider what, if any, impact upon the town centre in retail terms the reduction in car parking spaces might have. The town centre of Bridgnorth performs well, it is vital and viable and local people are rightly proud of it. There is no suggestion that the town centre is anything other than successful. That view is only further supported by reference to the Town Centre Health Check.
- 7.9 The Applicant has now been able to confirm the tenant line up for the scheme, it is agreed between the parties that this provides greater certainty as to the assessment of the likely turnover of the scheme. Utilising the identified trading performance figures for those specific retailers (Costa, Mountain Warehouse, Peacocks, Poundstretcher and Pets at Home) derives a turnover figure somewhat lower than that of the original assessment (£9.55m v £4.79m<sup>28</sup>). It follows therefore that any impact upon the town centre in terms of trade diversion is lower than that envisaged when the Council resolved to grant permission.
- 7.10 The original RIA took as its starting point the Council’s commissioned Retail Study 2006-2021. The Council considered that whilst now dated it was still suitable and relevant for that purpose, not least as there are still five years left to run in the assessment period and it formed part of the evidence base of the SAMDev adopted two years ago. The 2006 study provides the basis for the Study Area in the present case, taken as a whole that Study Area accounts for 90% of the turnover of the proposed development.

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<sup>26</sup> Paragraph 24

<sup>27</sup> Mr McCallum in cross-examination

<sup>28</sup> Mr Newton proof of evidence Appendix 7 Table 2

### *Leakage/Clawback*

- 7.11 It is accepted by all parties that a significant element of the comparison goods spend from the Study Area is not spent in Bridgnorth but is instead spent at other centres, typically those with larger retail parks including Telford, Kidderminster and Wolverhampton. Bridgnorth town centre is occupied by a mix of independent and national retailers and there is presently no retail park or any modern retail units of the type proposed. In consequence the kinds of occupiers that are accommodated in such units are not presently represented in Bridgnorth and it is no surprise that the leakage figure is high.
- 7.12 The Applicant contends that, given the clear overlap between the types of goods that would be sold from the proposed development as against the types of goods that residents in the Study Area are travelling elsewhere to purchase, there is the potential for the proposal to clawback a proportion of that trade. The Chamber does not disagree as to the principle but does disagree as to the level of that clawback.
- 7.13 Factors which plainly influence that assessment include:
- the almost complete absence of any 'big box' retailers or indeed any 'big boxes',
  - the lower than average representation in the town centre of national retailers (i.e. household names), and
  - the very limited overlap between the types of goods proposed to be sold and those already provided by the existing town centre offer.
- 7.14 There is also the particular nature of the offer currently available in Bridgnorth which generally comprises a range of individual, independent retailers. They are attractive in their own right. Presently residents of Bridgnorth have to choose between that offer and the necessity of travelling further afield to meet their other comparison shopping needs. This is not a case where the overall offer in the centre is unattractive, underperforming or even particularly limited.
- 7.15 Having regard to those factors the Council consider that there is strong potential for clawback. However this is a relatively modest proposal when compared to large out-of-centre retail parks. In consequence, the revised RIA anticipates a relatively modest clawback figure of some £3.2m of the identified leakage. The Council consider that to be a reasonable assessment when having regard to the factors identified. The contention advanced by Mr McCallum that the proposed offer is so unattractive or that it simply duplicates provision already in the town centre such that it would fail to stem a modest proportion of that expenditure leakage is simply unsustainable.

### *Trade diversion*

- 7.16 The clawback figure feeds into the overall assessment in terms of determining trade diversion from the town centre and it comprises £3.2m of the proposed turnover of the development. The original assessment concluded that the impact on the town centre would be 4.7% of town centre turnover (i.e. £2m diversion from the town centre). On the revised (and undisputed) turnover of the proposal that figure falls to 2.5% (£1m diversion from the town centre). The

Council consider 4.7% to be a reasonable conclusion of the original RIA and further consider that such a figure would not lead to a significantly adverse impact upon the town centre.

#### *Location*

- 7.17 The Council consider that the proposal has the potential to integrate well with the existing defined town centre. The site is plainly well related to the town centre. The contention of the Chamber that the proposal would not function as part of the town centre simply does not bear scrutiny when one bears in mind that this is considered to be a popular town centre car park given its "*proximity to the High Street*"<sup>29</sup>. This potential to integrate well with the town centre is a further factor when considering impact. Plainly proposals that integrate well into town centres and which bring new visitors into the town have the capacity to increase the overall turnover across the town centre so increasing the vitality and viability of the centre.
- 7.18 The Council consider that the RIA provided with the application was robust and reasonable; the Council concluded that the identified impact of 4.7% was not significantly adverse. That figure has now fallen and in consequence the original conclusions drawn by the Council are only further reinforced.

#### *Car Parking*

- 7.19 The Council have throughout the course of the application considered that the overall reduction in car parking would lead to a shortfall of provision for a short period on Saturdays. The Council acknowledge that, in principle, a shortfall in car parking provision can impact upon the turnover of the town centre. There are two critical points to note when considering this feature of the proposal:
- any proper consideration of impact must proceed on the basis of demand for car parking against supply of parking rather than simply the reduction of car park numbers; and
  - the correct approach is not to consider the proposal car park in isolation when assessing potential impact upon the town centre but to consider the provision of car parking which serves the town centre as a whole.

#### *Surveys*

- 7.20 Survey evidence has been provided to the Inquiry by both the Applicant and the Chamber. The Applicant's surveys are based upon a 'Study Area' which includes the town centre car parks serving High Town. The Chamber survey considers only the proposal car park; in consequence it falls foul of the second bullet point above.
- 7.21 The Chamber contends, on the basis of its evidence of Smithfield car park alone, that there is a shortfall in car parking provision above and beyond that identified on Saturday which already exists. Notwithstanding that contention the Chamber's own evidence simply does not show that. The Chamber's survey

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<sup>29</sup> Mr Robbins proof of evidence 2.2

shows a shortfall for a short period on Saturdays, that evidence is aligned to the evidence of the Applicant.

- 7.22 The Chamber was further concerned that recent roadworks would have underplayed the level of demand for spaces. The only evidence put forward was in the form of the Shropshire Star article and the only indication of a reduction came from a quote referring to a date of around 20 September. All of the car park surveys were undertaken prior to that date. Mr Robbins abandoned his original proposition that road closures had caused an impact and instead relied upon roadworks, he then accepted that the particular diversions / traffic lights that he complained of were not permanent in duration through the course of the roadworks. Most importantly the Applicant's survey data from 2015 is very similar to the survey results undertaken in 2017. Further evidence of a lack of impact is found in the Business Survey undertaken by Mr McCallum in September 2017 during the period of the roadworks.<sup>30</sup>

#### *Car Parking Quantity and Quality*

- 7.23 The real bone of contention, so far as the Chamber is concerned, is the quantity of car parking. As agreed by Mr Robbins, traders would want as much parking as possible. PPG provides that: *"This positive approach should seek to improve the quality of parking in town centres (in line with NPPF) and, where it is necessary to ensure the vitality of town centres, the quantity too."*
- 7.24 There is generally not an issue with the quality of the car parks in Bridgnorth. Points were made as to maintenance being required and perhaps further markings to be laid out but this is plainly not a case where the existing car park provision is insecure, unlit, has unattractive walking routes to the centre or that the level of charging is too high. Mr McCallum appeared to contend that a factor of quality was convenience. That may be so, to a limited degree, but a plain reading of both the Framework and Planning Practice Guidance makes clear that quantity is not a feature of quality in this regard. The Council do not consider that there exists any general problem in terms of quality of the car parks nor does it consider that there would be post development.
- 7.25 The only potential issue is quantity or more pertinently given that both surveys show that there is a shortfall in High Town for a limited period only, the perception of quantity. The important point remains that it is not in dispute that there is not an issue with car parking provision when taking Bridgnorth as a whole. Indeed, the car parks in Low Town are uniquely well served by the Cliff Railway, together with an hourly bus service and pleasant (though steep) walking routes. Given the considerable proportion of demand that arises from tourism (by its nature a relaxed activity less concerned with speed and convenience) it cannot be said that some of those visitors having to park in Low Town is in some way detrimental to the viability and vitality of the town.
- 7.26 It is no part of planning policy or guidance to either meet peak demand in full (noting that in the present case peak demand is in fact met when considering Bridgnorth as a whole) or to prioritise convenience or proximity. In fact

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<sup>30</sup> Mr McCallum proof of evidence page 14, Table DAM 5.4 which shows that 57% of town centre businesses saw an increase in trade and 22% remained the same over the previous 12 months.



plentiful, easily accessible and proximate parking only serves to encourage reliance upon the private motor car.

- 7.27 A further important point is that of linked trips. The proposal would, on the Applicant's evidence, create a peak demand of 70 spaces. That demand would inevitably include a proportion of people who are already visiting the town centre. In the present case there are a number of factors which suggest that the proportion would be high. These include the attractiveness, vitality and viability of the Town Centre which means that people are already in the town (as opposed to shopping elsewhere); the proposed units are located such as to function as part of the town centre, the pedestrian linkages which make it a popular car park for the High Street would serve exactly the same purpose in terms of integration; the Sainsbury's supermarket already performs such a function effectively and provides a telling example. The effect of this is that the identified demand of 70 does not represent a new demand of 70.

#### *Mitigation*

- 7.28 The s106 Agreement secures funding for the reconfiguration of the Innage Lane Car Park to provide 56 extra car parking spaces. That they can physically be accommodated is not in dispute. A criticism was raised in that the schools which presently use the car park may not be able to operate in the same manner as they presently do but this is not accepted by the Council. The actual arrangements are a matter for the Council's Highways team rather than the Applicant, a note has been provided to the Inquiry as to indicative options to ensure that the mode of operation is perfectly obvious and simple to understand.
- 7.29 The Council do not propose to manage the car park to the rear of the retail units. Conditions have been proposed by the Applicant which will ensure that appropriate pedestrian footways are provided and that deliveries are restricted. It is to be noted that this part of the car park will only be short stay parking on Saturdays.
- 7.30 Mr Robbins accepted that the evidence he provided to the Inquiry could not form the basis of an inference that the (comparatively) high level of parking contravention notices per head of population could be attributed to a shortage of car parking.

#### *Other Matters*

- 7.31 Recycling: The redevelopment of the application site would remove recycling facilities from that car park and the reconfiguration of Innage Lane would remove recycling facilities from that car park. In pure quantity terms there would therefore be a loss in terms of the recycling facilities. However, there are now kerbside recycling collections undertaken by the Council and other recycling facilities in the town, as well as a new household waste centre in Bridgnorth.
- 7.32 The existing Car Park Agreement: The Chamber contend that the Council is not in breach of the existing car park agreement and that in consequence the proposal would still be bound by it. Whether or not the agreement is breached is a matter of law, the important point being that the party said to be in breach (the Council) considers itself to be in breach. It is unlikely therefore (particularly

when set in the context of the expenditure of public money) that the Council would seek to defend a rescission of an agreement the terms of which it accepts it is in breach.

- 7.33 The requirement is that the car park is managed in such a way as to predominantly provide for short term parking. Allowing parking for up to 10 hours and having issued some 85 unrestricted permits the Council considers that it would be unlikely to be able to defend an allegation that it has failed to manage the car park in the manner required<sup>31</sup>. This is a key point. The car park land is in private ownership, it is simply operated by the Council. The breach of the agreement could allow the closure of the car park (especially when it is further considered that Sainsbury's, as landowner, derive no financial or commercial benefit from the land as it is presently operated – there is therefore little incentive to keep it that way).
- 7.34 A final point is that the Agreement, even if it were to endure, requires the provision of 136 car parking spaces. The landowner has the right to configure those spaces at its discretion. The proposal, including the parking to the rear of the unit, provides for 158 car parking spaces. In consequence the proposal could proceed in any event.

*The Fallback position*

- 7.35 The Council, the Applicant and the Chamber consider that the DIY Permission remains extant. Where the Chamber differs is as to the likelihood of it ever coming forward. That is a matter of judgment. It is important to note however that the planning permission does not restrict the units to the sale of any particular mix or category of goods, as a permission it can operate on an open comparison goods basis.

*Heritage Considerations*

- 7.36 On behalf of the Council, Dr Wigley concludes that the proposal would not harm the setting of the Bridgnorth or Innage Gardens Conservation Areas nor would it impact upon any listed buildings. Dr Wigley considers that the application site in undeveloped form represents a gap in the urban fabric which results in minor adverse harm to the setting of the Bridgnorth Conservation Area. He concludes that the design of the proposed units would be complementary to the existing built fabric and that the development of the site would be positive in that it would remove that gap. There is no reason to consider that there is any Heritage harm arising from the scheme as proposed.

*Assessment against the development plan*

- 7.37 The proposal straddles the town centre boundary and a full retail impact assessment has been provided as part of the application. That assessment has been critically reviewed by the Council and it is the Council's view that the identified impact is acceptable. Furthermore, and not in issue between the parties, there is no superior sequentially preferable site that has been identified.

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<sup>31</sup> Nor could it remedy the breach in the required timeframe given that (i) permits have been issued of lengthy duration, and (ii) the car park is subject to a Traffic Regulation Order which would require amendment

### *Conclusions*

- 7.38 This proposal represents sustainable development in a sustainable location. It is well located for retail use and has the potential to integrate fully with the town centre. It would allow for a modest reduction in expenditure leakage by providing a retail offer not currently present in Bridgnorth Town Centre. It would satisfy the policy requirement to enhance the status and function of Bridgnorth as a Market Town.
- 7.39 The Council accepts the RIA as presented by the Applicant as being reasonable in its approach and conclusions and does not consider that the impact identified amounts to a significant adverse impact. Importantly the Council, in coming to that conclusion, has had regard to the evidence presented by the Chamber which does not consist of an alternative assessment but simply a critique of the RIA.
- 7.40 Further, the Council notes the potential for the scheme to contribute to the viability and vitality of the town centre through increased visits to the town centre by way of linked trips, as well as the retention of expenditure leakage.
- 7.41 The Council has fully considered the additional factor of the loss of parking and its potential to impact upon the vitality and viability of the town centre. The identified shortfall in car parking arises only for a short period of time on Saturdays across the Study Area (rather than simply looking at Smithfield in isolation). In addition there remains at all times capacity across Bridgnorth as a whole. In this context the Council considers that the potential additional impact, when coupled with the trade diversion, would not amount to a significant adverse impact.
- 7.42 The Council also takes into account the further identified benefits of the scheme in terms of employment opportunities, reduction in car miles travelled through expenditure retention and the positive impact of building out the gap in the built form. Having considered the proposal fully the Council remains of the view that it accords with the adopted development plan and that there are no material considerations which indicate that the proposal should be determined other than in accordance with it. The Council invites the Inspector to recommend that the application be approved.

### **The Case for the Chamber of Commerce**

- 8.1 This summary contains all material points in relation to the case presented by the Chamber of Commerce (the Chamber). It is taken from the submissions made and evidence given on behalf of the Chamber and from other documents submitted to the Inquiry.
- 8.2 It is a mark of the strength of concern amongst businesses of the town and local people that they have gone to the trouble of persuading the Secretary of State to call-in the application, applying for rule 6 status and fund-raising in order to be able to take an active role at this inquiry.
- 8.3 Bridgnorth is one of the main market towns in Shropshire and is noted in the Core Strategy as a town which will provide a focus for development within the constraints of its location on the edge of the Green Belt and on the River Severn. It is a key service centre, not just for the town itself, but also for its

rural hinterland. It is a historic town centre with unique qualities and charm which attracts both local residents and tourists. Bridgnorth was named High Street of the Year in the Large Market Town Class in 2016. This is an accolade from which local people derive considerable pride. It is a mark of how special Bridgnorth is.

- 8.4 In its Committee report of 10 January 2017, officers advised that it was not Government policy to protect independent traders. However, this overlooks the fact that where these form a significant proportion of the town centre and create its character and the basis of its attraction and vitality, the impact on them must be material. The Chamber draws comfort from the decisions of Inspectors who have reached a similar view<sup>32</sup>.

#### *Loss of Car Parking Spaces*

- 8.5 The crux of the Chamber's objection relates to the reduction of car parking spaces which is an agreed consequence of the proposed development. Ensuring adequate car parking is an integral part of the vitality and viability of the town centre. The parking provision in the town is already inadequate. The Council ought to be doing all it can to increase the number of spaces. This application will do the exact opposite.
- 8.6 At the outset, it is important to record what national policy and guidance says on the point. The Framework states that local planning authorities should *"recognise town centres as the heart of their communities and pursue policies to support their viability and vitality"*.<sup>33</sup> Paragraph 40 goes on to state:

*'Local authorities should seek to improve the quality of parking in town centres so that it is convenient, safe and secure, including appropriate provision for motorcycles. They should set appropriate parking charges that do not undermine the vitality of town centres. Parking enforcement should be proportionate.'*

- 8.7 The National Planning Practice Guidance<sup>34</sup> provides that:

*...the positive approach [to town centres] should include seeking to improve the quality of parking in town centres (in line with the NPPF) and where it is necessary to ensure the vitality of town centres, the quantity too.*

#### *The Baseline*

- 8.8 It is common ground that Bridgnorth currently possesses a viable and vital town centre and that there is a desire to encourage it to go from strength to strength. A further important factor is the adequacy of car parking provision in the town, particularly given that the vast majority of visitors come by car. The Applicant's 2017 Household Survey shows that 81% of people come to Bridgnorth by car<sup>35</sup>.
- 8.9 A lack of parking spaces in town centres is a common complaint. However, here the lack of car parking spaces is particularly acute and pressing. The

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<sup>32</sup> Mr McCallum appendices 6.2 & 6.3

<sup>33</sup> Paragraph 23

<sup>34</sup> Paragraph 001 of the NPG in respect of Ensuring the Vitality of Town Centres

<sup>35</sup> Mr Newton appendix 4, Q34

decision maker is invited to reach that conclusion based upon the following evidence. The Council previously attempted to acquire the site for public car parking under compulsory purchase in 1992. This attempt was undertaken in the context of the (then) emerging local plan whose evidence recorded that there was a need for additional parking in the town. That the Council ultimately abandoned the CPO procedure and acquired the land by agreement is neither here nor there. The simple point is that the importance of public car parking to the vitality and viability of the town centre and its relative dearth has long been recognised.

- 8.10 Bus services have declined in recent years and particularly significant is the reduction of the town bus service (Service 101) from a half hourly service to an hourly one last year. This means that arrivals by car (and the consequential need for car spaces) has risen, not fallen, since the Applicant first promoted its proposal.
- 8.11 Surveys of businesses within the town show that car parking availability is regarded as poor by two thirds of respondents<sup>36</sup>. This is supported by the Applicant's own recent shopper questionnaire survey, which supports its Town Centre Health Check. It shows that the most popular reason that respondents disliked the centre was "*not enough parking spaces available*" and the most popular improvement that respondents would like to see is "*more parking spaces available*"<sup>37</sup>.
- 8.12 It is common ground that since the first parking surveys were undertaken in 2015, the number of parking spaces has fallen by 32<sup>38</sup>. This downward trajectory is set to continue. The Westgate car park which presently provides 124 spaces is due to close imminently following the resolution to grant planning permission for residential development there in February 2015. The extent to which vehicles which currently park at Westgate will be displaced on to town centre car parks is uncertain. This is regrettable. The imminent loss of the Westgate car park is likely to displace demand on to the town's other car parking spaces. This is likely to make the shortage of spaces more acute.
- 8.13 The proposed allocation of land for 500 dwellings in Bridgnorth will increase demand for town centre parking. Indeed, policy S3.1 of the SAMDev advises that the housing growth in the town will be around 1,400 dwellings, together with 13 hectares of employment land. The first allocation lies on the land from which the Chamber's Park & Ride scheme operates. What the Council ought to be doing is increasing the number of spaces in the town to cater for this expansion. Mr Hanafin<sup>39</sup> did not address the impact of this whatsoever in his proof. After much pressing, he reluctantly agreed that this could lead to "some increase in demand" but did not consider it important. He claimed that this impact could be mitigated by the provision of a travel plan, but agreed that no travel plan could create additional parking spaces in the town.
- 8.14 It is a measure of the level of car parking pressure that the Chamber of Commerce has run the voluntary Park and Ride Scheme on Saturdays and

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<sup>36</sup> Mr McCallum table 5.5

<sup>37</sup> Mr Newton appendix 6: para 1.20-1

<sup>38</sup> Cross-examination of Mr Hanafin

<sup>39</sup> Accepted in cross-examination

raised the contributions towards the hire of the bus from its members. This voluntary scheme was operated from spring 2015 until September 2017 when it was stopped due to the road works. Ms Lawley confirmed<sup>40</sup> that this was the only voluntarily run Park & Ride in the county.

- 8.15 As a market town within a rural area, Bridgnorth's vitality as a town centre is predicated upon adequate car parking. Presently, there is a pressing need for more parking. Moving forward, the town requires more spaces not less. Reducing provision is the exact opposite of what the town needs.
- 8.16 The application site is regarded as one of the town's main car parks given its large size, ease of access from the Whitburn Street relief road, straightforward method of payment, size of many of the spaces and its close proximity to the High Street and medical Practice and Hospital.
- 8.17 In order to reach a robust assessment on the impact of the development one must first accurately record the extent of the existing capacity. The Applicant has over-estimated the number of parking spaces available in the town. It has assumed that there are 200 spaces available at Severn Park car park. This is wrong. Both the Chamber and the Council agree that the figure is in fact 80<sup>41</sup>. The 80 spaces lie on the hardstanding. There is intermittent provision for a further 120 spaces on the grassed area (which is gated) but this is only available during the summer months.
- 8.18 This error is compounded by the Applicant's over-estimation of the capacity for alternative means to travel to the town. Mr Hanafin states that bus services in the town have been enhanced recently<sup>42</sup>. In cross-examination he conceded that this was wrong and, in fact, bus services have deteriorated not improved with changes to the 101 service rendering it less frequent.

