

Committee and date

South Planning Committee

1 March 2016

Development Management Report

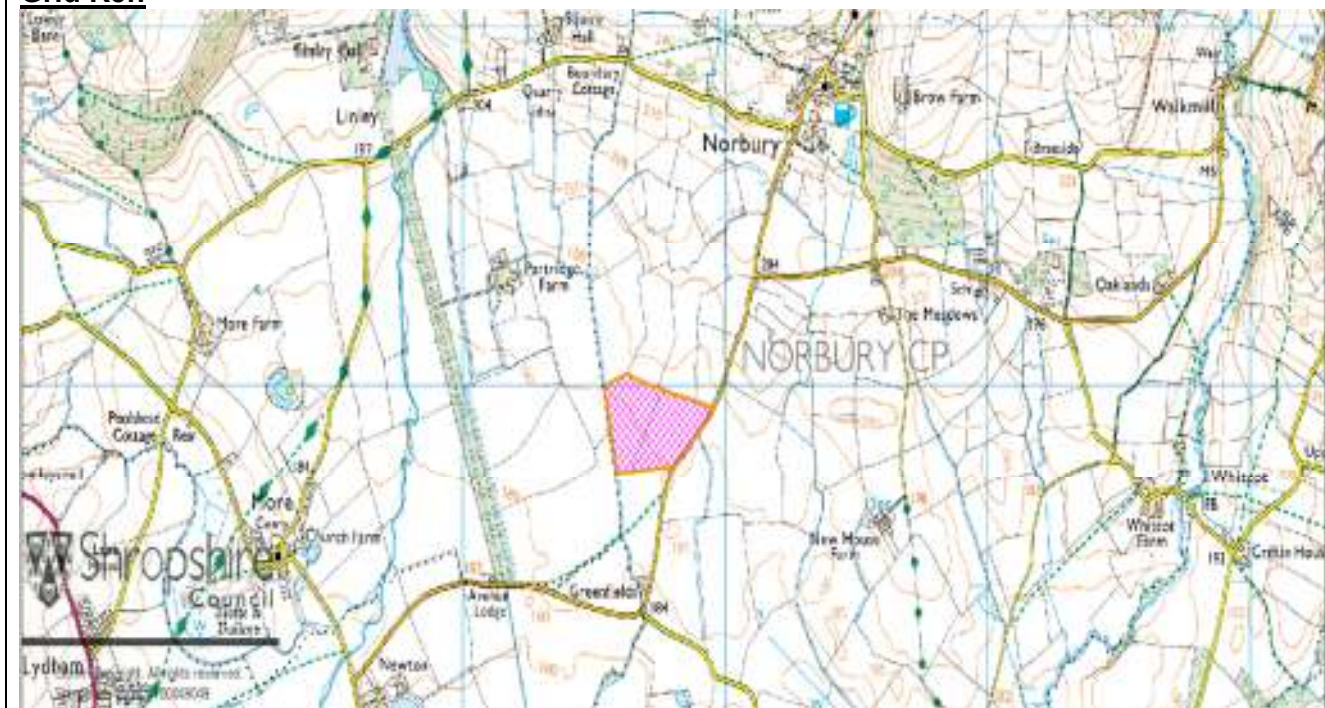
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Summary of Application

<u>Application Number:</u> 14/05768/FUL	<u>Parish:</u>	Norbury Parish Council
<u>Proposal:</u> Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to to existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling.		
<u>Site Address:</u> Land To The North Of Three Chimneys Cottage, Norbury, Shropshire		
<u>Applicant:</u> Penhaligon Stud		
<u>Case Officer:</u> Mark Lynch		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref:



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

REPORT

1 THE PROPOSAL

- 1.1 The proposed development comprises the change of use of a barn and associated agricultural land (7.7ha) to form an equestrian centre at a site near Norbury in south west Shropshire. The proposals also include the erection of a substantial stock building measuring 36m x 20m x 6.1m (ridge height), the provision of a ménage and lunge ring and provision of a mobile home to be used as temporary accommodation for an equestrian worker on the site. The existing barn is partially open sided and this will be enclosed and the barn converted to form four internal stables, a foaling area and a feed room.
- 1.2 The stock building will be constructed using a concrete base plinth with dark green coloured profiled metal panel elevations and roof on top of this plinth. The roof would incorporate rooflights. This building would provide six additional stalls, a wash bay and loose housing for foals and young stock.
- 1.3 The proposed ménage will measure 40m x 20m and will be surfaced using a mixture of sand and fibre enclosed by a 1.2m high post and rail fence. No floodlighting is proposed. The adjacent lunge ring will be circular with a diameter of 20m enclosed by a 3m high vertical boarded wall.
- 1.4 The proposed mobile home will have a floor area of 43 square metres and a three year temporary planning permission is sought. It is proposed that the applicants will occupy this accommodation. It will be sited to the rear of the existing hedgerow on the site to reduce its visual prominence.
- 1.5 Externally, the site will include a concrete-surfaced yard area to provide circulation space. A car parking area accommodating eight parking spaces is also proposed on the eastern side of the hedge. Additional tree planting is proposed on the eastern side of the hedge which will assist in softening any visual impact created by the development.