#### *Retail impact*

- 8.19 It is common ground that, if the application is allowed, 120 spaces would be lost and this would lead to a reduction in parking spaces available in the town (including the 32 spaces at the rear to which the Chamber objects). This represents a reduction of 12% in the four main car parks according to the Applicant's figure of 1,022 spaces. On a Saturday, the reduction would be about 15% of the total car parking capacity of 823 spaces<sup>43</sup>.
- 8.20 Not only is there a reduction in spaces, but the Applicant recognises that the 5 units themselves would give rise to a need for up to 70 additional car park spaces<sup>44</sup>. The Chamber considers this is likely to be an underestimate. It suggests a requirement of about 100 spaces<sup>45</sup>. Accordingly, the proposed development produces a double-whammy of increasing the demand for spaces whilst cutting the supply. This leads to a real-terms deduction in available parking spaces of around 190 on the Applicant's own figures<sup>46</sup>. If one

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<sup>40</sup> In cross-examination

<sup>41</sup> Ms Lawley table at page 18 as confirmed by her in cross-examination

<sup>42</sup> Proof of evidence §5.3.15

<sup>43</sup> Based on the TA estimate of 122 spaces available in the Meredith's Yard car park

<sup>44</sup> Mr Hanafin proof of evidence §7.1.12

<sup>45</sup> Mr McCallum proof of evidence §6.47

<sup>46</sup> i.e. 120 + 70

excludes the 32 spaces at the rear, the identified shortage rises to 222. If the parking demand of the proposal is actually more likely to be 100, the overall shortage of parking consequent upon the application rises to 252. The Chamber contends that this significant reduction in parking spaces would harm the vitality and viability of the town centre.

- 8.21 The 4 main car parks <sup>47</sup> would be insufficient to meet demand during the middle of the day on Saturdays. This is significant. Saturday is the main trading day for many businesses in the town. It is also the day when the town's main market takes place. If there is inadequate provision on this most important business day of the week, visitors are likely to be discouraged from coming to the town. Mr Hanafin agreed<sup>48</sup> that the shortage of spaces coincides with the time of maximum turnover for most businesses in the town.
- 8.22 This harm gives rise to an unacceptable impact. This car park occupies a sensitive location as it is commonly used by patients of the medical centre and hospital. But, in fact, the position is worse than that contended by the Applicant and the Council. The Chamber's survey evidence<sup>49</sup> suggests that, given the number of spaces available, if this application succeeds, there is likely to be a shortage of spaces during the week also<sup>50</sup>. Mr Hanafin confirmed that he has had the opportunity to view the footage and verify what the Chamber has said and he did not dispute what Mr Robbins has said the footage shows.
- 8.23 This is important given that the Applicant and the Council have based their entire case on a conclusion that there would only be a shortage of spaces for a short period of time on a Saturday. If the Secretary of State is not convinced of that fact and concludes that the shortage may infect other days of the week it is not something which has been addressed in their evidence at all.
- 8.24 It is important to note that surveys undertaken by all parties this year have occurred at a time when significant road works have been underway on the A458 (the main road into the town). These were extensive. The Council's note confirms that the works commenced on 11 July and were due to end on 11 November. It involved 20 night closures, 5 '24 hour closures' spread out over a 6 week period and the enforcement of a 20mph speed limit all the way along this stretch of the A458 for about a mile for the entire period.
- 8.25 Mr Robbins explained in evidence that these road works coincided with additional road works to the Innage Lane and the Smithfield Relief Road. Taken together these represent very extensive road works to Bridgnorth this year. Media reports record that this has put off visitors and that trade has been down by as much as 20% as a result<sup>51</sup>. It follows that the 2017 survey evidence is likely to under-estimate the need for parking spaces given that there is likely to have been fewer visitors than normal.

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<sup>47</sup> Sainsbury's, Old Smithfield, Meredith's Yard and Innage Lane

<sup>48</sup> In cross-examination

<sup>49</sup> Based upon viewing the CCTV footage of the site car park and counting cars in and out.

<sup>50</sup> Mr Robbins appendix B

<sup>51</sup> Mr Robbins appendix C

- 8.26 It is the case of the Chamber that the Smithfield car park can be regarded as a bell-weather. If it is full, the other 3 car parks in the town centre are likely to be full<sup>52</sup>. Further, it is important to recognise that one should not merely reduce one's analysis to an arithmetic exercise. If Bridgnorth gains a reputation for difficulty of parking this is likely to discourage visits. To take a hypothetical example, if there is in fact an available space for Mr X, but in order to track it down he has to make a number of abortive visits to other car parks before he tracks down the available space this is likely to discourage him. Improved signage may help to mitigate this inconvenience but, however good it is, it still requires motorists to move around the town to find an available space.
- 8.27 If the Chamber is right about the significant shortage of car parking spaces, it has estimated that based upon an average £20 spend per visit, the town centre would potentially lose around £2.6m over the course of the year<sup>53</sup>. Given that Bridgnorth has a dependency on small independent retailers, this reduction is significant.

*The proposed car park at the rear (32 spaces)*

- 8.28 Both the Council and the Applicant have proceeded on the basis that 32 spaces would be available in the service yard of the development. It is expected to operate for 24 hours a day providing long stay on weekdays and short stay on Saturdays<sup>54</sup>. The case for those promoting this proposal runs counter to the clear advice of the Highway Authority ("HA"). It states that "it is not considered that the 32 spaces should be taken into account and the proposed development should be considered on this basis"<sup>55</sup>.
- 8.29 The HA advised unequivocally that the scheme should not proceed on the basis of the 32 spaces to the rear because of the inherent safety risks associated with the storage and deliveries taking place in the same area as where pedestrians would leave and approach their parked vehicles.
- 8.30 This clear advice has been disregarded. It cannot be a hallmark of good design, let alone high quality design, to have the turning of delivery vehicles taking place in an area of public car parking. The application plans show that people walking towards or away from their parked cars would have to walk across the very area which shows the tracked turning paths of the delivery vehicles. The plan also shows that 5 doors at the rear of the retail units open out on to the proposed pedestrian footway. This is unattractive and not a feature of good planning
- 8.31 The very fact that the Council is unwilling to manage the car park at the rear speaks volumes. The Council refuses to take responsibility for this small car park because it recognises that the configuration is sub-standard and is inconsistent with its own parking standards. It is surprising, in these circumstances, that what the Council is unwilling to take responsibility for, it is content to be managed by someone else.

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<sup>52</sup> Mr Robbins in cross-examination

<sup>53</sup> Mr McCallum proof of evidence §6.71

<sup>54</sup> Ms Lawley in response to questions from the Inspector

<sup>55</sup> Paragraph 4.1.5 of the January 2017 Report to Committee



- 8.32 This arrangement is not eloquent of high quality design and it is contrary to CS policy CS6. It is recognised that a service management plan (controlled by condition) could help to mitigate the impact by precluding deliveries between 9am-6pm on weekdays. However, there is no limit on the number of deliveries. Notwithstanding that the Applicant assured us that there would only be 5 deliveries per day, this is not controlled by condition.

*Proposed mitigation*

- 8.33 The Applicant offers mitigation to make the application acceptable in planning terms. It seeks to off-set the reduction in spaces by: reconfiguring the Innage Lane car park to 'squeeze out' 16 additional spaces during the week and 56 spaces on a Saturday; and by rigorously enforcing the 3 hour maximum stay on the site in order to increase through-flow and free up more spaces.
- 8.34 The Applicant's proposed reconfiguration of the Innage Lane car park is merely aspirational. It is not within the Secretary of State's gift to make the proposed changes. If planning permission is granted, the proposed changes to Innage Lane will be subject to a Traffic Regulation Order and consultation. The Innage Lane car park is used as the main collection and drop-off for school coaches, catering for many of the school children who travel into Bridgnorth from the surrounding rural area. Considerable concern has been expressed by the 2 local schools that the proposed reconfiguration could jeopardise the safety of children.
- 8.35 There is plenty of scope for confusion since there would be spaces marked on the ground to allow cars to park on a Saturday only, where the coaches park up on weekdays. As Mr Robbins remarked, it only takes one car to see the marked car space on a weekday and park therefore preventing the coaches from using the space. This is a recipe for chaos. It cannot be a hallmark of good planning to encourage such a confusing car parking arrangement. This contorted scheme is only being promoted because the Applicant recognises that it needs to reconfigure the car park to squeeze out more spaces. Given the uncertainty of its delivery and the practical problems identified, it is submitted that the Secretary of State cannot reasonably rely upon this element of mitigation.
- 8.36 The Applicant's whole assessment proceeds on the basis that reducing the maximum stay to 3 hours would free up capacity for an additional 208 vehicles<sup>56</sup>. This vital component of the Applicant's case leads Mr Hanafin to conclude as a result "it is likely that the shortfall described in table 14 would be significantly reduced or removed altogether"<sup>57</sup>. Mr Hanafin confirmed that he has assumed that 100% of the 52 cars who presently have paid for more than 3 hours (i.e. an extra £1 to stay for 3-10 hours) in fact stayed for the whole 10 hours. On this basis, he has calculated that each space which was occupied by a single car for 10 hours could now be occupied by 4 cars. This assumption is unsafe. There is no evidence that everyone who pays for up to 10 hours parking stay for the entirety of that time. Even if one were to give credit for some 'freeing up' of capacity on account of the robust enforcement

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<sup>56</sup> Mr Hanafin proof of evidence §7.3.3

<sup>57</sup> Ibid §7.3.4

of the short stay, it cannot be used to plug the shortage of spaces during the middle of the day given that the additional capacity is spread across the whole day.

- 8.37 Further, the Applicant's proposal to robustly enforce the short stay is likely to lead to unintended consequences. At the moment, people can park on the application site for over 3 hours. This allows them to linger and spend as much time as they wish in the town centre. If the Applicant rigorously enforces the short stay, it will discourage people from lingering in the town centre. That, of itself, is likely to inhibit the vitality and viability of the town centre as it will have the effect of limiting the growth of the town.
- 8.38 Both the Applicant and the Council have narrowly focussed upon the existing capacity of car parking. They fail to recognise that the shortage of parking provision is likely to act as a straitjacket (or corset) to prevent the town from expanding. If the town goes from strength to strength then businesses expand, generate higher turn-over, employ more staff and increase customer visits and this would give rise to a greater demand for parking spaces. Rather than meeting this need, the application would further cut the number of spaces.
- 8.39 A recurring rejoinder to this criticism is the claim that a dearth of parking spaces could encourage more sustainable travel patterns. There are 2 difficulties with this argument. Firstly the 2017 Household Survey shows that presently only 4% of visitors come to the town by bus<sup>58</sup>. The Applicant's s106 agreement provides no monies to improve bus services. The Council's budget for bus services is expected to be cut by up to 75% in the next couple of years<sup>59</sup>. The Secretary of State can reasonably infer that bus services are likely to worsen rather than improve. This is an unattractive context for the Applicant to optimistically assume that all/most of the people who presently park at the application site will alternatively abandon their cars and come to the town by bus.
- 8.40 It is no part of government policy or the development plan to cut the number of parking spaces in town centres<sup>60</sup>. Indeed, the PPG states: "*This positive approach should include seeking to improve the quality of parking in town centres...and where it is necessary to ensure the vitality of town centres, the quantity also*"<sup>61</sup>. Bridgnorth is a small town set within a rural hinterland. It is unrealistic to assume that most people will come by means other than car.
- 8.41 The Applicant and the Council argue that if the application caused a shortage of town centre parking spaces; that would be no bad thing since by discouraging people to visit the town by car it would encourage people to visit by more sustainable travel modes. This is unrealistic. It is far more likely that the shortage of car spaces would discourage visits.

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<sup>58</sup> Mr Newton appendix 4, Question 34

<sup>59</sup> Confirmed by Ms Lawley in cross-examination.

<sup>60</sup> Accepted by Ms Townend in cross-examination.

<sup>61</sup> CD E2.3 S001

- 8.42 The Leader of the Council has confirmed that the Council is “*keen to provide more car parking in several towns*” including Bridgnorth<sup>62</sup>. He states: “*when finance becomes available I think Bridgnorth will be near the top of the list for investment*”. This is important evidence since it is an acknowledgment on the part of the Council that there is a pressing need for further car parking provision in the town; and it is inconsistent with the Council’s case to the Inquiry that it would be contrary to principles of sustainable development to provide additional car parking spaces.
- 8.43 Even if the Applicant is correct, the mitigation would only modestly off-set the loss. Post mitigation, the Council acknowledges that there would remain a residual net loss of car park spaces<sup>63</sup>.

*Disabled spaces*

- 8.44 It is common ground that presently the application site provides 16 disabled spaces: 10 of which lie very conveniently adjacent to the medical practice. If the application is allowed, the number of disabled spaces would be cut to 11. The interests of disabled people are afforded protection by the Equality Act 2010 (“the Act”). Disabled people fall under the protected characteristic of section 6 of the Act.
- 8.45 The Secretary of State will want to satisfy himself that this one third reduction in disabled spaces complies with section 15 of the Act which prohibits unfavourable treatment of disabled people. It is submitted that this reduction would discourage disabled people from visiting the town. The location of the reduction is particularly unfortunate given that the application site car park is the most proximate to the hospital and medical centre. The reduction in disabled parking spaces is not an inevitable consequence of the application. The applicant could have retained the 16 spaces, but chose to cut them.
- 8.46 It is precious consolation for the Council to suggest that the reduction of car parking represents a relative increase in disabled parking from 5% to 6%. Such an argument is contrived and artificial. Notwithstanding that the 11 spaces exceeds the minimum standard, the reality is that there would be fewer spaces available to disabled people. No good justification has been provided for this significant reduction. There is no evidence (such as surveys) to substantiate Mr Hanafin’s contention<sup>64</sup> that the existing 16 spaces were under-used and so the reduction would not cause harm. Certainly, that is not the experience of local people: Mr Robbins and Mr McCallum gave evidence that from their experience the disabled spaces were well used.

*Recycling facilities*

- 8.47 It is common ground that there are presently 5 recycling points in the town. If the application is allowed, two would be lost. One from the application site and one as a consequence of the reconfiguration of the Innage Lane car park. This loss is likely to discourage recycling as people who presently use these two facilities would have to find alternative facilities. National and local policy

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<sup>62</sup> Email in Mr Robbins appendix J

<sup>63</sup> Ms Townend in cross-examination

<sup>64</sup> Made during his cross-examination

is clear that local authorities should be doing all they can to promote and encourage recycling. The loss of these centrally located and convenient recycling facilities contained within popular and well-used car parks is plainly a dis-benefit which should weigh negatively in the final planning balance.

*Construction Period*

- 8.48 It is common ground that, in the event of development proceeding, there would be a period of time when the whole or (at the very least) the vast majority of the car park would be closed to allow the construction workers to build out the application site<sup>65</sup>. During this period, no alternative temporary car park provision is suggested.
- 8.49 Regrettably, the Applicant has not assessed the impact of the construction phase whatsoever. Nobody on behalf of the Applicant has been able to provide any assurance as to the likely period of time for what we might describe as the 'acute disruption'. This is a serious shortcoming. Given the basis of the request to call-in the application and the thrust of the Chamber's case at this Inquiry is the impact of the loss of car parking on the application site, the Secretary of State would have expected this elementary information to have been provided. In the absence of any quantification at all from the applicant, the Secretary of State must presume that the period of acute disruption could run for many months.
- 8.50 It is submitted that this time-limited harm should be afforded significant weight. If the main car park to the town is lost for a number of months, this is likely to apply a significant downward pressure on visitor numbers and business turnover. For a town centre with a high proportion of small independent retailers, it is not hyperbolic to say that many may be fatally harmed.

*The fallback positions put forward*

- 8.51 2004 Outline Planning Permission: In order to constitute a material consideration, the Secretary of State must be satisfied that the 2004 outline permission remains extant and that its implementation is realistic (i.e. the possibility is more than merely fanciful or theoretical). The Chamber denies that the Secretary of State can be so satisfied. The Chamber relies upon the evidence of McCallum<sup>66</sup>. Mr Newton did not challenge the national market factors which Mr McCallum identified.
- 8.52 It is submitted that the prospect of the implementation of the DIY store is not realistic given that it has not been implemented in the 13 years since consent was granted. There is no evidence that if the application were refused, it would be implemented. The national picture shows a clear downward trend in respect of large DIY stores as illustrated by both Homebase and B&Q closing many of their stores in the last 3 years. Locally, there is already a Homebase, B&Q and Screwfix stores in Telford, Wolverhampton and Kidderminster. Wickes has a store in Telford and Wolverhampton. It is plain that the local area is already well-catered for in the DIY department.

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<sup>65</sup> Mr Hanafin in cross examination

<sup>66</sup> §§3.8-10

- 8.53 In any event before the DIY stored can be implemented, it is agreed that 18 pre-commencement conditions must be discharged in respect of the outline consent and reserved matters approval.
- 8.54 It is therefore not accepted that the 2004 outline planning permission provides a fallback. But even if it did, this is considered preferable to the application<sup>67</sup>. Ms Townend agreed<sup>68</sup> that if the 32 spaces at the rear are excluded the application would give rise to fewer spaces than the 2004 permission.
- 8.55 Breach of the car park management agreement (2008): both the Council and the Applicant proceed on the misapprehension that the present operation of the application site car park contravenes the Car Park Management Agreement. They are plainly wrong. Scrutiny of paragraph 1.1 of the agreement makes clear that the definition of short stay is broad and flexible (note the reference to “predominately”, “encourage” and “discourage”). Mr Newton agreed in cross-examination that the agreement does not preclude some parking in excess of 3 hours. Irrespective of the intention of those drafting the agreement, it does not provide a blanket ban on longer stays. The very fact that people have to pay more to stay longer provides the discouragement sought under the agreement’s definition.
- 8.56 The Council may assert that, in its view, there is a breach, but it is obliged to act lawfully. The Council cannot make the agreement mean what it wants it to mean. As a matter of construction, the words of the agreement have an objective meaning. Because the definition is so broadly and benignly drafted, it is unlikely that a Court would conclude that a breach of it is made out.
- 8.57 It is telling that the Applicant has not sought to terminate the agreement. Whilst it suits the case of the Applicant and the Council to adopt the posture that the agreement has not been honoured, an interrogation of the loosely worded agreement shows that they are mistaken. Accordingly, it is submitted that it is unlikely that the public car park use of the application site will come to end in the event that the application fails.

#### *Retail Impact*

- 8.58 The Chamber has not taken issue that the application passes the sequential test in accordance with the requirements of the Framework. In respect of the impact test, it is for the Applicant to persuade the Secretary of State that the test is satisfied. The Chamber has put the Applicant to proof. It has not advanced a positive case that the proposal would give rise to a significant adverse impact independent of the car park impact. The Applicant and the Council calculated a trade diversion of 4.7% which it subsequently downgraded to 2.5% when it inputted the identity of the particular retailers who are expected to occupy the 5 units. The Chamber considers this to an underestimate<sup>69</sup>, but it has not undertaken its own retail impact assessment to advance a positive case for a different figure. Plainly, it is important that the Secretary of State does not proceed on the rosier of forecasts which may

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<sup>67</sup> Mr McCallum proof of evidence §3.11

<sup>68</sup> In cross-examination.

<sup>69</sup> Mr McCallum §§6.3-13

prove to be too optimistic. He must evaluate the proposal's impact against the realistic 'worst case'.

- 8.59 The raison d'être of the Chamber is to promote the business interests of the town centre. Significant weight should be afforded to the view of the organisation in respect of the likely impact of the development on Bridgnorth's town centre. It has its finger on the pulse. It is in a very good position to judge the likely impact of the application proposal on the town. If the Chamber considered that the 5 proposed retail units would enhance the retail offer of the town and encourage more visits (such as through greater linked trips), it would not have opposed it so vociferously.
- 8.60 When the Chamber prepared its evidence, it had to consider the likely impact of generic comparison retailers. We now know the proposed line-up. We are therefore in a better position to more precisely predict the likely retail impact. The known line up is more troubling to the interests of the town centre than the generic comparison retail. Firstly, the line-up of proposed occupiers is underwhelming as far as clawback is concerned. It is common ground that units 1, 2 and 5 are replicative given that there is already a Costa Coffee, a pet shop in the town centre and Peacocks would provide similar goods to that already sold in the town centre.
- 8.61 It is implausible and unconvincing to aver that the introduction of a second Costa, a second pet shop together with a Poundstretcher, Peacocks and Mountain Warehouse would have any meaningful impact on the decisions of shoppers to shop in Bridgnorth. This is particularly apparent given there is already a Mountain Warehouse in Kidderminster and Pets@Home in Telford, Kidderminster, Ludlow and Wolverhampton.
- 8.62 Secondly, given that the line-up is not distinctive from that already found in the town centre there is likely to be greater trade diversion than that expected by the Applicant. Or, put another way, the extent of trade diversion would be less if the 4 retail units included shops which are not already found in the town centre. The contended benefit that providing these 5 retail units would help to cut leakage by £3m (5%) is unconvincing.
- 8.63 Government guidance does not impose an arithmetic threshold to measure what constitutes a significant adverse impact: it is a matter of judgment for the decision maker<sup>70</sup>. A trade diversion of x% could be acceptable at one location but unacceptable at another town centre if it possesses characteristics which render it more vulnerable. Here, it is agreed that an important component of Bridgnorth's retail offer is the array of independent retailers. Small independent retailers are likely to be less able than national chains to withstand what, on the face of it, appear modest trade diversions.

### *Conclusions*

- 8.64 It is submitted that the proposed development would have a significant adverse impact on the vitality and viability of the town centre. It is therefore

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<sup>70</sup> Accepted by Mr. Newton in cross-examination.

contrary to paragraph 26 of the Framework, CS policies CS8, CS13 and CS15 and SAMDev policy MD 10b.

- 8.65 The Secretary of State is invited to find that the provision of car parking falls under the facilities, services and infrastructure protected by CS8. Whilst it is recognised that the expression “facilities, services and infrastructure” is not defined on the face of the Core Strategy it would make little sense to exclude it. Indeed, the explanatory text which accompanies policy MD2 of the SAMDev states: “*Developments must be designed so they do not result in an unacceptable adverse impact on local infrastructure, for example adequate onsite car parking...*”<sup>71</sup>. Reading the development plan as a whole, the Secretary of State can confidently conclude that the reference to “facilities, services and infrastructure” includes car parking. To do otherwise, flies in the face of common sense, particularly for this town which relies so heavily on visitors arriving by car.
- 8.66 It is submitted that the proposal is contrary to the development plan. Other material considerations are not sufficiently potent to override this conflict. Indeed, it is the Chamber’s case that an interrogation of the material considerations shows that although there are some benefits of the proposal, the social and economic costs attendant upon the reduction in spaces and the associated environmental harm (caused by motorists having to track down scarce spaces in the town and the loss of recycling facilities) outweigh the modest benefits which lie properly in the Applicant’s favour (including the creation of up to 80 full/part time jobs and the provision of electric power points).
- 8.67 It is submitted that the application cannot be convincingly characterised as sustainable development in the terms sought by government. The Chamber is firmly of the view that if the application is allowed, the permanent loss of significant numbers of parking spaces will impose a straitjacket on the vitality and viability of the town centre. Mr. Robbins stated in evidence that it is the consensus amongst local businesses that the loss of car parking spaces will have a devastating impact on the town centre in circumstances where there is already a shortage.
- 8.68 The Secretary of State is invited to refuse the application.

### **Other Oral Representations**

*Mr Michael Cooksey*

- 9.1 Mr. Cooksey has submitted a proof of evidence which is to be treated as a written representation on behalf of a local resident acting in a personal capacity. He supplemented this with some oral comments which I shall summarise here.
- 9.2 Mr Cooksey confirmed that after 1970 car parking became a serious matter in Bridgnorth. In 1990 the Council applied successfully to use the land known as ‘Smithfield’ as a car park. Between 1990 and 1994 there was public consultation and a public inquiry at which Mr Cooksey appeared. Following the

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<sup>71</sup> Paragraph 3.15

local plan the Council successfully applied for planning permission for a car park use on the site. Subsequently the Council resolved to invoke compulsory purchase order proceedings to acquire land for car parking purposes. Those proceedings were resolved by negotiation.

- 9.3 In 2003 a planning application was made for Sainsbury's which included the relief road. The DIY store which was part of that application could not be built until the relief road was completed. The DIY store is unbuilt and the land was used a rough surface car park. Mr Cooksey does not agree that the planning permission which included the DIY store was implemented by the construction of the relief road because there was a demarcation of the boundary. Whilst Mr Cooksey referred to an appeal case involving Tarmac, the details were sketchy and an appeal reference could not be provided. The Chamber accepts that the planning permission is extant but says that implementation is unrealistic. Mr Cooksey does not agree.
- 9.4 Other matters: anyone can park in the hospital car park because there are no bollards in operation. Initially entry was gained via an intercom system. This is no longer the case. Since the Smithfield car park was built, the hospital precincts have expanded with a chemist and health centre. There are clinics every day and operations. The application site car park has become very popular.
- 9.5 There have been discussions about 500 new houses on the periphery of Bridgnorth. The walk from the edge of town into the town centre is long and the topography is difficult because it would entail an uphill walk on the way back. It is ludicrous to suggest that people would not use cars. The Severn Park car park is a long way from the town centre, the Cliff railway now costs £1.60. Any journey from the Severn Park into the town centre would be tortuous.
- 9.6 From 2016 until very recently there has been a large shop, Country Casuals, in the town centre which has been empty until recently. One of the units proposed is earmarked for Costa Coffee, it is an insult to lose part of the car park to a coffee shop. Bridgnorth is well-served by eating and drinking establishments and there is no need for another coffee shop.
- 9.7 The Westgate car park used to be Council Offices and is now used for car parking. On market days the charter allows the owners of High Street properties to display their wares on the street. The rights have been amended to allow 'double banking' of stalls on one side of the High Street. It attracts people because of the interesting stalls.
- 9.8 The road works started by the end of June and have been going on ever since. The relief road is at the intersection of two roads, over the old river bridge and linking into Wolverhampton Road. For the whole of the period it has been subject to roadworks, sometimes closed and sometimes subject to temporary 4-way traffic lights. Going towards the Kidderminster junction Mr Cooksey says he has experienced traffic queuing back for up to 1 mile. The road works will come to an end but the loss of car parking would be permanent.
- 9.9 We are going to lose 150 car parking spaces due to the application proposals. The car park management agreement records that there will be a minimum of



136 spaces. The plan produced with the application shows 126 spaces which is a reduction of 10 because two roads are included. If you look at the access from the car park to the medical services adjacent, there are difficulties taking an elderly or injured person to access the services because the car park fills up quickly.

- 9.10 32 spaces are proposed behind the units. These spaces would be utilised by staff members of the retail units. It would also be difficult to control with delivery vehicles coming and going. With regard to the existing car park management agreement, no breaches have been notified by Sainsbury's. If notification of a breach is served then the Council have 20 days to remedy it. The application should be refused planning permission.

*Mr Adrian Tacchi*

- 9.11 Mr Tacchi is a local resident and Councillor. He objects to the proposal and draws attention to a petition in excess of 7000 names which was sent to the Council indicating the level of opposition to the application proposal. As a local Councillor Mr Tacchi is familiar with the Severn Park car park site. He confirms that it is a relatively small area of hardstanding for car parking which is predominantly used by tourists in the summer months. In winter parking is not possible on the grassed areas.
- 9.12 Mr Tacchi confirms that he measured the distance from the Severn Park hardstanding to the bus-stop at 602 metres and from the bus-stop into town to the nearest perimeter of the park is 480 metres. The path is undulating along this route. The alternative route from the Severn Park car park to the nearest bus stop would be along the road but this is unattractive because of the hazards of the road. Most people visiting Severn Park are there to have picnics. The route from the nearest bus stop into High Town is circuitous, travelling around a local estate before making its way into the town centre.
- 9.13 Mr Tacchi confirmed that the park and ride service does not go anywhere near Low Town. The 101 bus service stops a considerable distance from Severn Park. In addition Severn Park is susceptible to flooding during the winter months and is under water because of its location on the lower reaches of the river.
- 9.14 With regard to the 32 car parking spaces proposed at the rear of the units, the Inquiry has heard that this area would be serviced by up to 5 lorries a day. People would also be expected to use the rear car park to access the medical centre but it is not accepted that a wheelchair would be able to negotiate the path around the rear of the building.

*Councillor David Cooper (Bridgnorth Town Council)*

- 9.15 Councillor Cooper objects to the proposal. He wished to clarify that the Council's position in relation to the car parking capacity on the Severn Park site is 80 spaces on the hardstanding area and 200 overall as the car park is currently used. The grassed areas have barriers installed between October and March to protect the grass and prevent parking as those areas are used in rugby training in the winter season.

## Written Representations

- 9.16 There have been many other written representations objecting to the proposal at both application stage and subsequent to call in. Copies of all of the written representations which were sent to the Council at the application stage are contained within the yellow ring binder marked 'File 2'. Copies of all of the written representations sent to the Planning Inspectorate are to be found inside the red folder. Many of the letters of objection repeat the concerns set out above by others and support the Chamber's case
- 9.17 The local Member of Parliament, Mr Philip Dunne MP, has written two letters forwarding representations on behalf of Mr Cooksey and Mr Robbins. The Bridgnorth Town Council recommends refusal on the grounds of loss of car parking provision and increased parking demand are unacceptable and the retail impact unknown. The Bridgnorth Chamber of Commerce forwarded a petition to the Council signalling its objection. The petition contains 6, 840 signatures. Bridgnorth CPRE object on the basis that the design does not resemble the historic High Street and the new units would draw trade away from the town centre.
- 9.18 A series of objections from third parties was received by email. The objections relate to concerns about the loss of car parking, the scale and form of development not being in keeping, retail impact on town centre businesses, the proposal will affect tourism locally creating congestion issues, the modern units would diminish the historic value of the town centre, the loss of long stay spaces to be replaced by fewer short stay spaces would be detrimental. Other concerns were that there would be an adverse effect upon the Whitburn Street/Pound Street junction Air Quality Management Area and a comment that local businesses do not need more shops.
- 9.19 Some representations were in support contending that the proposal is what the town needs and would provide shopping opportunities which currently residents must travel out of town for. One resident referred to it as 'a wonderful change and a help to the people living in Bridgnorth, particularly those who do not drive.'

## Planning Conditions

- 10.1 A schedule of agreed conditions was included in the SCG<sup>72</sup> by the Council and Applicant and was the subject of a round-table discussion at the Inquiry. Other amended conditions and additional conditions<sup>73</sup> were submitted as the Inquiry progressed. I am satisfied that all of the conditions set out in Annex B hereto are reasonable and necessary and I would recommend their imposition in the event that the Secretary of State is minded to grant planning permission for this application.
- 10.2 Using the same numeration as that in the suggested conditions schedule in the SCG I shall comment upon the conditions. Some conditions have been amended or amalgamated for clarity, precision, elimination of duplication and

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<sup>72</sup> Appendix 2, SCG

<sup>73</sup> Inquiry documents 14 and 17.

having taken account of advice in the Planning Practice Guidance. I have also re-ordered the conditions.

- 10.3 It is necessary to impose a time limit for the commencement of development and to secure development in accordance with the relevant plans (1, 2). I would recommend a condition limiting the hours of construction and demolition works to protect residential amenity (3). A condition requiring a construction method statement is required (4). In the event that development proceeds a scheme of archaeological works is required to protect relevant interests (5).
- 10.4 In the interests of visual amenity a condition is necessary to control the materials used for the external surfaces and I have enlarged this condition to include details of the materials for all hard-surfaces within the development(6). It is necessary to require a scheme to cater for foul and surface water drainage (7) and to protect trees during construction (8 & 9). A tree planting scheme is required and its implementation to ensure a satisfactory development (10 & 11). In the interests of biodiversity it is also necessary to require nesting boxes (12). In the interests of sustainability two electric charging points are required (13). To ensure the safe operation of the development car parking spaces shall be provided before opening (14).
- 10.5 It is important to control the nature of development and the quantum of retail floor space in accordance with suggested condition (15). I now turn to consider the three 'Additional Conditions' submitted<sup>74</sup>. The first condition requires a service management plan to prevent service delivery vehicles entering the area behind units 4 and 5 and would be necessary in the interests of pedestrian and customer safety. The second condition prevents deliveries between the hours of 0900 and 1800 and would be necessary in the interests of pedestrian safety. The third additional condition provides for the walkway to the rear of the retail units to be re-designed and would be necessary to provide suitable access arrangements.
- 10.6 Inquiry Document 14 sets out some further additional conditions. The first three are duplicate conditions already considered. The fourth suggested condition requires details of a car park management plan for the period of the construction works which would be necessary to minimise disruption. The fifth condition required further details of the raised platform to access the rear parking area. The sixth condition is necessary in the interests of crime prevention and I have incorporated its provisions within condition (13) in the Annex. Finally the seventh condition required the unit doors to be inward opening only. I do not consider this necessary given that the hours of service deliveries are to be restricted and the width of the walkway would be increased.

### **Planning Obligation**

- 10.7 The executed agreement made in accordance with section 106 of the Town and Country Planning Act 1990 secures the payment of £100,000 in relation to redesign of the Innage Lane car park to optimise car parking capacity and a

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<sup>74</sup> Inquiry document 17.

contribution towards a variable message signage in relation to town centre parking. The Applicant raises no objection to any of the obligations sought.

- 10.8 Prior to the Inquiry the Council submitted a 'Statement of Compliance with CIL Regulations' setting out its justification for each of the contributions sought in accordance with the policy tests set out in the Framework and the statutory test in regulations 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The contributions support policy objectives in CS policies CS6 and CS7 as well as SAMDev policies MD1, MD2, MD8 and S3. The Highway Authority required the contributions during the consultation process and having regard to the Applicant's Transport Assessment.
- 10.9 If the Secretary of State is minded to grant planning permission for the development I am satisfied that the contributions requested are necessary to render the development acceptable in planning terms and they are directly related to the development. Having regard to the costings set out in the justification statement I am also satisfied that they are fairly and reasonably related in scale and kind to the development proposed.
- 10.10 Overall I conclude that the obligations in the s106 agreement meet the tests in CIL regulation 122 and the same policy tests in the Framework<sup>75</sup> and I would recommend that they be taken into account in assessing the application. The Council also gave evidence to the Inquiry as to the number of pooled contributions in relation to these matters. There are no other contributions to consider and I am satisfied that the financial contribution does not fall foul of the pooling restrictions in regulation 123 of the CIL regulations.

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<sup>75</sup> § 204

## Inspector's Conclusions

*In this section the numbers in [subscript] refer to preceding paragraphs*

- 11.1 Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
- 11.2 In this case the Council and Applicant are agreed that the proposal is in conformity with both the development plan and with national policies relating to retail proposals and the protection of town centres.<sup>[6.39, 7.4, 7.38-7.42]</sup> The Chamber does not accept those conclusions and has questioned a number of the variables contained within the retail impact assessment (RIA). It contends that it has not been firmly established that the application scheme would not have a significantly adverse impact upon the vitality and viability of the town centre.<sup>[8.64-8.67]</sup> In addition it contends that the loss of car parking spaces would be detrimental to the health of the town centre.

### **Retail Impact due to the proposed units**

*The appropriate retail impact tests*

- 11.3 The CS and SAMDev aim to protect the vitality and viability of existing town centres with a 'town centres first' approach supported by the application of a sequential approach to site selection and the application of an impact test. SAMDev policy MD10b provides that the Council will not permit proposals which have *'a significant adverse impact on town centres'* or where it is considered that the scope of the impact assessment is insufficient. These policies are in conformity with national retail policy in the Framework which sets out the need for a sequential test for main town uses not in an existing centre, followed by an impact assessment. The Framework advises that refusal should follow where an application fails to satisfy the sequential test or *'is likely to have a significant adverse impact'* on a number of factors, one of which is town centre vitality and viability. National guidance in the PPG provides further details in relation to the application of sequential and impact tests.<sup>[4.1-4.5]</sup>
- 11.4 On the Proposals Map the application site is located partly within the designated town centre and partly outside it<sup>76</sup>. Having studied the inset map alongside the site plan, I would estimate that the whole of unit 1 (the coffee shop) and part of unit 2 would actually sit within the town centre boundary. However the parties are agreed that the proposal should be looked at in its entirety and treated as being edge-of-centre for the purposes of the policy tests and I would endorse that approach.<sup>[5.2]</sup> I turn now to examine the retail tests.

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<sup>76</sup> CD E.3.4 Inset Map showing Bridgnorth town centre

*The sequential test*

- 11.5 The site is located around 200 metres from the defined Primary Shopping Area on Whitburn Street. The defined town centre comprises two distinct parts, with the larger part in High Town focussed on the main street and streets off it and including the Sainsbury's superstore and its car park. In the Low Town area the town centre is located around the intersection of the two main streets. Low Town and High Town are separated by the River Severn and connected by the Bridgnorth Cliff Railway, a funicular railway.
- 11.6 Existing development in the defined town centre is quite densely concentrated and the Council agreed with the Applicant that the only other site which could potentially be the subject of a sequential assessment was the Meredith's Yard Car Park. This too is an edge-of-centre site and as such is not sequentially preferable to the application site. It is used as a car park for an existing store (H&M) and the landowner has confirmed that the site is not available<sup>77</sup>. In any event this site is materially smaller than the application site and it is an irregular shape. As such I accept that it is not capable of accommodating the development proposed.
- 11.7 Mr Cooksey put forward a suggestion that the former Country Casuals shop unit in the town centre could be used.<sup>[9.6]</sup> This site is significantly smaller than what is proposed and has recently been taken up by Boots and as such is unavailable<sup>78</sup>.
- 11.8 It is clear from the above that there are no other available or suitable sites which are sequentially preferable to the application site. I therefore conclude that the sequential test is passed. All three main parties are agreed on this matter.<sup>[5.2, 7.6, 8.58]</sup>

*Retail context*

- 11.9 Before applying the retail impact test it is useful to set out the context within which the application is being made. Evidence before the Inquiry includes the 'Bridgnorth District Council Retail Study 2006-2021' dated August 2006<sup>79</sup> which formed part of the evidence base to the SAMDev. In addition the Applicant has undertaken a new Household Shopper Survey<sup>80</sup> which uses the same study zones as those in the 2006 study. The Chamber has also conducted its own survey of Businesses in 2017 to obtain the views of business owners on a variety of issues.<sup>81</sup>
- 11.10 The 2006 retail study identified Bridgnorth as the largest centre in the District (as it was at that time), accounting for 76% of convenience and comparison goods shopping. However the study revealed a high level of leakage of expenditure from the Bridgnorth area to higher order centres such as Kidderminster, Shrewsbury and Telford. Across the district in the clothing and footwear sector nearly 80% of spending was directed to destinations outside the district, two-thirds of all household goods spending was outside the district

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<sup>77</sup> Mr Newton appendix 1

<sup>78</sup> Mr Newton appendix 2

<sup>79</sup> CD E.5.1

<sup>80</sup> Mr Newton appendix 4

<sup>81</sup> Summarised in Mr McCallum's tables 5.2- 5.5

and there was leakage of around 80% of the total spending from other sectors including furniture and carpets, DIY goods and electrical items<sup>82</sup>. In simple terms some £60m on comparison goods is being spent outside the district by residents from within the district.<sup>[6.9]</sup>

- 11.11 Mr West, on behalf of the Council, confirmed in evidence that there have been no other developments since the 2006 Study which could ostensibly change shopping habits to any material degree so as to render the conclusions of the Study out of date. It is also of note that the RIA has made an allowance for special forms of trading in the form of internet shopping to reflect current shopping habits. I am content that the 15% allowance is a reasonable allowance and that the study provides a respectable basis upon which to conduct an assessment.
- 11.12 The Study confirmed capacity for additional comparison goods floorspace in Bridgnorth of around 3,000 square metres (net) in 2016, increasing to 5,100 square metres (net) in 2021<sup>83</sup>. The conclusions section confirmed that if the application site came forward for comparison retail development there would be no requirement to identify additional sites for new comparison retail floorspace until 2015. It went on to suggest '*The extension to town centre should be at Old Smithfield to reflect the current commitment for open Class A1 non-food retail*'.<sup>84</sup>
- 11.13 The Applicant's 2017 Household Shopper Survey<sup>85</sup> shows that Bridgnorth Town Centre has a comparison goods market share from shoppers in Bridgnorth and Highley (Zone 1) of 34%. Some 63% of comparison goods expenditure generated by residents in zone 1 is spent outside the district<sup>86</sup>.
- 11.14 The Applicant has also updated the GOAD survey of High Town taken in 2013 with its own Town Centre Health Check<sup>87</sup>. The composition of the town centre retail units has remained fairly consistent between 2013 and 2017 as demonstrated by the figures for diversity of uses<sup>88</sup>. Vacancy rates have also remained constant at around 15% and are below national average. The 14 or 15 units which are currently vacant are dispersed around the centre and are primarily in smaller units.
- 11.15 The town centre comprises a number of historic buildings and provides an attractive shopping environment. Bridgnorth was named Town Centre of the Year in the Large Market Town Class in 2016<sup>89</sup>. All of the evidence indicates that it is a viable and vital centre with no underlying issues. The parties are all agreed that the centre is in good health.<sup>[5.3, 7.8, 8.3, 8.8]</sup>

### *Retail Impact as a result of the new units*

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<sup>82</sup> Retail study § 3.13

<sup>83</sup> Page 24, table 5.2

<sup>84</sup> Ibid § 5.48

<sup>86</sup> Table 3, RIA

<sup>87</sup> Appendix 6, Mr Newton.

<sup>88</sup> Ibid table 2

<sup>89</sup> Mr McCallum proof of evidence §5.16

- 11.16 In examining retail impact I propose to firstly examine any impact of the proposed retail units themselves on the performance of the town centre before going on to look at the potential impact in retail terms of the loss of car parking spaces. This was the approach agreed by all of the experts<sup>90</sup>. It is agreed that there are no existing, committed or planned public and private investments in Bridgnorth town centre. Therefore the first limb of the Framework's retail impact test<sup>91</sup> is not relevant to my deliberations.
- 11.17 The RIA contains a set of variables, a number of which are agreed by the parties. Inquiry document 12 comprises a schedule setting out the differences and agreements between the Applicant/Council on the one hand and the Chamber on the other.
- 11.18 The Applicant's original RIA<sup>92</sup> used generic sales density figures in the absence of information about the retailer line-up. As part of his evidence Mr Newton updated the RIA to include specific projected turnover given that the likely retailer line-up is now known. Other adjustments were made to utilise more recent Experian data. The base year is agreed at 2017 and the design year is agreed at 2022.
- 11.19 All experts are agreed upon the total market share in relation to comparison goods and consequently the level of leakage is also agreed.<sup>[6.9, 7.11]</sup> The town centre turnover is also agreed.<sup>93</sup> Town centre turnover in relation to comparison goods is £35.3m in 2017, projected to rise to £39.9m in 2022.<sup>94</sup>
- 11.20 Turnover of the proposed scheme: the turnover of the scheme has been almost halved in the revised assessment from the original RIA. This is due to the application of benchmark turnover rates of the individual prospective occupiers. Mr Newton gave evidence to the effect that contracts have now been exchanged with Costa Coffee, Peacocks and Poundstretcher with heads of terms agreed with Mountain Warehouse and Pets at Home<sup>95</sup>. It is entirely appropriate to update the RIA with better information on turnover rates given that the likely occupiers are now known. There is no dispute about the benchmark rates applied for each of the individual identified occupiers.
- 11.21 Mr McCallum points out that the A3 café floorspace has not been taken into account in the turnover figures and that it would compete with town centre cafes and it could also be changed to an A1 retail use. Costa Coffee are now committed to the scheme. Whilst they have a shop on the High Street they have confirmed that this would continue to operate<sup>96</sup>. I do not accept that the coffee shop would draw a material amount of trade from other A3 uses in the town. It would be more likely to service shoppers visiting the units. Based on the revised turnover figures, if the A3 use converted to A1 it would increase the turnover by around £372,000. In any event as already recorded, this unit would be located within the town centre boundary.