The Proposed Use

- 1.6 The applicant's website provides some helpful background information concerning the nature of the business. The submitted Planning Statement and the report on the need for a temporary worker's dwelling provide additional information.
- 1.7 Penhaligon Stud is a small private stud based in Newtown, Powys producing quality warmblood horses from the very best European bloodlines for dressage and jumping. The broodmares are carefully selected for their conformation, movement and temperament, and not least, their ability to produce top level competition offspring with the emphasis on breeding youngsters with quality but also a willingness to work. Mares currently foal at the applicant's home in Newtown where

there is on site supervision and foals stay on site until they are yearlings when they are taken to the application site to be turned out with other young horses.

- 1.8 The business breeds and rears competition horses, primarily for sale into the dressage and show jumping market. The business currently owns eight broodmares as well as yearlings and young stock. The business usually sells foals or young stock at ages three or four although horses can also be sold as foals. The nature of Stud enterprises is that horses are generally sold remotely without purchasers visiting the Stud to view a horse (i.e. they purchase a horse due to its bloodline) and as such the sale of horses also generates minimal vehicular trip generation with only the occasional pre-purchase visit and then a round trip to either deliver a horse or for the purchaser to collect a horse.
- 1.9 The applicants purchased the application site approximately 7 years ago as a base to keep and train young horses with a view to relocating and expanding the business in due course. To facilitate expansion of the business it is proposed to relocate the whole business to the application site enabling mares, foals and yearlings to all be kept at the same site and most importantly to provide a greater number of stables to enable the business to expand to meet growing demand for the Stud which can boast mares with very successful bloodlines. Expansion of the business would help to support the local rural economy and deliver sustainable economic growth in the local rural area. In particular expansion of the business would support a number of local businesses including:
- Veterinary surgeons;
 - Farriers;
 - Hay merchants;
 - Bedding suppliers;
 - Horse transport companies;
 - Feed suppliers;
 - Tack shops;
 - Farm machinery suppliers and repair specialists
- 1.10 The business currently employs the applicants as well as a number of riders (who will continue to be employed) to exercise and prepare horses for competition. The business has in part been operating from the application site for the past 7 years with young horses turned out and ridden by one of the riders at the site (foals are kept at the applicant's current property in Newtown). The applicants visit the site on a daily basis in addition to at least one rider on an average day. As the business grows it will be necessary to employ additional staff to help look after and run the stable yard further supporting the local rural economy.
- 1.11 The proposed development would provide sufficient stabling for the applicant's existing eight mares as well as yearlings and young stock whilst also allowing for an expansion in horse numbers to facilitate growth of the business.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is an existing agricultural holding located to the south west of the village of Norbury. The site is accessed via a gated trackway off the highway to the south leading up a slight incline with grazing land to either side. The access track is

bordered by stock proof fencing and leads to a compound and barn beyond a hedge line approximately 150m from the entrance gate. The field slopes gently towards the road and is open apart from a small number of oak trees close to the northern hedge line. The roadside boundary is formed by native species hedgerow.

- 2.2 The existing barn was approved under an agricultural prior notification application in May 2009 for the housing of sheep and farm implements. It is constructed of weather boarding on a blockwork plinth topped with a roof of corrugated mineral fibre sheets.
- 2.3 The site currently supports at least two horses, evident during the site visit carried out during September 2015.
- 2.4 The surrounding area is predominantly rural in character with isolated farms and occasional dwelling houses scattered across the landscape. Norbury village is located approximately 1km from the site entrance. The roads within the area do not have footpaths.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is reported to the planning committee because the officer recommendation differs from that of the parish council. Following discussions with both the local elected member and the Area Planning Manager it has been agreed that the issues raised in this case raise issues that would warrant consideration by the South Planning Committee.

4.0 Community Representations

- 4.1 - Consultee Comments – comment.