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<sup>90</sup> Accepted by Mr McCallum in cross-examination

<sup>91</sup> §26

<sup>92</sup> CD A.9

<sup>93</sup> Inquiry document 12

<sup>94</sup> Mr Newton appendix 7, tables 4-6 and summarised in table 7.2

<sup>95</sup> Examination in chief

<sup>96</sup> Mr Newton appendix 9



- 11.22 A point of dispute emerged regarding the ratio used to convert the gross floor areas to net retail floorspace. Given the modern box type units I agree with Mr McCallum that 85% is a more realistic figure. Applying this to the Applicant's revised turnover figures would result in an estimated scheme turnover of £5.09m.<sup>97</sup> [6.5]
- 11.23 There was a further dispute about the application of a floorspace efficiency growth rate to the scheme's projected turnover given that such a growth rate had properly been applied to the town centre turnover between the base year and design year. The growth rate applied to the town centre turnover was as a result of productivity improvement factors. I appreciate that, if the application is successful, the development scheme may not exist until the design year. However, operators are always seeking to improve sales densities across their stores and any efficiencies would no doubt apply equally to the scheme. I therefore conclude it would be appropriate to apply an efficiency growth rate.
- 11.24 In the absence of more persuasive evidence I prefer the Applicant's suggestion that the correct growth rate to apply is the compound based year on year rates taken from the Retail Planner Table 4b.<sup>[6.6]</sup> This would result in the scheme turnover increasing by a factor of 10.6% in 2022. Applying this to the revised turnover figure from above would result in an estimated scheme turnover of £5.77m<sup>98</sup>. Finally I record Mr Newton's assumption that 90% of the scheme turnover would come from the shoppers in the study area with the remaining 10% coming from visitors to the area. This would mean that £5.19m of the scheme turnover would come from within the study area.
- 11.25 Town centre turnover: I note that the 2006 retail study split comparison goods into different sectors and then arrived at a comparison goods figure. However the figures are broadly the same across the sectors and they also accord with the results in the much more recent Household Shopper Survey. I therefore accept the Applicant's figure in relation to comparison goods turnover in the town centre.
- 11.26 The Applicant's RIA forecasts an increase of £5m in the town centre turnover by 2021 based on the same market shares. This is largely attributable to increased spend per head of population as opposed to population growth<sup>99</sup>. The growth rates in comparison goods spending applied in the original RIA<sup>100</sup> have been superseded by more recent Experian Forecast growth rates and the Applicant's revised calculations have reflected this.<sup>101</sup> The projected town centre turnover in 2022 is agreed at £39.9m.<sup>102</sup> I shall work on the basis of this figure.
- 11.27 Trade diversion: This is the biggest single area of dispute which is unsurprising given that it relies upon judgments being made as to how the proposed scheme would operate and where it would get its trade from. The Applicant's

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<sup>97</sup> Inquiry document 12

<sup>98</sup> Calculated in RIA Schedule, Inquiry document 12.

<sup>99</sup> RIA Table 1

<sup>100</sup> RIA uses October 2015 Experian data.

<sup>101</sup> Mr Newton Appendix 7 tables.

<sup>102</sup> Inquiry document 12

expert considers that the proposed scheme would compete with larger stores in and outside of the study area which currently draw trade away from the study area. This assumption is made on the basis that there would not be any substantial overlap or diversion from smaller specialist stores.

- 11.28 On the Applicant's revised RIA figures some £1m of the scheme turnover would be drawn from the town centre, representing about 24% of the total drawn from the study area. The corollary is that 76% of the scheme turnover (£3.31m) would be comparison goods spending which is clawed back out of expenditure currently leaking out to other centres.<sup>[6.7, 6.8]</sup> These figures and assumptions have been endorsed by the Council's retail expert.<sup>[7.15, 7.16]</sup>
- 11.29 Whilst the Chamber has not undertaken its own RIA, Mr McCallum is of the view that the rate of trade diversion has been underestimated.<sup>[8.58-8.59]</sup> In his oral evidence Mr McCallum estimated that some 65% to 75% of the scheme turnover from the study area is likely to be drawn from the town centre. On a town centre turnover of £39.9m this would equate to an impact somewhere between 8.4% and 9.7% (based on a trade draw between £3.37m and £3.38m).<sup>103</sup>
- 11.30 The starting point for my assessment is a recognition that currently a large proportion of comparison goods expenditure leaks out of the study area. This equates to some £60m of comparison goods expenditure. It follows that there is significant scope to clawback such leakages. Bridgnorth is acknowledged as being rich in independent retailers, with specialist offers which make for a vibrant and interesting town centre. In addition it has some national comparison goods retailers and a wide range of other uses and attractions including the Cliff railway.
- 11.31 Mr McCallum points out that people in study area zones other than zone 1 would still be living nearer to the larger centres which are currently drawing them away<sup>104</sup>. However the amount of comparison goods expenditure by those residents in zones 2 to 5 represents a small proportion of the total comparison goods expenditure for the Bridgnorth centre<sup>105</sup>.
- 11.32 As a sense check I have examined the trade draw in relation to one of the units. On the Applicant's analysis unit 5 would be occupied by 'Pets at Home' with a projected total turnover of £1.78m, 90% (£1.6m) of which is projected to come from the study area. The Applicant therefore forecasts that the level of trade diverted from the town centre to this unit would be £384,000. On Mr McCallum's figures the level of trade drawn from the town to this unit would be in the order of £1.04m to £1.2m (65% or 75%). There is currently one pet shop in the town, with some pet products being sold at more generalist stores and at the Sainsbury's superstore. Currently there are Pets at Home stores in Kidderminster and Telford.
- 11.33 The 2017 Household Shopper Survey records that some 54.7% of people in zone 1 shop in Bridgnorth for pet products, with a total of 23.5% of respondents from the district shopping in Bridgnorth for such products. A

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<sup>103</sup> Inquiry document 12, retail impact schedule

<sup>104</sup> Mr McCallum proof § 6.11

<sup>105</sup> RIA tables 4 and 5

quick examination of all respondents from the district choosing to buy pet products from Kidderminster and Telford town centres or the two identified retail parks in Telford<sup>106</sup> reveals that a combined total of 31.5% respondents from the district are travelling to these centres to purchase pet products. Some 27% of respondents from zone 1 are travelling to these other 4 destinations for pet products.

- 11.34 A 'Pets at Home' store would offer a wider range of goods and services than the current town centre offer and in a larger format. The figures indicate that shoppers in zone 1 do 54% of shopping for pet needs in Bridgnorth. Given the larger scale format and wider range of goods I am satisfied that the new unit would represent an excellent opportunity to claw back some of the 45% expenditure on pets needs which is currently spent outside the study area. Similarly given the nature of the current offer in this category I conclude that the Applicant's estimate of £384,000 trade draw from the town centre is more realistic.
- 11.35 Unit 2 would be occupied by Peacocks and the original RIA shows a projected turnover of £0.98m for this unit, some £0.88m of which would be derived from the study area. Applying Mr Newton's assumptions there would be a diversion of some £206,000<sup>107</sup> to the store from the town centre compared to Mr McCallum's projected diversion of £572,000 to £660,000<sup>108</sup>. Mr McCallum points out that Peacocks would share a similar market to M&Co and that such stores are not major attractors in their own right. These stores may or may not be major attractors in their own right. However for residents in zone 1 they would be conveniently located in the nearest centre and as such would offer an additional option and more variety to clothes shoppers. Bearing in mind the proportion of comparison goods shopping which is done outside the district I conclude that Peacocks would represent a convenient alternative to travel out of town. I conclude that the Applicant's estimates of trade draw are likely to be more representative. I see no need to repeat the exercise for the remaining units.

### *Conclusions*

- 11.36 The proposed scheme would include units larger than those commonly found in the existing centre. They would be operated by recognised national retailers currently without a presence in the town. They would be in a convenient location very close to the town centre. As such I consider that the units are more likely to complement the current offer in the town rather than compete with it. I am satisfied that there would not be a significant degree of overlap between the town centre offer and the scheme.
- 11.37 Bridgnorth is a principal centre which serves a large rural hinterland. Kidderminster and Telford, and their retail parks, are the centres which are, in large measure, attracting Bridgnorth shoppers to do their comparison goods shopping there. Given the large scale of the leakage (£60m) and the potential to clawback that expenditure, I conclude that the projections of the Applicant

<sup>106</sup> Telford Forge Retail Park and Wrekin Retail Park

<sup>107</sup> £0.88m x 23.5%

<sup>108</sup> £0.88m x 65% (and x 75%)

are far more representative of what would be expected if the scheme proceeded. The clawback of around £3.31m is a relatively modest proportion of the total comparison goods expenditure lost from the district. It would represent the clawback of some 5% of expenditure which is currently being lost from the district.

- 11.38 Having regard to all of the above factors I am more than satisfied that the level of trade diversion is likely to be around the levels estimated by the Applicant and endorsed by the Council. I have adjusted the scheme turnover to record that £5.19m of the scheme turnover would come from within the study area. Applying a trade diversion rate of 23.5% equates to a trade draw of £1.22m. Even with the adjustments which I have made to the scheme turnover the retail impact upon the town centre would be around 3%.
- 11.39 Hypothetically if the trade diversion was higher than that estimated by the Applicant and Council but lower than that estimated by the Chamber, say 40%, the scheme would acquire £2.01m of its trade revenue from the town centre. In this scenario the impact on the town centre would be around 5%. I do not accept that the diversion would be this high and for the reasons stated I prefer the Applicant's diversion assumption of 23.5%. I have merely adjusted the diversion figure as a sense check. I further record that Mr McCallum agreed<sup>109</sup> that if the RIA was accepted as a robust assessment, then he agreed that 4.7% impact would not be a significantly adverse impact.
- 11.40 Finally I must bear in mind that the above assessment has only taken into account comparison goods shopping. The scheme would not present a challenge to the convenience goods sector in the town. If both sectors were combined the retail impact on the town centre as a whole would be less<sup>110</sup>. I also bear in mind the coffee shop. It is within the town centre boundary and even if it changed use to an A1 use, its limited floor-space means that it would not materially affect the assessment above.
- 11.41 I have conducted the above assessment as a straightforward retail impact assessment. The Applicant makes other points in relation to the way in which the units would operate as an integral part of the town centre generating linked trips between the two and increasing the vitality of the town centre. Mr McCallum believes it would operate as a separate retail adjunct. However Sainsbury's superstore would be immediately next door and that is located within the town centre. The existing car park is well-used by town centre shoppers who have a short walk to Sainsbury's or into the town. It is already operating as a town centre car park.
- 11.42 In my view the site, with its associated parking, would operate as part of the town centre. The site is already popular as a parking area providing ready access to the town centre and the development scheme would represent a logical expansion to the centre. I agree that it is likely to generate linked shopping trips whereby people wishing to shop in the town centre for some goods would also utilise the new units and vice versa. All of these additional

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<sup>109</sup> During cross-examination by Mr Choongh

<sup>110</sup> As agreed by the Applicant and Chamber (Inquiry document 12)

factors mean that I am wholly satisfied that the RIA is robust and should be accepted subject to the minor adjustments I have made to turnover.

11.43 In conclusion, I have examined the RIA and the points of dispute between the parties. Drawing all of the above findings together I am satisfied that the trade diversion from Bridgnorth town centre would be around 3%. I conclude that the retail proposal would not have a significant adverse impact on the vitality and viability of the Bridgnorth town centre.

### **Retail impact due to a reduction in car parking**

11.44 I shall firstly set out factual matters in terms of the current levels of car parking in the town, whilst examining the points of difference between the parties. I shall then carry out my assessment as to the consequences of the proposal in terms of demand, car parking provision and mitigation measures. At the outset I make it clear that I do not consider a numerical evaluation pre-development and post-development to be an appropriate means of assessing the effect of car parking in terms of its retail impact. A lack of parking is a factor which may affect the retail function of the town if it is chronic and begins to deter shoppers from visiting the town or altering their shopping habits. However, it is not the quantum of car parking which is relevant to my assessment but its availability relative to demand at particular times.

11.45 Evidence on car parking/transport matters was provided by Mr Hanafin for the Applicant, Ms Lawley for the Council and Mr Robbins as Chairman of the Chamber of Commerce.

#### *Existing car parking provision and survey evidence*

11.46 The town has four main car parks in High Town; they are Sainsbury's superstore, Old Smithfield car park (the application site), Meredith's Yard car park and the Innage Lane car park. They are all within a 5 minute walk of the town centre. Two smaller car parks are found in the centre of town at Listley Street North and South.<sup>[6.20]</sup> Low Town has a number of car parks at Severn Street, Riverside, Severn Park and finally a small car park associated with the Co-operative and M&S stores.

11.47 The Chamber and Mr Cooksey point out that the application site was the subject of attempted compulsory purchase order (CPO) proceedings in 1992.<sup>9.2]</sup> I am informed that the emerging local plan at that time had identified a need for additional car parking. The land was subsequently acquired by the Council by negotiation and the CPO proceedings abandoned.<sup>[8.9]</sup> I acknowledge that this action was indicative of the need for car parking at that time. However those proceedings were over 25 years ago and in a different local and national policy context. I do not consider that the position as it was then is of any great assistance in assessing the current situation.

11.48 Details of the numbers of car parking spaces across all car parks are provided in Mr Hanafin's evidence<sup>111</sup>. Whilst the number of spaces at Severn Park is estimated to be 200, this relates to parking both on the rough gravelled area

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<sup>111</sup> Table 3, page 12.

and on the grassed area. I accept the evidence of the Council<sup>112</sup> that there is a permanent provision of some 80 spaces on the hardstanding and temporary provision of a further 120 spaces on the grass, predominantly during the summer months.<sup>[8.17]</sup>

11.49 The Applicant has focussed its surveys and analysis on the four main car parks (the study area). Total capacity of these four car parks was calculated at 1022 in 2015 and 990 in August 2017<sup>113</sup>. The Chamber highlights a reduction in car parking provision of 32 spaces.<sup>[8.12]</sup> In addition it should be noted that some 81% of people who go into the town centre do so by car.<sup>[8.8]</sup>

11.50 The Applicant estimates that the number of spaces across the 7 car parks in the town is approximately 1229<sup>114</sup>. In addition Mr Hanafin estimates that there are around a further 250 on-street spaces around town. On Saturdays these figures are reduced by virtue of the markets on Meredith's Yard and on the High Street. Mr McCallum also looked at the capacity of the four main car parks on a Saturday and estimated it to be in the order of 743 spaces. The difference between his figure and that of the Applicant's is largely due to the amount of car parking spaces occupied by the Saturday market. However, Mr Hanafin's figures are based on actual survey evidence obtained from surveyors going to the site on a Saturday and counting spaces. By contrast Mr McCallum appears to have used google earth to estimate the number of spaces. For this reason I consider the estimates of the Applicant to be more reliable.

11.51 The Applicant's Survey Evidence: The application site currently provides approximately 278 car parking spaces.<sup>115</sup> The planning permission for the DIY store on the site includes the provision of 136 car parking spaces. Table 3 of Mr Hanafin's evidence<sup>116</sup> sets out the parking availability and number of spaces. Across the four main car parks there are 990 spaces available on Mondays to Fridays and 813 spaces on a Saturday.

11.52 The Applicant carried out car park occupancy surveys for the four main car parks on one Friday and one Saturday in each of October 2015, August 2017 and September 2017. I accept that, as one of the busiest weekdays, that Friday is representative of all weekdays. These surveys<sup>117</sup> revealed that there was spare capacity in each of the 4 main car parks at all times on a Friday, with one limited exception. Meredith's Yard car park was fully occupied for one hour (1200-1300 hours) on one Friday (August 2017). At that particular time there was plenty of spare capacity across the other three car parks.<sup>[6.24]</sup>

11.53 The Saturday survey evidence in October 2015 revealed virtually 100% occupancy across all four car parks between 1200 and 1300 hours, with the Smithfield and Meredith's Yard car parks at full occupancy between 1000 hours and 1600 hours. The August 2017 survey revealed that Smithfield and Meredith's Yard car parks were at full occupancy for a three hour period<sup>118</sup> on a

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<sup>112</sup> Ms Lawley table, page 18.

<sup>113</sup> Mr Hanafin table 5 and tables 6 and 7

<sup>114</sup> Mr Hanafin's table 3 total with a deduction for the 120 seasonal spaces on Severn Park.

<sup>115</sup> Mr Hanafin proof of evidence § 5.1.3

<sup>116</sup> Page 12

<sup>117</sup> Mr Hanafin's tables 5, 6 & 7

<sup>118</sup> Between 1100 hours and 1400 hours

Saturday, with the Sainsbury's car park at full occupancy for the first hour of this period. At this time maximum occupancy of the Innage Lane car park was 91% for a one hour period commencing at noon. The September 2017 Saturday survey revealed fully occupancy of Meredith's Yard for one hour between 1000 and 1100 hours with the Smithfield car park approaching full occupancy (98%) between 1200 and 1300 hours. Maximum occupancy of Innage Lane was 42% and Sainsbury's was at 89% for a one hour peak.

- 11.54 The Applicant's analysis concludes that there is always spare capacity across the four car parks during weekdays and a short window of a few hours on a Saturday when all of the car parks are full<sup>[6.23, 6.24]</sup>. Mr Choongh fairly records this period as being a 5 hour window in October 2015 and a 3 hour window in September 2017.<sup>[6.24 footnote]</sup>
- 11.55 In recent months there have been roadworks in the Bridgnorth area, details of which are set out in Inquiry document 8. They reveal a series of 'night closures' in September 2017 and five 24 hour closures in September and October 2017. Mr Robbins gave oral evidence about the effects of four-way traffic lights causing tailbacks to the Kidderminster junction. In addition the Chamber points to a television news report which publicised the roadworks generally and a report in the local newspaper<sup>119</sup>. Mr Robbins believes that the car park data collected during this period would not be representative, with demand being lower than normal.<sup>[6.22, 7.22, 8.24, 8.25]</sup>
- 11.56 The road closures were sporadic and not on the Applicant's survey days. The news report contains comments from one trader<sup>120</sup> in the town and reference to '*stores saying trade is down by as much as 20%*'. This is largely anecdotal and unsubstantiated.
- 11.57 The Applicant's evidence of car parking demand in 2015 is the only other evidence outside the roadworks period which could provide a useful comparison. The longer period of full occupancy of the car parks in the Applicant's Saturday survey in 2015 (5 hours) contrasts with a slightly shorter period of full occupancy in the Saturday surveys in August 2017 (3 hours) and September 2017 (1 hour). The figures across all of the surveys are broadly comparable, with a slightly greater demand evidenced in the August 2015 survey.<sup>[6.23]</sup>
- 11.58 Taking all of the above matters into account I accept that the roadworks may have had a minor impact in terms of reducing the levels of traffic coming into the town centre and suppressing the consequential parking demand. Even if the disruptions were not on survey days, they could affect the perceptions of shoppers in terms of the relative ease of getting into town during the period of the roadworks. Nevertheless in performing my assessment I am satisfied that there is enough data across the three surveys to form a representative picture of parking demand across the four car parks. The figures are relatively consistent across the three surveys.

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<sup>119</sup> Mr Robbins appendix C.4.2

<sup>120</sup> Tanners Wines in High Street

- 11.59 The survey evidence on behalf of the Chamber: the Chamber's evidence relates only to the car park on the application site (the Smithfield car park). The Chamber installed a closed-circuit television camera on a number of occasions between July and September 2017 and recorded footage of the car park and in particular the entry and exit points of the car park.<sup>121</sup> Mr Robbins analysed data from the footage taken over 5 Saturdays and concluded that the car park was full to its current capacity of 278 spaces for between 4 and 6 hours on these Saturdays.
- 11.60 In my view shoppers always want to park as close to their shopping destination as possible. Of the 4 main town centre car parks I consider the application site to be the most convenient in terms of its location and ease of access from the wider road network. I note Mr Robbins contention that the application site is the main car park for the town<sup>122</sup>. It is therefore unsurprising that this car park fills up before others in the town. Whilst Mr Robbins provides useful data on the level of car parking use and demand for the Smithfield car park, it does not present the full picture of car parking availability across the town. As an approach I prefer that of Mr Hanafin who has looked at the four main car parks.
- 11.61 The Chamber also conducted a survey of businesses<sup>123</sup> to ascertain their views. Some 66% of business owners who responded to the survey confirmed that they considered car parking availability to be poor or very poor. This contrasts with the Household Shopper Survey evidence<sup>124</sup> which recorded that a total of 14.9% of all respondents cited not enough spaces as one of the things they disliked about Bridgnorth town centre.<sup>[8.11]</sup>
- 11.62 There is also the matter of the number of parking contravention notices (PCNs) issued to drivers in Bridgnorth. Mr Robbins produced evidence to the Inquiry<sup>125</sup> in the form of the average PCNs per head of population and an article in the Shropshire Star. The data reveals that Bridgnorth has the highest number of PCNs per head of population in the district. The newspaper article records that the 'top five car parks' for car parking tickets were in Bridgnorth, Ludlow and Shrewsbury. The Chamber put forward this evidence on the basis that it included the numbers of PCNs issued in Bridgnorth town centre and included contraventions with regard to on-street parking, as well as contraventions in car parks. At the Inquiry the Council confirmed that the evidence related only to PCNs issued in relation to the car parks.
- 11.63 A subsequent Freedom of Information Act request resulted in an article in the Shropshire Star confirming that Bridgnorth High Street has had some 2,037 tickets issued in the last 3 years for on-street parking offences. This was almost 600 more than the next highest street in Shrewsbury. Over a three year period it is clear that on average two PCNs have been issued in Bridgnorth each day. This does not seem unduly high for a busy high street. There is no other contextual information about the nature and levels of parking in other centres and no comparisons are available between the different

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<sup>121</sup> Mr Robbins proof of evidence § 4.1

<sup>122</sup> Proof of evidence §2.2

<sup>123</sup> Mr McCallum appendix DAM 5.4 and tables 5.2, 5.3, 5.4, 5.5

<sup>124</sup> Mr Newton appendix 4, question 28, page 46.

<sup>125</sup> Appendices E-5.1a, E-5.1b and E-5.1c



centres. The figures do not shed any light upon the particular parking context in Bridgnorth. In any event I do not consider that this information, an average of two PCNs a day, is indicative of a significant shortage of parking within the town. This much was accepted by Mr Robbins on behalf of the Chamber in any event.<sup>[7.30]</sup>

- 11.64 Other matters relevant to the current provision: the Chamber runs a Park and Ride Scheme on Saturdays from the Cattle Market car park at Tasley. The service has operated in the summer months from Spring 2015 through to September 2017. It is a free service paid for by donations from local businesses and operated by volunteers and has proved successful in attracting people. I note Mr Robbins' written evidence that the Chamber is unable to guarantee its future, given the reliance on volunteers and on the current landowner. <sup>[8.13 & 8.14]</sup>
- 11.65 The Chamber also point to the comments of the Leader of Shropshire Council when he made reference to the possibility of a multi-storey car park and said that if money became available that Bridgnorth would be '*near the top of the list for investment*'<sup>126</sup>. This comment is unsurprising given Bridgnorth's acknowledged role in servicing the town and its rural hinterland.<sup>[8.42]</sup>
- 11.66 Currently some 4% of visitors to town arrive by bus<sup>127</sup>. In her oral evidence Ms Lawley confirmed that funding for bus services is expected to be reduced by up to 75%. The 101 bus service is an hourly bus service around Bridgnorth town travelling between Low Town and High Town. Mr Hanafin contends that it provides the option of shoppers parking in the Severn Park car park and walking to the 101 bus stop at the junction of Bridge Street. This entails a walk along the river bank and a wait for the hourly bus service into High Town. Given the nature of the walk and the circuitous bus route this is likely to only be an attractive option for those planning longer visits into the town and not doing large volumes of shopping. For the more energetic, having walked to Bridge Street it would not take long to walk across Bridge Street and undertake the short but steep walk into town. <sup>[8.39]</sup>
- 11.67 Given the reputation of Bridgnorth for its independent shops and quaint charm it is not surprising that it is successful in attracting day-visitors and tourists. The Cliff railway provides another means of transport from High Town from Low Town. Again visitors could park in Low Town and utilise this return service. Given the cost (£1.60 return) I conclude that the Cliff Railway is more likely to be used by tourists and day-trippers rather than regular shoppers. For those visitors intent on spending a longer, leisurely day in Bridgnorth outside the winter months, this could prove to be an attractive option.

#### *Policy considerations*

- 11.68 The development plan does not contain any parking standards.<sup>[6.17]</sup> In policy terms the Framework<sup>128</sup> confirms that local authorities should seek '*to improve the quality of parking in town centres so that it is convenient, safe and*

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<sup>126</sup> Mr Robbins appendix I-7.5

<sup>127</sup> Mr Newton appendix 4, question 34

<sup>128</sup> Paragraph 40

*secure.....'* This is reinforced in the PPG<sup>129</sup> which advocates the improvement of the quality of parking '*and where it is necessary to ensure the vitality of town centres, the quantity too.*' The PPG also advises against the use of maximum standards and requires Councils to ensure that provision is appropriate to the needs of the development. The PPG also advises that restrictions on car parking, both on-street and off-street can positively discourage the use of the private motor car. Development plan objectives in relation to the need to encourage more sustainable travel choices are in line with national policy. [6.15]

11.69 There is no suggestion that the existing car parks in town are not of sufficient quality, they are adequately surfaced and marked out, generally with easy access and well-lit. Mr McCallum put forward the view that convenience in terms of ease of access was part of a consideration of quality. Some time was spent at the Inquiry debating whether the Framework objective to improve the quality of town centre car parks also included the need to consider increasing the quantum. There are a number of policy strands running through the Framework and the supporting PPG. These include the need to encourage travel by non-car modes, protect town centres, improve the quality of town centre car parks and, where necessary and appropriate, to increase the amount of car parking. [7.24]

11.70 A further debate occurred regarding the interpretation and application of CS policy CS8 which seeks to protect existing facilities and services and facilitate the timely provision of additional facilities, services and infrastructure. The Chamber contends that infrastructure includes the protection of car parking. The whole thrust of policy CS8 is directed at the development of sustainable places in Shropshire with safe and healthy communities. The first bullet point refers to the protection and enhancement of existing facilities, services and amenities and makes no mention of infrastructure. The third bullet point of CS8 seeks to, amongst other things, facilitate the timely provision of '*additional infrastructure to meet identified needs*' and the fourth bullet point encourages the provision of infrastructure where it has no significant adverse effect on environmental assets. I would agree with the Council that this does not denote a blanket protection for all existing car parking.

*Demand from the units and adequacy of the proposed provision and mitigation*

11.71 Demand: The level of demand for car parking arising as a result of the retail units was calculated in the Transport Assessment<sup>130</sup> using a standard methodology and the TRICS database. The daily profile of arrivals and departures was projected and a car parking accumulation profile was predicted. This is the 'demand' referred to. During the weekday peak demand from the scheme was put at 40 spaces between 1300 and 1400 hours with Saturday peak demand of 70 spaces between 1400 and 1500 hours. [6.25]

11.72 Mr McCallum questioned the TRICS data on the basis that it was unrepresentative of the proposal at hand and its particular context. The Chamber did not put forward any other data sources. The data on trip rates

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<sup>129</sup> Paragraph 001, Ensuring the Vitality of Town Centres, PPG

<sup>130</sup> CD A.11

revealed that 2 of the 11 weekdays related to Fridays but the data for the 11 days was averaged and applied to Fridays. Given that Friday is generally the busiest weekday this may have underplayed the level of trip generation. Mr McCallum makes other points in relation to the size of the proposals and their locations. However the TRICS database is an accepted industry tool and I am satisfied that the correct filters<sup>131</sup> were applied in interrogating the TRICS database.

- 11.73 The Transport Assessment makes reference to research undertaken by TRICS into linked trips drawing upon a number of surveys. The TRICS report suggested that the proportion of multi-purpose or linked trips is, on average, 53%<sup>132</sup>. This figure was applied by the Applicant and supported by the Council<sup>133</sup>.<sup>[7.27]</sup>
- 11.74 Mr McCallum puts forward an alternative approach by using a parking standard commonly applied to non-food retail development of 1 space per 20 square metres floor-space<sup>134</sup>. This is based upon Bridgnorth parking standards from 2004 and would equate to a requirement for 129 spaces. Making an allowance for 1 in 4 of the trips to be linked, Mr McCallum estimates an additional demand for 100 spaces arising as a result of the retail units. The assessment that 1 in 4 trips would be linked trips is unsupported.
- 11.75 The true additional demand, arising as a result of shoppers going to the retail units only, is likely to be materially less than 47%<sup>135</sup> in my view. This is because some shoppers choosing to park in the application car park to go into town may be tempted to add on some shopping at the retail units for the sake of convenience. Similarly some shoppers whose intended destination is the retail units would be likely to use the opportunity to pop into the town centre to do other shopping.
- 11.76 Given the location of this proposal, the nature of its provision and its proximity to both the town centre and Sainsbury's I am satisfied that it is likely that many more than half of the trips would be linked trips. As such I conclude that an estimate of 53% of linked trips is a conservative estimate. Taking all of the above matters into account I prefer the Applicant's demand figure.
- 11.77 Proposed car parking provision: In terms of provision the application depicts 126 spaces to the front of the units permanently available to shoppers. A further 32 car parking spaces are proposed for use as short stay parking on a Saturday. They are in a row on the site's north-western boundary located behind the units.<sup>[6.29]</sup> This is shown on the site plan<sup>136</sup>. During the Inquiry I raised two queries about the layout. The first query was about the safe operation of these spaces to the rear of the units given that tracking for service deliveries is depicted in front of the spaces. A similar point was raised by the Highways Authority during the application process, with the Highways Authority concluding that the 32 spaces should not be taken into account given

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<sup>131</sup> Set out at §6.2 Transport assessment.

<sup>132</sup> Transport Assessment paragraph 6.3, page 18

<sup>133</sup> Confirmed by Mr Hanafin in his examination in chief, and applied in table 11

<sup>134</sup> Mr McCallum proof §6.47

<sup>135</sup> ie 53% linked trips so 47% sole trips.

<sup>136</sup> CD A.2.2

the potential for conflict between delivery vehicles and pedestrians<sup>137</sup>. [6.29, 8.28, 8.29]

- 11.78 Having considered matters the Council and Applicant put forward three additional conditions<sup>138</sup> for consideration. One of the conditions prevents retail deliveries between the hours of 0900 and 1800hours Mondays to Sundays when the car parking spaces are likely to be in greatest use. The second condition requires a service management plan to be implemented to include measures designed to prevent delivery vehicles entering the narrower area immediately behind units 4 and 5. I am satisfied that, all other things being acceptable, the imposition of these conditions would allay any concerns about the risks of a conflict between service delivery vehicles and shoppers.[7.29]
- 11.79 The second concern in terms of the layout of the car parking was in relation to the narrow walkway depicted wrapping around the northern corner of the units and providing access from the rear parking area to the pedestrian walkway running alongside the Health Centre. The walkway is shown as being very narrow with doors opening out onto it from the units. A tight corner would make it difficult to navigate for physically impaired shoppers or parents with pushchairs. The additional condition suggested would require a redesign of this walkway with further details submitted for approval and minimum standards. Again I am satisfied that this would overcome the concerns which I raised with the parties. It follows therefore that I conclude that the 32 spaces depicted to the rear of the units can be taken into account as part of the provision. [8.30]
- 11.80 Hospital and disabled parking: Other concerns were raised by the Chamber about parking being lost to people attending at the hospital and the loss of disabled spaces. There are currently 16 disabled spaces on the Smithfield car park, they are located along the northern edge of the car park closest to the boundary with the hospital/medical centre. The proposal contains provision for 11 disabled spaces, with four spaces along the northern boundary with the Health Centre and the others arrayed in front of the units. The Council accepts that the level of disabled provision in the proposed car park would meet its standards<sup>139</sup>.
- 11.81 The Health Centre/Hospital has a small car park in front of it and what appears to be some staff parking wrapping around to the rear. Ms Lawley confirmed that there are around 25 spaces in the car park for which there is no charge. Whilst the car park has had barriers in the past, it no longer has any. Mr Robbins has counted the spaces and confirms that there are around 48 spaces with 4 disabled bays. This second estimate accords more with my own observations on my site visit. Mr Robbins further confirmed that the hospital has 25 beds, does minor operations and has an accident and emergency department. His evidence was that a barrier system was previously in operation but kept breaking and was not repaired. Mr Robbins observed that the car park was generally full.[9.4]

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<sup>137</sup> CD D.1.1, page 6.

<sup>138</sup> Inquiry document 17.

<sup>139</sup> Confirmed by Ms Lawley in cross examination

11.82 The hospital and health centre car park is open to all-comers given that there is no barrier or ticketing system and it is a free car park. These matters could be addressed to ensure its use only by patients and other hospital users. It is not for the application site to make provision for the car parking needs of adjacent users. The number of overall car parking spaces is being reduced and proportionately the reduction in the number of spaces for able bodied persons is greater than the reduction in disabled spaces. The Council has confirmed that the quantum of disabled spaces as a proportion of the overall proposed car parking accords with its own standards. I am satisfied therefore that the provision is acceptable and that the requirements of the Equality Act have not been contravened.<sup>[8.44 - 8.46]</sup>

#### *Mitigation Measures*

11.83 Innage Lane Improvements: in addition the proposal is accompanied by the section 106 agreement, which would provide a contribution towards reconfiguration of the layout of the Innage Lane car park and removal of recycling facilities<sup>140</sup>. Currently an area on the eastern boundary of this car park is used for coach parking for school bus service during the week. The proposal would see this area used for additional car parking on a Saturday with coach parking maintained during weekdays. It would result in an additional 37 spaces on a Saturday. Inquiry document 13 sets out additional evidence from the Council's highways officer explaining how the arrangements could be brought into force.<sup>[6.31, 7.28]</sup>

11.84 The Chamber raised concerns about the practicability of the above arrangement and safety concerns about car drivers misunderstanding revised signage and seeking to park in coach bays during week days. In addition the Head-teachers of St Leonard's CE School and Bridgnorth Endowed Schools emailed to express safety concerns about any possible changes to coach parking in the Innage Lane car park<sup>141</sup>.<sup>[8.35]</sup>

11.85 On one of my weekday site visits I observed the operation of the Innage Lane car park at around school closing time. The car park started to fill up with cars around 1500 hours, with coaches arriving thereafter and parking in a line along the boundary. Prior to this time the car park was only about 20% full. It is likely that most of the cars parked in the car park during school closing and opening times are those of parents collecting and dropping off their children. As such they will be familiar with the operation of the car park and the location of the coach parking in any event. I do not consider that a change in the markings to allow car parking in the coach bays at weekends would be misinterpreted. The car parking was operating efficiently when I observed it and I see no reason for this not to continue with the revised markings in place.

11.86 Ms Lawley's additional evidence explains how the bays could be signed with the current coach parking area being zoned and having particular signage applying to it. I am satisfied that such an arrangement could be implemented and would operate in such a manner as not to cause material harm to the safety of car park users and other pedestrians.

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<sup>140</sup> Mr Hanafin appendix J

<sup>141</sup> Mr Robbins appendix G-7.4

- 11.87 If planning permission is granted the proposed changes would have to be subject to a Traffic Regulation Order promoted by the Council and subject to public consultation on the process. Given that the Council has already applied itself to the question of changed markings and agreed that they are acceptable in principle without raising safety concerns, I conclude that it is likely that a traffic regulation order would be obtained. I see no reason why these changes should not be taken into account on the basis of that there would be a strong possibility that such an order would be made.<sup>[8.34]</sup>
- 11.88 Loss of recycling facilities: The revisions to both the application site car park and the Innage Lane car park involve the loss of current recycling facilities in order to optimise car parking capacity. These changes would provide 16 additional spaces at Innage Lane. The Council confirms that there are now kerbside recycling collections undertaken by the Council, a new household waste centre in Bridgnorth and other recycling facilities in the town centre. I am satisfied that the loss of facilities on the application site car park and the Innage Lane car park would not materially diminish the opportunities for recycling.<sup>[7.31]</sup>
- 11.89 Enforcing short stay parking: the Applicant confirms that the 3 hour car parking limit would be enforced on the application site car park to improve through-flow of shoppers. Currently shoppers can pay £0.80 to park for one hour, £1.00 to park for 2 hours or £3.00 to park for up to 10 hours.<sup>142</sup> The Applicant has produced evidence regarding the proportions in which the ticket types have been purchased. Some 18% of shoppers purchased a £3 ticket on a Saturday entitling them to stay up to 10 hours<sup>143</sup>. Mr Hanafin has estimated that an additional 208 vehicles would be able to park on a Saturday if a 3 hour limit was imposed<sup>144</sup>. However this is predicated upon an assumption that all shoppers purchasing a £3 ticket are actually staying for 10 hours.
- 11.90 There is no evidence in relation to how long those shoppers in receipt of a £3 ticket have stayed over and above the proposed 3 hour limit. Notwithstanding this I do accept that enforcement of a 3 hour limit would free up some capacity. Those shoppers wanting to stay for longer periods would be able to avail themselves of the Innage Lane car park provision where long stay parking would remain an option<sup>145</sup>. As such I am satisfied that a policy of returning the application site to short(er) stay parking would not materially affect shopping behaviours of shoppers in terms of the level of expenditure.<sup>[8.37]</sup>
- 11.91 Ms Lawley also gave evidence that some 85 season ticket permits were issued for the Smithfield car park and the Council is looking to phase these out. A reduction in the number of permits would potentially improve the availability of spaces.
- 11.92 Live signage: the section 106 agreement secures a financial contribution of £100,000 towards car parking redesign and signage. The Council's

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<sup>142</sup> Ms Lawley proof of evidence table 3

<sup>143</sup> Mr Hanafin Table 8

<sup>144</sup> Proof of evidence §7.3.3

<sup>145</sup> See Mr McCallum's Car Parks plan at the front of his appendices.

breakdown<sup>146</sup> refers to 4 sites potentially having parking variable message signs which would provide real-time information about available car parking spaces around town. This would represent a significant benefit, enabling shoppers on entering the town to locate an available space more easily and informing them quickly when car parks are full. This would reduce the need for shoppers to take their chances by driving around town looking for spaces. It may also encourage more sustainable modes of travel to complete a journey into town.

*Other potential factors influencing future demand*

- 11.93 Westgate: The Chamber expressed concerns about the future loss of car parking at the Westgate offices. Ms Townend's Inquiry Note 11 sets out the position with regard to this car park. The car park serviced the Council offices at Westgate which is located away from the town centre to the west. Planning permission has been granted for residential development and looks likely to proceed. It would appear that the car park has been used on an informal basis by local people since the closure of the Council offices in 2014. I have visited this site on weekdays and at the weekend. It is some distance out of town and I consider it an unlikely prospect for shoppers looking to park somewhere to visit the town centre. I conclude that its redevelopment is highly unlikely to increase demand as a result of the displacement of parking. [6.26, 8.12]
- 11.94 SAMDev S3: this policy sets out the strategy in relation to Bridgnorth Town and confirms that around 500 homes are planned on sites allocated in Bridgnorth. The Chamber points out that the first allocation is on land from which the current Park & Ride Scheme operates. However I agree with the Applicant's contention that any parking and transport issues would fall to be decided and addressed at application stage when a travel plan would have to be produced. [6.27, 8.13] On behalf of the Council Ms Lawley confirmed<sup>147</sup> that the two sites are within walking distance of the town centre and the Council would seek to promote sustainable modes of travel when considering the application.
- 11.95 The construction period: Mr McCallum has raised concerns about the effects of a construction period upon the town's vitality. He estimates that construction could take up to 18 months during which time most if not all of the car park would be inaccessible. The Applicant has guaranteed to maintain a level of car parking during the construction phase which Mr Hanafin considered would be shorter than 18 months<sup>148</sup>. A condition has been put forward requiring a temporary car park management plan to be submitted to cover the construction period. This would control the provision of a minimum number of spaces throughout construction and, if planning permission is to be granted, I would recommend its imposition.

*The position post-development*

- 11.96 Mr McCallum records that the Business Survey estimates that Saturdays is the best day for non-comparison goods shopping with 28% of turnover on that day. I note that it is around 17% on Fridays and around 12% for other

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<sup>146</sup> CIL compliance statement.

<sup>147</sup> In her examination in chief.

<sup>148</sup> In his oral evidence.

weekdays. The Chamber's point is that on the busiest day of the week for sales, a reduction in car parking is proposed. Mr Robbins' analysis calculated not only the current spare capacity in the Smithfield car park but also the spare capacity if the number of spaces were to be reduced to 126. He concludes that if the Smithfield car park was reduced in size, then, based on current demand, there would be an unsatisfied demand on Fridays between 9am and 4pm as the Smithfield car park would be full. Over the 11 days surveyed Mr Robbins estimated that for some 61 hours the car park had in excess of 126 cars in it.<sup>149</sup>

- 11.97 In terms of the current car parking capacity I have adopted the estimates of the Applicant<sup>150</sup> for the reasons given. More importantly I have concluded that an analysis of car parking occupancy rates should not just look at the application site car park in isolation. Whilst the Chamber's advocate refers to this as a bell-weather, the Chamber also asserts that the application site is the main town centre car park. I agree that it is likely to be the car park of first choice for many users. As such it is likely to fill up first. When it is at full occupancy, it is evident that for much of the time there is spare capacity on the other car parks in the study area.
- 11.98 The Applicant's analysis confirms that there is always spare capacity across the four car parks during weekdays but a short window of between 3 and 5 hours on a Saturday when all of the car parks in Mr Hanafin's study area are full.
- 11.99 Post-development I have concluded that some 158 car parking spaces would be provided, with 32 of these to the rear of the units. This would be acceptable. In addition I consider it reasonable to take into account the 56 additional spaces which would be provided at the Innage Lane car park on a Saturday as a result of the removal of recycling and the removal of coach parking on weekends. The strict enforcement of short-stay parking up to 3 hours would, to some degree, increase capacity although I conclude that it is unlikely to be to the extent envisaged by the Applicant. The live signage would be a significant improvement providing real-time information to drivers about the availability of car spaces. It also has the potential to persuade drivers to utilise other modes or other car parks in Low Town.
- 11.100 In terms of the additional demand arising as a result of the retail development I have preferred the Applicant's estimate for the reasons given. I have concluded that the numbers of linked trips estimated at 53% are likely to be conservative and therefore the additional demand estimated by the Applicant would probably be lower. There are no other factors which would materially affect demand post development which should reasonably be taken into account.
- 11.101 Taking all of the above conclusions together I accept that there would be no shortage of car parking spaces in the study area on weekdays. The proposal would result in a net reduction of 64 car parking spaces, assuming

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<sup>149</sup> Ibid § 4.5

<sup>150</sup> Noting that the Severn Park car park can only accommodate 200 vehicles when parking on the grass is permitted/tolerated.



the improvements to the Innage Lane car park were implemented<sup>151</sup>. At its peak the development would generate a demand for 33 additional spaces after taking into account linked trips<sup>152</sup>.