4.1.1 Parish Council –Objection:

Norbury Parish Council –

Norbury village is a very rural ancient settlement and an area where development proposals should be considered very carefully. It is an AONB and Conservation Area. The NPPF, Localism Act and Core Strategy gives local communities more input into establishing general planning policies for the development and use of their neighbourhoods. The Localism Bill outlines the amount and types of development.

Norbury and Wentnor are a Cluster as set out in the SAMDev accepting a maximum of 15 new houses over the next 15/20 years. Six new homes increasing the village from 24 to 30 households have recently been developed in Norbury. Myndtown Combined Parish Council produced a Parish Plan in 2006. Further local consultation and updating took place in June 2014. For business development, Objective 1 seeks to ensure and maintain a business environment in which business within the parish can prosper with due consideration for the area's environmental characteristics thereby developing a system of "environmental proofing" when considering planning applications for business activities and is not in conflict with the natural beauty and character of the area. The majority of those

consulted were in favour of converting redundant buildings which are already in existence.

Site History

The applicant has owned the field for 6 years and prior planning approval was granted in May 2009 for the current agricultural building (09/00142) to be erected on a green field site, which this parish council had no objection to. The applicant has installed mains water sourced from and laid across a neighbouring field with the owner's permission. This almost resulted in a law suit due to the trench being open for two years until the land owner re-ploughed and made good the land at his expense. This does not demonstrate any real quality of workmanship or animal husbandry by inconveniencing others by the applicant.

Location

The proposed development is on a low plateau approximately half a mile from the end of Norbury village which has a definite outline to where it ends due to the historic stone walls and is also outside of the development boundary. If approval is granted this will extend the village envelope causing an influx of applications in fields along that route and also other isolated areas in the parishes. The proposed development has a visual impact on a green field site surrounded by farm land and directly adjacent to the Shropshire Hills AONB and conservation area. The proposed development will also extend westerly towards and within view of the nearby Linley Avenue of trees which is also within an AONB. National policies give the highest levels of protection to AONBs. The Shropshire Hills AONB Management Plan 2014-2019 has been adopted by Shropshire Council and contains further policies that are material planning considerations which the Core Strategy requires should be considered. Has an impact assessment been made for the site by the Shropshire Hills AONB and Conservation Authority?

As stated in the applicant's Planning Statement the site does benefit from the existence of mature trees and hedge; however, it does not state that these are ancient hedgerows and deciduous so that the site becomes very exposed to view during autumn and winter. Does the site benefit from an Ecology Survey and Report?

Sustainability

The parish council believes there is no shortage of existing larger housing stock with buildings and land to buy or rent that will be better suited for the business relocation between the proposed site and the established current location of the applicant's business in Newtown. The proposed development is in conflict with the rebalancing and sustaining of rural communities with poor infrastructure and does not constitute a need. The applicant has stated that he has received a quote of £59,000 to bring a power supply a considerable distance to the site; again on a green field site which will need considerable lighting due to the nature of the business. As the area is overlooked this raises the major issue of light pollution for those with south facing views.

Despite stating that some areas will not be illuminated this is in conflict with the reasons for the development to provide 24hr care and the need for a worker to live on site. The considerable sum to invest in electricity as well as the development costs would perhaps be better spent on purchasing a more suitable site that is already adapted and established. There is an existing established stud and race horse business less than 2 miles from the site.

The land is not suitable to the management of extensive large animal usage due to the very boggy nature of the ground. The applicant admitted horses cause more damage to ground than farm stock and that he had previously lost an animal on the site due to it being stuck in mud which was at least three feet deep.

Size and Scale of Development

This is of considerable size and extensive scope on a green field site and despite claims that the hedges will screen the buildings and mobile home the site is still in a very rural and isolated area that will be overlooked by those residing on higher levels. The applicant has stated that he intends to relocate all of his current business to the site as well as providing housing for himself and his workforce. The proposed development will dominate its surroundings, providing buildings that are of a differing size and scale to those that are in the immediate area.

Drainage and run-off will create an even greater burden where there are no immediate watercourses and within a low-lying area that is already vulnerable to flooding. Has the Environment Agency made a report?

A metal detector enthusiast has been examining the area recently. Have archaeology reports been made concerning the historic nature of the area?

The entrance has not been splayed to the size required under previous approval 09/00142 and the proposed increase in traffic to and from the site (parking for 8 vehicles as well as stock trailers/wagons) entering and exiting on to an unnamed rural road is of concern. Has the Highways Authority made a report?