11.102 I have largely accepted the Applicant's analysis which indicates that there would be a 40 space shortfall on Saturdays between 1200 and 1300 hours and a smaller shortfall of 6 spaces between 1300 and 1400 hours. I also note that this analysis relates only to the 4 car parks in the study area and does not include on-street parking, the Listley Street car parks and the Low Town car parks. The advent of live-time information on parking availability would bring a benefit in directing drivers efficiently to available spaces and could potentially encourage the use of alternative car parks or other transport modes to finish journeys into town.

11.103 Mr McCallum estimated that each car would on average contain 2 people with an assumed spend of £20. This was accepted by the Council.<sup>[6.33]</sup> Applying these figures to the analysis above would result in a loss of £0.1m over 52 Saturdays. This would be on the unlikely assumption that the expenditure of all of the drivers unable to park on a Saturday would be lost to the town centre. Taken together with the retail impact on the town centre arising from trade diversion, I conclude that the retail proposal would not significantly affect the vitality and viability of the town centre.

## Other Matters

### *Air quality*

11.104 An Air Quality Management Area (AQMA) has been declared around the Whitburn Street/Pound Street junction. Nitrogen dioxide pollutant levels have been measured at some 25% above the national target level in this area<sup>153</sup>. The Council has produced a Draft Air Quality Action Plan<sup>154</sup> with a strategy for improvement. The main contributors to such pollution are motor cars and any increased traffic movements would exacerbate the problem. Cars circling the town looking for parking spaces increase such movements. The introduction of live signage would improve this situation. In addition the provision of 2 electric charging points on the retail frontage would assist with sustainable transport objectives.

11.105 In support of the application an Air Quality Assessment<sup>155</sup> was produced. The assessment modelled nitrogen dioxide levels at various receptor points without development and with development. With development in place and with the mitigation measures there was a negligible beneficial effect at 9 of the 10 receptor locations and a slight beneficial effect at one. The conclusions of the Air Quality Assessment were accepted and supported by the Council's Public Protection Officer<sup>156</sup>. I accept the findings of the assessment and I conclude

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<sup>151</sup> Current provision 278 spaces. Proposed provision 158 + 56 representing the improvements to Innage Lane = 214 spaces.

<sup>152</sup> Demand 70, linked trips 53%. Therefore 70 x 47%=33 spaces

<sup>153</sup> CD D.1.1 Committee report §4.1.7

<sup>154</sup> Inquiry Document 7: dated March 2008

<sup>155</sup> CD B.3

<sup>156</sup> CD D.1.1 committee report §6.7.16

that the proposal would not compromise the objectives set out in the Council's Action Plan.

*Heritage considerations*

- 11.106 The proposal is depicted on the application plans and illustrated in 6 computer generated views<sup>157</sup>. The application site is located to the south of the Innage Gardens Conservation Area and to the west of the Bridgnorth Conservation Area<sup>158</sup>. The proposed building would be single storey with a linear frontage broken up by a roof profile which would include 4 pitched sections and two longer sections with curved roofs. The frontage would include large glazed sections with metal cladding and facing brickwork. The building would align with the Northgate Health Centre. Mature trees to the rear of the building would be retained and supplemented.
- 11.107 The Bridgnorth Conservation Area: is some 54 metres to the east of the site and comprises virtually the whole of the historic area of the town extending from the Endowed school down to the railway line. It includes Castle Hill, the medieval town gates, parish churches and the commercial streets. The impression is of a well preserved historic market town which has retained much of its historic fabric and interest.
- 11.108 From the application site there are limited views into the conservation area. There is a historical connection between the application site and the conservation area which, given its proximity to the conservation area, forms part of the setting of this designated asset. The application site has a gravelled surface which is uneven and showing signs of wear and tear. Further, I accept Dr Wigley's contention that, as a surface level car park, the site represents something of a gap in the urban fabric sitting between Sainsbury's and the Health Centre. The proposal would close this gap in a respectful manner and as such I agree that it would represent a small improvement to the setting of the conservation area. As such the statutory and framework tests are satisfied. [7.36]
- 11.109 The Innage Gardens Conservation Area: is a more compact conservation area located to the north of the application site. The application site and conservation area are separated by a line of mature trees and the Northgate Health Centre. Given the degree of separation and lack of inter-visibility between the application site and this heritage asset I am satisfied that it does not contribute to the significance of the conservation area or form part of its setting.
- 11.110 Archaeological Interests: the Applicant's Written Scheme of Investigation<sup>159</sup> contains details of historic maps and indicates that the development site is adjacent to a site of archaeological interest. Dr Wigley considers that any findings are likely to be of, at most, local level importance<sup>160</sup>. Dr Wigley is content that the programme of works set out in

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<sup>157</sup> CD B.1.1-6 views 1 to 6

<sup>158</sup> Shown in appendix 1 to Dr Wigley's proof

<sup>159</sup> CD A.12

<sup>160</sup> Proof §3.7

the Written Scheme of Investigation would mitigate any potential loss of significance. Such works could be secured by condition.

*Fallback and other material considerations*

- 11.111 In determining the application the Council came to the conclusion that the proposal was acceptable in its own right without consideration of any fallback positions. In the event that the Secretary of State concludes that the retail impact of the scheme is unacceptable then the Applicant wishes him to take into account two suggested fallback positions as material considerations.<sup>[6.36]</sup> The Applicant's first proposition is that the Council is currently in breach of the car park licence agreement. As such it contends that Sainsbury's could commence forfeiture proceedings to bring the licence agreement to an end. If the license is forfeited the car park use would end and there would be no barrier to redevelopment. <sup>[7.32-7.34]</sup>
- 11.112 The Council accepts that there has been a breach. Whilst it is not part of my remit to adjudicate on any alleged breach of this contractual agreement, I am satisfied that there is a respectable basis for contending that there has been a breach. Ultimately this is a private contract between the Council and the Applicant and both parties agree that there has been a breach. The Council's position is that it is unlikely to defend any forfeiture proceedings. I therefore consider that forfeiture is more than a theoretical possibility in this case and the loss of the car park licence is a material consideration to be taken into account. It would represent a significant reduction in car park capacity and result in a worse position than the application proposal.
- 11.113 I further note that the licence agreement only requires the provision of 136 car parking spaces. The advocate for the Council puts forward the uncontested view that the development could proceed in any event without any breach of the licence agreement.<sup>[7.34]</sup>
- 11.114 The Applicant's second proposition is that it could build out the consented scheme in the form of the permission for the DIY building. All three main parties agree that there has been lawful implementation of the outline planning permission.<sup>[7.35]</sup> Mr Cooksey does not agree that implementation has taken place but for reasons which I shall come to, I need not trouble myself with this question.<sup>[9.3]</sup> Whilst the Council accepts that this represents a fallback position, the Chamber has argued that there is no realistic prospect of it being implemented and it therefore is not a material consideration.<sup>[6.38, 7.35]</sup>
- 11.115 The Chamber question whether or not the permission for a DIY store would be implemented in current market conditions and given the proximity of local DIY stores in other centres. This permission includes provision for 136 car parking spaces<sup>161</sup> and the Chamber's view is that if the 32 spaces to the rear of the current proposal were excluded the current application would represent a worse position than the DIY store. For the reasons I have already given I consider it acceptable to take the 32 spaces to the rear into account and therefore I conclude that the current application would give rise to more parking than the 2004 planning permission. As such, if it was a realistic

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<sup>161</sup> CD G.1.1 Outline Planning Permission condition (7)

proposition, the 2004 permission would represent a worse position and is a relevant consideration.

11.116 The DIY store has not been built in the 13 years since consent was granted. There is no evidence before me as to developer interest in the event that the current application fails. Mr McCallum painted a pessimistic picture of the DIY sector and this part of his evidence was unchallenged. Many large DIY stores have been closing in recent years. There is already local provision in nearby centres. There are 18 pre-commencement conditions which would need to be discharged and no evidence of any efforts to do so. Irrespective of any disputes about implementation and having regard to all of these matters I conclude that there is nothing more than a theoretical possibility that this development might take place.<sup>162</sup> It follows that I recommend that the Secretary of State should not take the outline planning permission into account as a relevant fallback position.<sup>[8.51-8.54]</sup>

11.117 Having regard to all of the above matters I conclude that the landowners could exercise their rights to reduce the car park to provide 136 spaces without any further proceedings. Alternatively I have concluded that the risk of forfeiture proceedings is more than a theoretical possibility. If either of these scenarios came to pass they would represent a worse position than that proposed as a result of the application scheme. They are therefore material to any determination.

### **Overall Conclusions**

12.1. I have made findings that the retail proposal would result in a trade diversion from Bridgnorth town centre in the order of 3% or some £1.22m. It would act as a logical extension to the town centre and would improve the retail offer of the centre in terms of comparison goods retailing. As such it would make a modest reduction in the comparison goods expenditure currently leaking out of the district. Some £3.31m would be clawed back from a total leakage of around £60m. Of all of the figures in the RIA it is the level of leakage which is the most striking. On any analysis increased retention of expenditure within the district can only be beneficial in terms of the vitality of the town centre and also in terms of reducing travel to other centres.

12.2. The proposal would result in a reduction in car parking from current levels and would bring with it an increased demand. Subject to the mitigation measures put forward I am satisfied that the impact of the proposal in terms of car parking reduction would not be significant in retail terms. I am firmly of the view that the levels of linked trips estimated in the RIA are conservative and the actual increased level of demand arising from trips solely to the retail units would not be as high as estimated.

12.3. In combination the retail impact from trade diversion and car parking effects would be around £1.32m of comparison goods turnover. This would not amount to a significant adverse impact on the vitality and viability of the Bridgnorth town centre. As such the proposal is in conformity with the policy

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<sup>162</sup> Gambone v SSCLG [2014] EWHC 952 (Admin)

tests in both development plan and national policy and set out at the beginning of my conclusions.

- 12.4. At the heart of the Framework is a presumption in favour of sustainable development. This means that development proposals which accord with the development plan should be approved without delay. Having regard to all of my findings I conclude that the proposal is in conformity with the development plan as a whole. The other relevant material considerations all militate in favour of development in any event. The proposal would bring economic investment and activity to Bridgnorth; it would result in additional job creation<sup>163</sup>; there would be the clawback of expenditure and more sustainable travel patterns and a small environmental benefit in terms of the improvement to the setting of the Bridgnorth Conservation Area. All of these factors weigh in favour of the grant of planning permission. Finally there is the matter of the fallback position which is a relevant consideration.

### **Recommendation**

- 12.5. For all of the above reasons I therefore recommend that the Secretary of State grants planning permission for this planning application subject to the list of conditions set out in Annex A and having regard to the obligations in the section 106 agreement.

*Karen L Ridge*

INSPECTOR

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<sup>163</sup> Circa 80 full and part time jobs §9.3 Mr Newton's proof of evidence.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Christian Hawley of Counsel      Instructed by Ms Miranda Garrard, Shropshire Council legal services.

He called  
Ms Lawley BSc (Hons)      Developing Highways Area Manager (South),  
Shropshire Council

Mr West BA (Hons) MCD      Principal Policy Officer, Shropshire Council  
MRTPI

Ms Townend BSc (Hons)      Principal Planning Officer, Shropshire Council  
MA MRTPI

### FOR THE APPLICANT:

Mr Satnam Choongh of Counsel

He called

Mr Hanafin CIHT ILT TPS      Highways Engineer, Royal HaskoningDHV

Mr Newton BA (Hons)      Partner, Barton Wilmore  
DipTP MRTPI

### FOR THE CHAMBER OF COMMERCE:

Mr Jack Smyth of Counsel      Instructed direct by the Chamber of Commerce

He called

Mr Robbins      Chairman, Bridgnorth Chamber of Commerce

Mr McCallum BA(Hons)      Planning Consultant, DPDS Consulting Group  
MPhil MRTPI

### INTERESTED PERSONS:

Mr Cooksey      Retired former solicitor and local resident  
Mr Adrian Tacchi      Resident of Bridgnorth  
Councillor David Cooper      Bridgnorth Town Council

## DOCUMENTS SUBMITTED TO THE INQUIRY (INQUIRY DOCUMENTS)

- 1 Development Management Report dated 9 November 2010 in relation to Meredith's Yard, Old Smithfield Road, Bridgnorth, Shropshire, submitted by the Applicant.
- 2 Planning Permission reference 09/03035/FUL dated 19 October 2009 in relation to Meredith's Yard, Old Smithfield Road, Bridgnorth, Shropshire, submitted by the Council.
- 3 Opening Submissions on behalf of the Applicant.
- 4 Opening Statement on behalf of Shropshire Council.
- 5 Opening Submissions on behalf of the Bridgnorth Chamber of Commerce.
- 6 Letter of notification of the inquiry, submitted by the Council.
- 7 Bridgnorth District Council Draft Air Quality Action Plan March 2008, submitted by the Council.
- 8 Email from the Council's highways department regarding dates for works on the Bridgnorth bypass, email dated 9 November 2017.
- 9 Photograph of Severn Park pay and Display charging details, submitted by the Applicant.
- 10 Certified copy of an executed Planning Obligation dated 8 November 2017, submitted by the Council and Applicant.
- 11 Note from Karen Townend following cross-examination, submitted by the Council.
- 12 Schedule of agreed and disputed retail matters between the Chamber and the Applicant.
- 13 Innage Car Park updated submitted by Ms Lawley, on behalf of the Council.
- 14 Inspector's additional suggested conditions.
- 15 Closing Submissions on behalf of Shropshire Council.
- 16 Further additional conditions submitted by the Council.
- 17 Closing submissions on behalf of the Bridgnorth Chamber of Commerce.
- 18 Closing submissions on behalf of the Applicant.
- 19 Additional Evidence submitted by Stephen Robbins on Behalf of the Chamber of Commerce.
- 20 Shropshire Council response to additional evidence.
- 21 Royal HaskoningDHV Note
- 22 Mr Robbins email dated 31 January 2018

## **CORE DOCUMENTS**

### **FOLDER (A) Planning Application Documents Date**

- A.1 Application Form & Certificate 10 June 2016
- A.2 Site and Scheme Drawings Prepared by Hitchman Stone
- A.2.1 Site Location Plan: SK14/69/11
- A.2.2 Site Plan: SK14/69/12 Rev G
- A.2.3 Ground Floor Plan: SK14/69/13 Rev E
- A.2.4 Roof Plan: SK14/69/14 Rev B
- A.2.5 Typical Sections: SK14/69/15 Rev B
- A.2.6 Proposed Elevations: SK14/69/16 Rev E
- A.3 Existing Layout Plan prepared by Ridge: 151878-RDG-XX-00- XX-C-001
- A.4 Topographical Survey Plan prepared by Midland Survey Ltd: 22621/1
- A.5 External Services Layout Plan prepared by The Engineering Practice: 1971/E100 Rev P1
- A.6 External Lighting Lux Levels Drawing prepared by The Engineering Practice: 1971/E101 Rev P1
- A.7 Design and Access Statement prepared by Hitchman Stone 20 June 2016
- A.8 Planning Statement prepared by Barton Willmore June 2016
- A.9 Retail Assessment prepared by Barton Willmore June 2016
- A.10 Statement of Community Involvement and Appendices prepared by Gough Bailey Wright May 2016
- A.11 Transport Statement prepared by Royal Haskoning DHV 20 May 2016
- A.12 Written Scheme of Investigation for Archaeological Works prepared by CGMS March 2016
- A.13 Arboricultural Report prepared by ACS Consulting April 2016
- A.14 Arboricultural Layout Drawing prepared by ACS Consulting: 3331/101
- A.15 Landscape Strategy Plan prepared by DSA: 1008 001 B
- A.16 Drainage Summary Statement prepared by Ridge: 151878
- A.17 Phase 1 Desk Study & Phase II Geo-Environmental Investigation prepared by Pam Brow Associates March 2016

### **FOLDER (B) Planning Application Documents & Correspondence from Applicant submitted after the Initial Submission**

- B.1 CGI's prepared by Hitchman Stone
- B.1.1 View 1
- B.1.2 View 2
- B.1.3 View 3 – Old Smithfield Car Park
- B.1.4 View 4 – from North East on Old Smithfield
- B.1.5 View 5 – from South West on Old Smithfield
- B.1.6 View 6 – from Bridgnorth Cricket & Hockey Clubhouse
- B.2 Existing Car Park Management Agreement 4 July 2008
- B.3 Air Quality Assessment prepared by Royal Haskoning DHV 9 September 2016
- B.4 Advice from Shoosmiths 30 August 2016
- B.5 Additional Information on Highways and Transportation Matters prepared by Royal HaskoningDHV 31 October 2016
- B.6 Additional Information on Highways and Transportation Matters prepared by Royal Haskoning DHV 22 December 2016
- B.7 Letter from Ziran Land to Planning Committee Members and Plan of Approved Development 6 January 2017
- B.8 Additional Information from Ziran Land 23 February 2017

### **FOLDER (C) Planning Application - LPA Correspondence**

- C.1 Application Registration Letter 30 June 2016



#### **FOLDER (D) Officers Reports to Committee**

- D.1.1 Officers Report to Planning Committee Meeting held on 10 January 2017
- D.1.2 Minutes of Planning Committee Meeting held on 10 January 2017
- D.2.1 Officers Report to Planning Committee Meeting held on 7 March 2017
- D.2.2 Minutes of Planning Committee Meeting held on 7 March 2017

#### **FOLDER (E) Planning Policy / Guidance Documents**

- E.1 The National Planning Policy Framework March 2012
- E.2 Extracts from Planning Practice Guidance
  - E.2.1 Ensuring the Vitality of Town Centres
  - E.2.2 Determining a Planning Application
  - E.2.3 Conservation & Enhancing the Historic Environment
  - E.2.4 Design
  - E.2.5 Transport Evidence Bases in Plan Making and Decision Taking
  - E.2.6 Travel Plans, Transport Assessments and Statements
- E.3 Shropshire Council Development Plan Documents
  - E.3.1 Core Strategy (Adopted March 2011)
  - E.3.2 Site Allocations and Management of Development (SAMDev) Plan (Adopted December 2015)
  - E.3.3 Adopted Policies Map 2015 – S3 Bridgnorth Place Plan Area
  - E.3.4 Adopted Policies Map 2015 – Bridgnorth Inset 1
- E.4 Emerging Local Plan
  - E.4.1 Shropshire Local Plan Review – Consultation on Issues and Strategic Options – 23 January 2017 – 20 March 2017
  - E.4.2 Local Development Scheme June 2017
- E.5 Shropshire Council Evidence Base Documents
  - E.5.1 Bridgnorth District Council Retail Study – 2006 to 2021 (Prepared by White Young Green 2006)
  - E.5.2 Place Plan for Bridgnorth and surrounding area 2015-2016
- E.6 Sustainable Design SPD – July 2011
- E.7 Developer Contributions SPD – July 2011
- E.8 Planning for Walking prepared by Chartered Institution of Highways and Transportation (CIHT) - April 2015
  - E.9 Providing for Journeys on Foot prepared by CIHT - 2000
- E.10 Shropshire Local Transport Plan – Provisional LTP Strategy 2011-2026 (March 2011)
- E.11 Shropshire Parking Strategy - December 2010
- E.12 Shropshire Bus Strategy 2016-2021
- E.13 Draft Shropshire Parking Strategy
- E.14 Shropshire Council Highway Waiting Restrictions Plans for Bridgnorth Town Centre
- E.15 DCLG Written Statement by Mr Eric Pickles 25<sup>th</sup> March 2015
- E.16 Historic England – Conservation Principles, Policies and Guidance - April 2008
- E.17 Historic England – The Setting of Heritage Assets – July 2015

#### **FOLDER (F) Superseded Planning Policy Documents**

- F.1 Former Bridgnorth District Local Plan 1994 Extracts from Written Statement (Adopted 1994)
- F.2 Former Bridgnorth District Local Plan 1996-2011 Written Statement (Adopted July 2006)

#### **FOLDER (G) Planning History Documents**

- G.1 Outline Planning Application Ref: 04/0919 – Land at the Smithfield
  - G.1.1 Decision Notice 27 April 2005
  - G.1.2 Application Site Plan: CHQ.04.6255-06A
- G.2 Variation of Condition 3 of Planning Permission 04/0919 (Ref: 07/1028)
  - G.2.1 Decision Notice 11 February 2008
  - G.2.2 Proposed Site Plan: 2004-460/S73 Rev H
- G.3 Reserved Matters Application Ref: 07/0928 - for Relief Road and Town Centre Car Park pursuant to Outline Planning Permission 04/0919
  - G.3.1 Decision Notice 13 March 2008
  - G.3.2 Proposed Site Plan: 2004-460/S73 Rev H

- G.4 Reserved Matters Application Ref: 08/0239 - for extension to Sainsbury's supermarket pursuant to Outline Planning Permission 04/0919
  - G.4.1 Decision Notice 29 May 2008
  - G.4.2 Proposed Store Plan: PL04 Rev C
  - G.4.3 Proposed Elevations: PL06 Rev C
  
- G.5 Reserved Matters Application Ref: 08/0238 - for DIY retail warehouse pursuant to Outline Planning Permission 04/0919
  - G.5.1 Decision Notice 17 February 2009
  - G.5.2 Proposed DIY Store - Proposed Site Plan: PL102 Rev F
  - G.5.3 Proposed DIY Store – Elevations: PL104 Rev D
  
- G.6 Planning Application Ref: 900261 – Site of Former Smithfield Market, Whitburn Street
  - G.6.1 Decision Notice 25 October 1991
  - G.6.2 Site Plan: 90110
  - G.6.3 Committee Report
  
- G.7 Planning Application Ref: 94/0820 – Smithfield North
  - G.7.1 Decision Notice 15 February 1995
  - G.7.2 Car Park Layout – Phase 1: 125.06A
  - G.7.3 Car Park Final Layout: 125.07A
  - G.7.4 Committee Report

**FOLDER (H) Appeal / Call-In Decisions**

- H.1 APP/G2815/V/12/2190175 – Land Adjacent Skew Bridge Ski Slope, Northampton Road, Rushden (Rushden Lakes) 11 June 2014
  
- H.2 APP/V2723/V/15/3132873 & APP/V2723/V/16/3143678 – Barracks Bank, Scotch Corner 1 December 2016

**FOLDER (I) Other Core Documents**

- I.1 Tesco v Dundee, UK Supreme Court Judgment March 2012
- I.2 Aldergate Properties v Mansfield, High Court Judgment July 2016

**FOLDER (J) Call-In Inquiry Documents**

- J.1 Secretary of State Call-In Letter dated 21 April 2017
- J.2 Applicant Statement of Case
- J.3 LPA Statement of Case
- J.4 Rule 6 Party (Bridgnorth Chamber of Commerce) Statement of Case
- J.5 Pre-Inquiry Meeting – Inspector's Note of Meeting
- J.6 Pre-Inquiry Meeting – Inspector's Directions Given at Meeting
- J.7 Third Party Correspondence to PINS following Call-in
- J.8 Agreed Statement of Common Ground between Applicant and LPA, including agreed conditions
- J.9 Agreed Statement of Common Ground between Applicant and Rule 6 Party
- J.10 Draft S106 Agreement

ANNEX A- List of Acronyms

AQMA	Air Quality Management Area
AMS	Arboricultural Method Statement
CS	Core Strategy
FOI	A request under the Freedom of Information Act
'The Framework'	The National Planning Policy Framework
PCNs	Parking Contravention Notices
PPG	National Planning Policy Guidance
RIA	Retail Impact Assessment
SAMDev	Shropshire Council Site Allocations and Management of Development Plan
TPP	Tree Protection Plan

## **ANNEX B**

### List of Recommended Conditions.

- (1) The development hereby permitted shall be commenced before the expiration of three years from the date of the grant of planning permission.
- (2) The development shall be carried out strictly in accordance with the following plans and drawings, unless otherwise varied by condition in this permission:
  - Site location plan: SK14/69/11
  - Site plan: SK/69/12 revision G
  - Ground floor plan: SK14/69/13 revision E
  - Roof plan: SK/69/14 revision B
  - Proposed elevations: SK14/69/16 revision E
- (3) Construction and/or demolition works shall take place only between 0800 hours to 1800 hours on Mondays to Fridays, and between 0800 hours to 1300 hours on Saturdays. No works shall take place on Sundays, Bank Holidays or any other public holidays.
- (4) The development hereby permitted shall be for no more than five A1 retail units, of which no single unit shall have a gross floor space greater than 806 square metres (including mezzanine floor space) and no more than 186 square metres of the total gross floor space of the whole development hereby permitted shall be used as a coffee shop.
- (5) No deliveries or collections to or from the retail units shall be received or despatched between the hours 0900 hours to 1800 hours on any day of the week (including Bank Holidays and Public Holidays).

### **PRE-COMMENCEMENT CONDITIONS**

- (6) Prior to the commencement of the development hereby approved, including any works of demolition, a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout all periods of construction and demolition and shall include details of the following:
  - Details regarding the loading/unloading and storage of plant and materials used in constructing the development;
  - Provision of parking for the vehicles of site personnel, operatives and visitors;
  - Construction traffic arrangements and routeing.
- (7) No development approved by this permission shall commence until the implementation of a programme of archaeological work has been secured in accordance with the Written Scheme of Investigation (WSI) submitted by CgMs Consulting and dated March 2016.

- (8) Prior to the commencement of any above ground works, samples and details of the materials to be used in all external surfaces (walls, roofs and other external areas) and the hard-surfacing of all areas (including the car park and public walkways) shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out only in accordance with the approved details.
- (9) No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in full prior to the development being brought into use.
- (10) No development shall commence (including works of vegetation/site clearance, ground levelling and demolition) and no equipment, materials or machinery shall be brought on to the site, until a Protection Scheme has been submitted to, and approved in writing by, the Local Planning Authority. The Protection Scheme shall include details of the trees, woody shrubs and hedges to be retained on the site, as well as measures for their protection and the protection of vegetation adjacent to the site. The scheme shall be based upon the Heads of Terms of the Arboricultural Method Statement at appendix 2 of the Arboricultural Report by acs consulting dated April 2016 and shall include an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP) prepared in accordance with, and meeting the minimum standards recommended in *British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction- Recommendations* or any version which supersedes it.
- (11) All pre-commencement protection measures detailed in the approved AMS and/or TPP shall be fully implemented to the written satisfaction of the Local Planning Authority before development commences and before any development-related equipment, materials or machinery are brought onto site. Thereafter the approved measures shall be maintained throughout the periods of demolition and construction of the development, unless such time as all equipment, machinery and surplus materials have been removed from the site. The development shall be implemented in strict accordance with the approved AMS and/or TPP. Any tree protection area fenced in accordance with this condition shall be treated as a construction exclusion zone and as such vehicles shall not traverse this zone, materials shall not be stored or placed within this zone, ground levels within the zone shall not be altered and no excavation shall take place within this zone, without the prior written consent of the Local Planning Authority.
- (12) Prior to the commencement of development hereby permitted a service management plan shall be submitted to, and approved in writing by, the Local Planning Authority. This plan shall include details of the measures to prevent delivery vehicles entering the area immediately to the rear of units 4 and 5 as depicted on site plan SK14/69/12 Revision G. The approved measures shall be kept in place for the duration of the retail use.
- (13) Notwithstanding the details shown on drawing reference SK14/69/12 Revision G (site plan) and drawing 1008 001 Revision B (Landscape

Strategy), prior to the commencement of development hereby permitted, details of the pedestrian link from the rear car parking area to the front of the retail units shall be submitted to, and approved in writing by, the Local Planning Authority. These details shall include:

- A marked, and lit, pedestrian route to the rear of the car parking and motorcycle spaces; and
- A marked, and lit, pedestrian link to the side of unit 5 which shall be a minimum of 1.8 metres in width.
- Details of surveillance and other design features to ensure safe design and prevent crime within the rear car parking area and the pedestrian link.

The pedestrian link and other features shall be provided in accordance with the approved details prior to first occupation of any of the retail units hereby permitted and shall be permanently retained thereafter.

- (14) Prior to the commencement of development, a temporary car park management plan (depicting public car parking on the site to be provided at all times during the construction period) shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall include details of the following:

- A minimum number of car parking spaces;
- Management arrangements including financial charges and the enforcement of such arrangements;
- The location and access of the car park during construction phases;
- Any protective barriers necessary to separate the public areas from the construction site.

The approved temporary car park management plan shall be implemented in full prior to the commencement of development and adhered to throughout the construction period.

- (15) Prior to the commencement of development, details of the raised platform at the vehicle access point to the rear car park depicted upon plan SK14/69/12 Revision G shall be submitted to, and approved in writing by, the Local Planning Authority. The platform shall be constructed in accordance with the approved details prior to the first retail unit coming into use.

#### **CONDITIONS PRE-OCCUPATION OR DURING DEVELOPMENT**

- (16) Prior to the first use of any of the retail units hereby approved, a tree planting scheme, prepared in accordance with *British Standard 8545:2014 Trees: From Nursery to Independence in the Landscape-Recommendations*, or any version superseding it, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall include the following:

- (a) Details of the trees and shrubs to be planted in association with the development, including species, locations and density and planting pattern, type of planting stock, size at planting, means

- of protection and support, planting period and date of completion, and measures for post-planting maintenance and replacement of losses;
- (b) Details as relevant of the specification and location of the barriers to be installed (and/or measures to be undertaken) for the protection of ground reserved for the planting identified in (a) above and details of a timescale for implementation of all of these measures.
- (17) The approved scheme of tree planting and other measures required by condition (10) shall be implemented as specified and in full within the timescale approved by the Local Planning Authority. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies, is uprooted or removed, or, in the opinion of the Local Planning Authority becomes seriously damaged or diseased, another tree or shrub of a similar specification to the original shall be planted in the same location during the first available planting season thereafter.
- (18) Prior to any of the retail units hereby permitted first being brought into use, a suite of artificial nesting boxes suitable for a range of species shall be erected on the buildings in accordance with details which have been submitted to, and approved in writing by the Local Planning Authority. The details shall include the types and locations of the boxes.
- (19) Prior to any of the retail units hereby permitted first being brought into use two electric vehicle charging points shall be provided in a location in the car park which has been approved in writing by the Local Planning Authority. The charging points shall be installed as approved and shall be maintained and retained for a period of at least 10 years from the date of installation.
- (20) Prior to any of the retail units hereby permitted first being brought into use the car parking spaces depicted on Site Plan: SK14/69/12 Revision G shall be constructed and laid out with materials which have first been approved in writing by the Local Planning Authority.

END OF CONDITIONS



# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.





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## Appeal Decision

Site visit made on 25 June 2018

**by Kevin Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 September 2018**

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**Appeal Ref: APP/L3245/W/17/3192452**

**NE of The Hollows, Stiperstones, Shropshire SY5 0NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Bill and Margaret Reece against the decision of Shropshire Council.
  - The application Ref 16/02535/FUL, dated 7 June 2016, was refused by notice dated 12 October 2017.
  - The development proposed is conversion of an agricultural building to a dwelling.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr & Mrs Bill and Margaret Reece against Shropshire Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. I have used the appeal site address given on both the Council's decision notice and the appeal form, as this is clearer than that given on the application form.
4. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018, replacing the first Framework of March 2012. The main parties have been given the opportunity to comment on the relevance of the new Framework to their cases, and I have taken their comments into consideration. References hereafter in the decision are to the new Framework.

### Main Issues

5. The main issues in this case are 1) whether the proposed development would provide a suitable location for housing, having regard to the provisions of the development plan, and 2) the effect on the landscape and scenic beauty of the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

### Reasons

#### *Location for housing*

6. The appeal site is located within the Shropshire Hills AONB, within the open countryside in an upland location on the heath slopes of the Stiperstones. The

- site is surrounded by, but not within, the Stiperstones National Nature Reserve and The Hollies Site of Special Scientific Interest (SSSI).
7. Permission was granted on appeal on 14 November 2013<sup>1</sup> for the construction of an agricultural building, with the use restricted by condition to agricultural purposes only. The appeal seeks the conversion of the building to a dwelling.
  8. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (March 2011) (the ACS) sets out a settlement hierarchy for Shropshire, within which some 35% of residential development will be located in rural areas, through a 'rural rebalance' approach which directs development to designated Community Hubs and Clusters. The nearby settlements of Pennerley and Tankerville form part of one such Community Cluster. The Council, however, regards the countryside between settlements as not being part of the cluster. The site therefore is not part of a Community Cluster.
  9. Policy CS5 of the ACS addresses development within the countryside, supporting proposals on appropriate sites in certain circumstances. The proposal seeks conversion to an open market dwelling, to which the policy gives favourable consideration where respect for the heritage asset and high standards of sustainability are achieved. Heritage assets in this context are defined in the Type and Affordability of Housing Supplementary Planning Document (the TAH SPD) as pre-dating 1950, comprising traditional materials and building techniques, of permanent and substantial construction, and of local significance and which add value to the landscape.
  10. The building is not formally designated as a heritage asset. In respect of the SPD criteria, the building, although it re-used some building materials, is a largely modern construction started in 2007, and which uses modern breeze block and cavity wall construction to its interior. The Council acknowledges that as an agricultural building, it has some value within the landscape, its external form being reflective of its rural surroundings, and there is some historic value from the previous presence of a structure on the site. However, the proposal does not satisfy each of the SPD criteria, and I find therefore that the support for open market conversion under Policy CS5 does not apply in this case.
  11. The site occupies a position high on the slopes of the Stiperstones, reached from the nearest classified road by a rough, unmade and uphill track which turns onto a public footpath that passes near to the site and from where it is accessed. The nearest residential dwelling is located some distance back down the unmade track. The site is remote and access is difficult given the condition of the track and its length, and would not achieve the high standards of sustainability required by Policy CS5, given the constraints to access and high reliance on private modes of transport to travel to and from the site.
  12. Policy CS5, together with Policy MD7a of Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015), indicate support for suitably designed and located exception dwellings where they meet evidenced local housing needs and other relevant policy requirements. The appellants have indicated in their submissions that they can demonstrate a local need, which in this policy context relates to dwellings for essential rural workers or the provision of affordable housing. I do not have substantive

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<sup>1</sup> Appeal Ref: APP/L3245/A/13/2195076

evidence before me in support of the case for an essential rural worker's dwelling, and this exception does not therefore apply in this case.

13. The appellants indicate that following initial support for an affordable unit, the Council subsequently did not engage with the appellants on the matter. The Council indicates that the application was made for conversion to a market dwelling, and that the appellants did not supply information needed to make an assessment of eligibility for the Council's 'Build Your Own' scheme, the criteria for which are set out in the TAH SPD. Notwithstanding any procedural issues which arose, from the submissions before me, the SPD criteria have not been met, and there is not a persuasive case made for the need or eligibility of the appellants for an affordable dwelling. In any case, a proposal for affordable housing would conflict with the guidance of the TAH SPD which indicates that sites constituting isolated or sporadic development are not considered acceptable as exception sites.
14. Taking these considerations together, the proposed dwelling would not meet the exception criteria of Policies CS5 or MD7a which would permit a dwelling within the open countryside. Due to its location and the inconvenience of the access track, the proposal would not represent an appropriate location for housing, but would amount to an isolated home in the countryside, which the Framework seeks to avoid. The proposal would not meet the exception circumstances for dwellings in such locations under paragraph 79. The proposal would also conflict with the guidance of the TAH SPD.

#### *Effect on AONB*

15. Section 85 of the Countryside and Rights of Way Act 2000 requires that regard is had to the purpose of AONBs to conserve and enhance the natural beauty of the area. The Framework at paragraph 172 states that great weight should be placed upon conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty.
16. Timber framed windows and doors are proposed in the existing openings in the elevations, replacing timber shutters which cover the openings at present. I note the appeal decisions relating to the site in 2013<sup>2</sup> where the Inspector had strong reservations about the external appearance of the building because of its fenestration details. In this case the windows, in particular the large, glazed double doors to the front elevation would be an obvious indication of the building's conversion to a dwelling, the presence of which would be uncharacteristic amid the natural, undeveloped surroundings of the site. Whilst the use of modern materials internally would not adversely affect the landscape and scenic beauty of the AONB, the external alterations proposed would result in a domestic character inconsistent with the natural qualities of the surrounding area, and diminishing the landscape value the structure has as a vernacular agricultural building.
17. I note the Council's further concern that the proposal would lead to an increase in domestic paraphernalia around the site. I am not persuaded this would be noticeable in longer views of the Stiperstones, but it would be visible from the public footpath alongside the site, and would add further to its domestic appearance. The appellants indicate willingness to add to the boundary planting to screen the building from these views. I am not provided with details of how

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<sup>2</sup> Appeal Decisions APP/L3245/C/13/2195298, APP/L3245/C/13/2195529 and APP/L3245/A/13/2195076

this would be achieved. However, the site is surrounded by a sporadic arrangement of trees which adds to its natural setting. If supplemented by more ordered planting, this would add to the domestic appearance of the site, which would be counter effective and would not preserve the visual and landscape character of the area.

18. The proposed external appearance would therefore be harmful to the visual and landscape character of area, and would fail to conserve the landscape and scenic beauty of the Shropshire Hills AONB. The proposal would conflict with Policies CS5 of the ACS and M7a of the SAMDev, which require development proposals to maintain and enhance countryside viability and character, and respect local landscape character. Having regard to the Framework, the harm to the AONB would weigh strongly against the proposal.

### **Other Matters**

19. The appellants have submitted a signed unilateral undertaking in respect of a financial contribution towards the provision of affordable housing, required by Policy CS11 of the ACS. Paragraph 63 of the Framework, however, provides that affordable housing contributions should not be sought from residential developments that are not major developments. The Framework is a material consideration of significant weight, and is more up-to-date than Policy CS11 of the ACS. Accordingly, the Council is not seeking a contribution to affordable housing, and I have not given weight to the offered unilateral undertaking.
20. The appellants refer to historic use of the site for residential purposes as a smallholders' cottage until 1980. However, given the abandonment of the former building, and subsequent redevelopment for agricultural use, this would not carry weight in favour of the proposal, which has been assessed on its own merits against current development plan policies.
21. The appellants also refer to other developments given permission on the basis of local needs. I am not however furnished with the full details of these cases to establish if they are comparable, and I therefore give them minimal weight.
22. I note that no concerns were raised by the Council in respect of other considerations, including neighbouring living conditions, highway safety or the effect on the SSSI. These are neutral effects, however, and would not outweigh the harm I have found in respect of the main issues.
23. In reaching my decision, I have had regard to the limited economic investment from building works to convert the building and subsequent occupation of the dwelling. The dwelling would also add to Shropshire's housing stock. However, given its small scale and remote location, these benefits would be very limited, and are insufficient to outweigh the conflicts with the development plan which I have found in this case.

### **Conclusion**

24. For the reasons given, and taking all relevant matters into consideration, the appeal is dismissed.

*Kevin Savage*

INSPECTOR



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## Costs Decision

Site visit made on 25 June 2018

by **Kevin Savage BA MPlan MRTPI**

**Decision date: 7 September 2018**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/17/3192452 NE of The Hollows, Stiperstones, Shropshire SY5 0NE**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr & Mrs Bill and Margaret Reece for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for conversion of an agricultural building to a dwelling.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicants' evidence in support of their application for costs is limited. Reference is made to an unsuccessful attempt to meet with the planning officer at the Council's offices, and to dissatisfaction with the Council's communication with respect to the planning application, and to the length of time the Council took to issue a decision.
5. I have sympathy with the applicants' frustration given the time which the planning process has taken, and the not insubstantial costs incurred along the way. However, the incidents described refer to the Council's handling of the planning application and are ultimately matters for local government accountability. They are outside of the appeal process and have not led to the Council exhibiting unreasonable behaviour in defending the reason for refusal at the appeal stage.
6. The Council has set out its case clearly in its delegated report and appeal statement, and had regard to relevant development plan policies and national and local guidance in doing so. My decision on the appeal makes it clear that I

agree with the Council on the main issues. It follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal.

7. As a result it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicants were put to unnecessary or wasted expense.

**Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

*Kevin Savage*

INSPECTOR



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## Appeal Decision

Site visit made on 25 June 2018

**by Kevin Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 September 2018**

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**Appeal Ref: APP/L3245/W/18/3195876**

**Former Haulage Yard, Bourton Road, Much Wenlock TF13 6AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mark Bradley against the decision of Shropshire Council.
  - The application Ref 17/04678/FUL, dated 25 September 2017, was refused by notice dated 29 November 2017.
  - The development proposed is change of use of land for the siting of two timber holiday lodges for visitor accommodation.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of land for the siting of two timber holiday lodges for visitor accommodation at Former Haulage Yard, Bourton Road, Much Wenlock TF13 6AJ, in accordance with the terms of the application Ref 17/04678/FUL, dated 25 September 2017, and subject to the conditions listed in the attached Schedule.

### Application for costs

2. An application for costs was made by Mr Mark Bradley against Shropshire Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018, replacing the first Framework of March 2012. The main parties have been given the opportunity to comment on the relevance of the new Framework to their cases, and I have taken their comments into consideration. References hereafter in the decision are to the new Framework.

### Main Issue

4. The main issue in this appeal is whether the proposal would provide a suitable location for visitor accommodation, having particular regard to the provisions of the development plan and the accessibility of services and facilities.

### Reasons

5. The appeal site is located to the side of the B4378 road around a half mile outside the built-up area of the market town of Much Wenlock. The site is a roughly rectangular area enclosed by trees and hedges, with views into the site from the road only possible at the access point. Submissions indicate a past use as a haulage site, and for the siting of a caravan. However, the site is now

- vacant with no structures. The proposal seeks to provide two holiday lodges on the site for visitor accommodation. Indicatively, the lodges would take the form of log cabins.
6. The Council argues that the site would be located within an unsustainable rural area, due in particular to a lack of a footpath connecting it to Much Wenlock, and the resulting need for visitors to utilise the private car to access local services and facilities.
  7. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (March 2011) (the ACS) sets out the strategic approach to development and sets out a settlement hierarchy for Shropshire, within which development in rural areas is directed to designated Community Hubs and Clusters. Policy CS5 addresses development outside of these areas and takes a restrictive approach to new development in the open countryside, but supports sustainable rural tourism proposals which require a countryside location and accord with Policies CS16 and CS17.
  8. Policy CS6 requires, amongst other things, proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
  9. Policy CS16 of the ACS, and Policy MD11 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015), both emphasise support for new and extended tourism development appropriate to their location, and high quality visitor accommodation in accessible locations served by a range of services and facilities. Policy MD11 specifies that in rural areas, proposals must be of an appropriate scale and character for their surroundings, be close to or within settlements, or an established and viable tourism enterprise where accommodation is required.
  10. Policy CS17 of the ACS, amongst other things, seeks to ensure that new development protects and enhances Shropshire's natural, built and historic environment.
  11. Policy EJ7 of the Much Wenlock Neighbourhood Plan (MWNP) offers further support for tourist accommodation where the siting, design and scale of the development conserves the quality of the parish's built and natural environments.
  12. These policies are broadly consistent with the Framework which promotes a prosperous rural economy through enabling sustainable rural tourism and leisure developments which respect the character of the countryside<sup>1</sup>, and recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport, provided the development is sensitive to its surroundings.<sup>2</sup>
  13. These policies together offer strong support for sustainable tourism development within Shropshire, reflected in the text of Policy CS16 which emphasises the vital role the tourism, cultural and leisure sector plays in the local economy. The main qualifications to this support in this case are the

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<sup>1</sup> Paragraph 83

<sup>2</sup> Paragraph 84



- appropriateness of the site's location with respect to access to services and modes of transport.
14. The Council contends that the proposal does not require a countryside location. However, the rural location of the site would likely be a fundamental part of its attraction to tourists, providing an escape from urban environments. Log cabins are also not typically associated with urban locations. Other examples cited by the appellant indicate the locating of some tourist accommodation within the countryside has been accepted by the Council. Although the site is within the open countryside, the proposed accommodation would be near to an existing dwelling and agricultural buildings. Given this, and its proximity to Much Wenlock, the site is not remote in a rural context.
  15. The B4378 road from Much Wenlock to the site is relatively narrow, with steep verges in places, a steady uphill slope, and no footpath beyond the built-up area. Whilst at the site entrance, I noted cars passing at speed. Such conditions may discourage some visitors from walking into Much Wenlock. The appellant points to an access to a public right of way (PROW) a short distance beyond the site, which leads back towards Much Wenlock over open fields. However, whilst it may provide a convenient point of access to the PROW network for recreational walkers, it is unlikely to be used as a route to access day-to-day services in the town, given the extra walking distance and uncertain terrain which may be encountered.
  16. Notwithstanding these pedestrian conditions, it is reasonable to suppose that tourists on a rural holiday may be more prepared to contemplate walking or, indeed, cycling the relatively short distance to access the range of services available in Much Wenlock. With due care and the use of appropriate equipment, such journeys would not be inherently unsafe, but typical of many rural roads, and would reduce reliance on the private car.
  17. I note the appellant's reference to permission granted at Withies Farm<sup>3</sup> a short distance from the appeal site, and a similar distance from Much Wenlock, where the Council considered the site in an accessible location despite the absence of a footpath for pedestrians and being located outside of the settlement with likely reliance on the private car. Whilst this case involved an expansion of an existing business, there are similarities between the sites' locations, indicating the Council has been prepared to accept tourism developments where sustainable forms of transport are less likely to be used.
  18. The Framework states that in considering proposals, it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up, given the type of development and its location<sup>4</sup>, but it also recognises that these opportunities will vary between urban and rural areas, and this should be taken into account in decision-making<sup>5</sup>. It is not feasible to expect that tourists in rural areas would not require use of a car at all, even if staying within defined settlements, and longer journeys by car to rural tourist attractions would be inevitable. The scale of the proposed development would be very modest, and journeys into Much Wenlock for day-to-day needs are likely to be relatively short and infrequent. Therefore, in this context, I find

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<sup>3</sup> Council Ref: 16/03878/FUL

<sup>4</sup> Paragraph 108

<sup>5</sup> Paragraph 103

that the site would be accessible to Much Wenlock and would accord with the location qualifications of Policies CS5, CS16 and MD11.

19. The Council also raises concern that the viability of the business has not been demonstrated, citing the indent to the second bullet point of Policy CS5, which requires proposals for small-scale new economic development diversifying the rural economy to demonstrate the need and benefit for the development proposed. However, the sixth bullet point refers separately to sustainable rural tourism proposals which require a countryside location, and which accord with Policies CS16 and CS17, but does not apply the qualifications of the second bullet point. That sustainable rural tourism proposals are listed separately indicates they are to be considered separately to small-scale economic development, and not subject to the qualifications to demonstrate the need and benefit of the development. In any event, I do not read 'demonstrate need and benefit' to amount to a requirement to demonstrate the financial viability of the proposed enterprise.
20. Notwithstanding this, the appellant has provided several examples of permissions granted by the Council for expansion of tourism enterprises within Shropshire, which would suggest a continuing demand for tourist accommodation across the county. The appellant also provides information on the economic contribution of tourism to the local economy. There is some evidence, therefore, of unmet and ongoing demand in the area, and a need for further facilities. Whilst the proposal is small in scale, it would make an economic contribution through spending by visitors at local businesses and attractions which would be a benefit of the proposal.
21. Taking these matters together, I find that the proposed development would be within a suitable and accessible location relative to Much Wenlock, where visitors could travel by means other than the private car to avail of local services and facilities. The site would also provide an appropriate form of rural tourist accommodation for which there is broad support within the development plan. Accordingly, I find that the proposal would comply with Policies CS1, CS5, CS6, CS16 and CS17 of the ACS; Policies MD11 of the SAMDev; Policy EJ7 of the MWNP and with relevant provisions of the Framework.
22. The Council further refers to Policy MD2 of the SAMDev in its reason for refusal, which refers to sustainable design. Whilst relevant to the proposal in other respects, I do not consider this policy directly applicable to this main issue.

### **Other Matters**

23. The proposed cabins have not been fully detailed on plans, but the indicative images provided by the appellant show traditional log cabins which would be appropriate within a countryside setting. The site is enclosed by trees to all sides, which would ensure that the cabins were not prominent within the landscape. It would be possible to secure details of the cabins through a condition to ensure an acceptable appearance. Subject to this, the proposal would preserve the character and appearance of the area.
24. Various Council decisions, both granting and refusing permission, and appeal decisions have been referred to me by the parties. I have taken these into consideration, and have referred to the Withies campsite decision above. However, the decisions relate to a variety of proposals, in various locations around Shropshire, and with differing material considerations, which prevent

me from drawing direct comparisons in every case. I have in any event considered this appeal on its own merits.

25. The Council raises no objection in respect of the effect of the proposal on highway safety. Visibility at the entrance to the site is sufficient in both directions, and there is ample space on the site for parking and turning. I have no reason, therefore, to reach a different conclusion in this respect.
26. The proposal would have a small, but nonetheless positive, economic effect through adding to the range of visitor accommodation within the area, and through spending by visitors on the accommodation and at local businesses and attractions. Indeed, the Council acknowledges this in its reason for refusal. Socially, tourists could also help to maintain the viability of community services and facilities within nearby villages and market towns.
27. Environmentally, whilst there would be some reliance on the private car, the number of journeys and level of greenhouse gas emissions generated by such a small-scale development would be limited. In the context of the relevant development plan policies, and guidance of the Framework with respect to rural transport, I have found that the site would be within an accessible location for tourist accommodation for which the development plan as a whole offers support. This does not therefore weigh against the proposal in this case.
28. Overall, the proposal would accord with aims of the development plan and the Framework to support tourism and the rural economy within Shropshire. There are no other material considerations before me of such weight as to indicate development should be restricted.

### **Conditions**

29. The Council has suggested conditions to be imposed in the event the appeal is allowed, which I have considered in light of the advice set out in both the Framework and the Planning Practice Guidance. Where necessary, and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.
30. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings and plans as this provides certainty. The appellant's plan SA27708-03 is labelled as an Indicative Layout Plan, and I have therefore considered it as such. Conditions are therefore required specifying the siting of the cabins within the site, the external materials to be used for the cabins, and details of hard and soft landscaping, in order to ensure a satisfactory appearance.
31. A condition requiring investigation, and if necessary, remediation of site in respect of contamination is necessary and reasonable in view of its documented past use as a haulage site, and in order to ensure that the development can be carried out safely without unacceptable risks to human health. For conciseness, I have condensed the Council's suggested condition.
32. Details of the access and parking layout are necessary to ensure vehicles can park, load and unload within the site, in the interests of highway safety. A condition requiring gates to be set back from the road and to open inwards is also necessary to ensure highway safety.

33. Conditions requiring details of proposed site and surface water drainage measures are necessary to mitigate flood risk and pollution.
34. Conditions 3-7 are required to be pre-commencement conditions as it is fundamental to have these details agreed before development commences, given the limited works which would be necessary to construct the lodges and then bring them into use.
35. The Council's Biodiversity Officer has recommended a condition requiring the submission and approval of a lighting plan in order to minimise disturbance to bats, for which the submitted Protected Species Survey concluded there was potential, albeit low, for roosting bats in adjacent trees. Given the protected status of bats and the rural location of the site, I agree such a condition is necessary and reasonable.
36. Finally, it is necessary to restrict the use of the cabins to holiday purposes only, in order to prevent use of the site as permanent residential accommodation.

**Conclusion**

37. For these reasons, and taking all relevant matters into consideration, the appeal is allowed.

*Kevin Savage*

INSPECTOR

### **Schedule – Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SA27708-01 (Location Plan); SA27708-02 (Site Context Plan).
- 3) No development shall commence until details of the siting of the holiday lodges hereby permitted, and samples/details of the materials to be used in the construction of their external surfaces, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
- 5) No development shall commence until full details of the proposed drainage package treatment plant and surface water drainage system have been submitted to and approved in writing by the local planning authority. The drainage package treatment plant and surface water drainage system shall be installed in accordance with the approved details prior to first use of the holiday lodges.
- 6) No development shall commence until details of the access, parking and turning area for vehicles have been submitted to and approved in writing by the local planning authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter only be used at all times for those purposes.
- 7) No development shall commence until full details of both hard and soft landscape works, and a programme for their implementation, have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in accordance with the approved implementation programme. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall upon

written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

- 8) No gates provided to close the proposed access shall be set closer than 5 metres from the carriageway edge and shall be made to open inwards only.
- 9) The holiday lodges shall be occupied for holiday purposes only; and shall not be occupied as a person's sole, or main place of residence. The owners of the holiday lodges shall maintain an up-to-date register of the names of all occupiers of the lodges and their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- 10) No external lighting shall be installed on the site, until a lighting plan has been submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting* (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

END OF SCHEDULE



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## Costs Decision

Site visit made on 25 June 2018

**by Kevin Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 September 2018**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/18/3195876 Former Haulage Yard, Bourton Road, Much Wenlock TF13 6AJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Mark Bradley for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for change of use of land for the siting of two timber holiday lodges for visitor accommodation.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, or by not determining similar cases in a consistent manner.
4. The applicant's claim is based upon three grounds, which I will address in turn.
5. Firstly, the applicant states that the Council acted unreasonably in relying on certain policies to refuse the application, namely Policies CS1, CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy (March 2011) (the ACS), and Policies MD2 and MD11 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015). The applicant also contends that the Council was unreasonable in referring to paragraphs 7, 17 and 28 of the National Planning Policy Framework<sup>1</sup>. The applicant specifically states that the Council misinterpreted Policy CS16 through use of the term 'adjacent' which is not used in any of the quoted policies.
6. My decision on the appeal makes it clear that I do not agree with the Council on the main issue. However, I have found that the policies quoted by the

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<sup>1</sup> March 2012

Council are relevant to the main issue of the appeal. These policies are interlinked and must be read together in order to fully consider the proposal. In my view, the determinative factors guiding the location of tourist development in rural areas, including location, proximity to services and effect on the character and appearance of the area, each involve judgement on the part of the decision maker based on the evidence of the case. Whilst the applicant may disagree with the Council's interpretation of the evidence, officers were entitled to describe the impacts as they saw them, and they had regard to the relevant development plan policies and other material considerations in doing so. Subsequently, the Council has defended its reason for refusal in similar terms.

7. I do not find that the Council's use of the word 'adjacent' in this context amounts to a manifest misinterpretation of the policy. The Council correctly quotes Policy CS16 at paragraph 6.1.4 of its delegated report, and the Council's case does not rest solely upon a question of whether the site is or is not physically adjacent to a settlement. I do not therefore find unreasonable behaviour in respect of the Council's interpretations of policies.
8. Secondly, the applicant contends that the Council relied upon inaccurate assertions that the site did not have suitable pedestrian links and ignored the network of public footpaths in the area. The Council's comments were limited to the potential for pedestrians to access Much Wenlock via the B4378 road. However, I have concluded that the other footpaths referred to by the applicant would not offer a suitable alternative for direct access to Much Wenlock to access services and facilities. That the Council did not refer explicitly to them is not evidence of unreasonable behaviour, given that officers assessed the most direct and obvious route to Much Wenlock, and considered it to be unsuitable.
9. Finally, the applicant contends that the Council has acted in an inconsistent manner, and lists several cases in support of his claim. The Council states that the cases referred to do not provide a direct comparison with the appeal proposal, as they all relate to existing businesses which were proposing expansion. In response, the Council provides examples of applications it has refused for purportedly similar development. Whilst I have found some similarities, such as the relative location in the Withies campsite case, there were also differences. Overall, the decisions cited by both parties relate to a variety of proposals, in various locations around Shropshire, and with differing material considerations attracting different weight within the planning balance, which is a matter for the decision maker in each case. The Council based its decision on the circumstances of the site's particular location, and I do not consider officers were unreasonable in reaching the conclusions they did, despite my not agreeing ultimately with the Council in my decision.
10. I do not therefore agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

### **Conclusion**

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Kevin Savage*

INSPECTOR





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## Appeal Decision

Site visit made on 14 August 2018

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 10<sup>th</sup> October 2018**

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**Appeal Ref: APP/L3245/W/18/3198156**

**Land adjacent to Manor Lodge Cottage, Astley Abbots, Bridgnorth, Shropshire, WV16 5SW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Roger Lawrence against the decision of Shropshire Council.
  - The application Ref 17/03346/FUL, dated 6 July 2017, was refused by notice dated 8 January 2018.
  - The development proposed is a new detached dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the development would represent an encroachment into the countryside contrary to development plan policy.

### Reasons

3. The appeal site comprises the side garden to Manor Lodge Cottage. It forms part of the village of Astley Abbots, which consists of a dispersed pattern of development centred on St Calixtus' Church.
4. The Council has submitted an extract from the current Policy Map for the area, which was adopted in 2015 alongside the Shropshire Site Allocations and Management of Development Plan. This clearly shows that Astley Abbots is outside any identified development boundary, and is therefore in the countryside for planning purposes. In this regard, a number of development plan policies seek to restrict new housing development in the countryside.
5. The appeal site is located at the end of a short row of properties. It currently consists of a well maintained garden and it adjoins the grounds of a manor house to the north. There is a significant open gap between Manor Lodge Cottage and the nearest property to the north on this side of the road. In this regard, the development would not represent the infilling of a small gap in an otherwise built up frontage. Instead, it would appear as an outward extension of the existing ribbon of development onto open land.
6. The appeal site is some distance away from most services and facilities. In addition, whilst there is a bus stop on the B4373 to the south, there is no footpath between it and the appeal site. This would significantly discourage its

use by future occupiers and it would be unsafe to walk along this road in poor light. In these circumstances, I consider that the site has poor accessibility to services, facilities and public transport. Accordingly, future occupiers would be heavily reliant on the use of the private car.

7. My attention has been drawn to 2 nearby properties that appear to be of fairly recent construction. However, the full details of those approvals are not before me, and it is likely that they predate the adoption of the current development plan. The appellant has also referred to recent approvals on Green Belt sites elsewhere in the district, although no details have been provided in this regard. In any case, I have come to my own view on the appeal proposal rather than relying on the approach taken by the Council elsewhere.
8. For the above reasons, I conclude that the development would represent an encroachment into the countryside contrary to development plan policy. It would therefore be contrary to Policies CS4, CS5, and CS6 of the Shropshire Core Strategy (2011), and Policy MD7a of the Shropshire Site Allocations and Management of Development Plan (2015). These policies seek to ensure, amongst other things, that new development in the countryside is restricted.

### **Conclusion**

9. As set out above, I conclude that the development would represent an encroachment into the countryside contrary to development plan policy. Whilst it would provide a new dwelling and would generate some modest economic benefits, that does not alter my view that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR



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## Appeal Decision

Site visit made on 25 June 2018

by **Kevin Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 July 2018

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**Appeal Ref: APP/L3245/W/18/3196698**

**17 Maple Close, Ludlow SY8 2PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Nick Beard against the decision of Shropshire Council.
  - The application Ref 17/04078/FUL, dated 17 August 2017, was refused by notice dated 20 November 2017.
  - The development proposed is erection of two flats.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the proposal on the safety and convenience of users of the adjacent highway network, with particular reference to parking.

### Reasons

3. Maple Close has a mix of off-street parking on front drives, and assigned parking within private parking courts including one to the rear of the appeal site. Some properties did not appear to benefit from either of these, and I observed several cars parked on the street, which given my visit was in the mid-afternoon, would indicate that further on-street parking is likely to occur in the evening as people return from work. The proposal does not include off-street parking for the two flats.
4. The appellant states that the flats would not generate significant demand for private transport, due to local bus services and shops being within walking distance, and reference is made to a 2004<sup>1</sup> appeal decision in this respect. Whilst the appeal site may fall within the catchment area of the shop envisioned by the Inspector in 2004, there is a limited range of services offered which are unlikely to fulfil the day-to-day needs of future occupants. The bus service would offer an alternative mode of transport into Ludlow town centre, where a full range of services are available, but as it does not operate in the evenings or on Sundays, it seems probable to me that the occupants of the proposed flats would still be highly reliant on the private car in order to access many day-to-day services.

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<sup>1</sup> Appeal Ref: APP/K3225/A/04/1137975

5. Although the appellant states that the estate was developed for low car ownership, the Council provides figures which indicate high levels of car ownership in Ludlow, and given the site's location towards the outskirts of the town, close to the main road network, and the distance to the main concentration of services in the town centre, it is reasonable to conclude that future residents would be more likely than not to own a car and require parking. Whilst not large in size, the proposed one-bedroom flats could each be occupied by two people who, if each owned a car, would generate noticeable additional demand for parking within the immediate vicinity.
6. The appellant indicates that No 17 has two assigned parking spaces, and that allocation of these between the existing dwelling and proposed flats would be a management issue. It is unclear how management of the spaces would be undertaken, and I am not persuaded that this would be practical or effective in preventing additional on-street parking taking place. The proposal would result in two spaces between three units. Occupants of at least one of the units would not be able to park at the rear, or would use one of the visitor spaces within the parking court if available, which is not guaranteed, nor is it their intended purpose. The proposal is likely to result, therefore, in increased demand for on-street parking within the adjacent roads on Maple Close.
7. The access road to the rear parking court and driveways to Nos 7, 19 and 21 surround the end of the cul-de-sac closest to the main pedestrian access to the appeal site. Parking in this area would be likely to result in obstruction of one or more of these access points and lead to hazardous manoeuvres by drivers to avoid parked cars, increasing the risk to pedestrians and other road users. The lack of suitable parking areas close to the appeal site would also result in future occupants seeking to park further away, causing inconvenience for themselves and other residents if vehicles are parked close to neighbouring drives, on or near bends or mounted on footpaths.
8. Therefore, for these reasons, the proposal would cause harm to the safety and convenience of users of the adjacent highway network.
9. The Council did not refer to specific development plan policies in its decision notice. However, based on its appeal statement, I consider relevant policies to be Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy (March 2011) (the ACS), and Policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan (December 2015), which together require development to be designed to a high quality using sustainable design principles to achieve an inclusive and accessible environment, including appropriate car parking provision, and by responding appropriately to the form and layout of existing development and the way it functions. Given my findings above, the proposal would conflict with these policies.
10. The proposal would also conflict with the guidance of the National Planning Policy Framework, which requires development to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

### **Other Matters**

11. I acknowledge that the Council granted outline planning permission for a single dwelling on the same site in 2016<sup>2</sup>, concluding that the proposal would

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<sup>2</sup> Council Ref: 16/00708/OUT

be likely to result in increased pressure for on-street parking and a degree of inconvenience, but that parking was available within the area and that it would not lead to harm in terms of highway safety. Notwithstanding that the Council was prepared to accept some increase in on-street parking in approving the outline permission, the addition of one more residential unit and resulting additional demand for parking would be a material difference between the schemes. Therefore, whilst I have taken this decision into consideration, it does not justify allowing the proposal which has been found on its own merits would have a harmful effect in respect of highway safety.

12. The Council raises no objection in respect of the design of the building or the effect on living conditions of neighbouring residents. I have no reason to conclude otherwise, based on all I have seen and read. These are neutral effects, however, which do not outweigh the harm identified in respect of the main issue.
13. The Council objects to the appellant's submission of a plan indicating the location of parking spaces to the rear, stating that it alters the site area, but has not been subject to consultation. The appellant indicates the plan is intended to be illustrative of points made in his appeal statement. Even if I were to accept the plan as part of the appeal drawings, it does not lead me to a different conclusion in respect of the main issue.
14. In reaching my decision, I have taken into account that the principle of residential development of the site has been accepted, and the proposed flats would make a contribution to the housing stock, and a small economic benefit from their construction and occupation. However, these are very limited benefits which are clearly outweighed by the harm I have found in respect of the main issue.

### **Conclusion**

15. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Kevin Savage*

INSPECTOR

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