Summary

The parish council considers the proposal to be unnecessary for the sustainability of the village and will not create jobs for those living in the locality. The proposed largescale development is outside of the village envelope and directly adjacent to an AONB and conservation area. It will set a precedent if approved for a pattern of development that is unsuitable to the area opens up every other field to cater for the siting of potential businesses. The proposed development does not conform to Core Strategy Policies CS5, 6, 16 and 17 and SAMDev Policies MD2, 7, 8, 11, 12 and 13 which make specific references to Shropshire Hills AONB. It is requested that the application be submitted to the Planning Committee for refusal.

4.1.2 SC Drainage - comment:

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

1. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval and be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 20% for climate change.
(Alternatively, soakaways to be designed for the 1 in 10 year storm event might be acceptable provided details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event are submitted). Flood water should not be affecting other buildings or infrastructure.

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

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

2. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.
3. Full details, plans and sizing of the proposed septic tank including percolation tests for the drainage field soakaways should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 4' should be used to determine the number of persons for the proposed development and the sizing of the septic tank and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new driveway, parking area/ paved area
- ' Attenuation
- ' Greywater recycling system
- ' Green roofs

4.1.3 Shropshire Fire and Rescue - Comment

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's 'Fire Safety Guidance for Commercial and Domestic Planning Applications'.

Specific consideration should be given to the following, regarding both the Stock Building and the enclosure of existing barn:

Enclosed Agricultural Buildings over 280m²

Access for Emergency Fire Service Vehicles

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advises that early consideration is given to this matter. 'THE BUILDING REGULATIONS, 2000 (2006 EDITION) FIRE SAFETY APPROVED DOCUMENT B5' provides details of typical fire service appliance specifications.

Water Supplies for Firefighting Building Size:

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate

These matters are subject to control under the Building Regulations rather than the Planning Act and a suitable informative will be added to any approval of planning permission.

4.1.4 Shropshire Council Affordable Homes – Comments

If the new residential unit is a temporary rural workers dwelling then no affordable housing contribution will be required.

4.1.5 Shropshire Council Ecology – Comments

No objections subject to conditions and informatives relating to nest box and bat box provision and the submission of a lighting plan.

4.1.6 - Public Comments:

One letter received objecting to the proposal. The following representations have been made:

Horses have been kept on this land for over three years without the need for a person living on site. This application is an attempt over time to gain permanent residence in a conservation area and AONB where planning consent is notoriously difficult to obtain for housing. There is no main drainage or facilities for sewage

disposal, nor other main services. In due course an application will be made to turn a barn into a dwelling and the final objective achieved through the back door. This is in the middle of an agricultural area and will not enhance the beauty of the area.

5.0 THE MAIN ISSUES

The main planning issues concern the following:

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Highway safety
- Protected species
- Drainage and flood risk
- Heritage impact

6.0 OFFICER APPRAISAL

6.1 Principle of Development

- 6.1.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations."
- 6.1.2 The Development Plan consists of the adopted Shropshire Core Strategy (March 2011) and the adopted Site Allocations and Management of Development (SAMDev) Plan (2015). The SAMDev Plan has now replaced all of the previously saved policies of the South Shropshire Local Plan.
- 6.1.3 The issue of principle, therefore, concerns the compatibility of the proposed development with the planning policy framework and, in particular, consideration of whether or not it constitutes sustainable development that should be granted planning permission. The proposed development will be considered against these policies in more detail in this section of the report.
- 6.1.4 The site lies within the open countryside where new development will be strictly controlled in line with Policies CS5 of the adopted Shropshire Core Strategy and MD1, MD7a and MD7b of the SAMDev Plan. These policies support new economic and certain forms of residential development in the rural areas where they improve the sustainability of rural communities by bringing local economic and community benefits. In particular, this applies where they relate to small scale new economic development diversifying the rural economy and dwellings to house agricultural, forestry and other essential countryside workers and other affordable housing/accommodation to meet local needs in accordance with national planning

policies and Policies CS11 and CS12 of the Core Strategy. Other development that will be appropriate (subject to scale and impact) includes agricultural, horticultural, forestry and mineral related development. Policies CS16 and CS17 support in principle the establishment of sustainable rural tourism, leisure and recreational proposals requiring a countryside location.

- 6.1.5 Policy MD1 of the SAMDev Plan establishes a development hierarchy where new development is to take place across the lifetime of the Plan within the most sustainable locations. In the rural areas, a series of Community Hubs and attendant Community Clusters have been identified where new development will be concentrated. The villages of Wentnor and Norbury within Myndtown Combined Parish are a Community Cluster where development by infilling and conversions may be acceptable on suitable sites. The housing guideline for the Cluster is around 25 additional dwellings over the period to 2026. Outside of these settlements, new development may also be acceptable in specific circumstances.
- 6.1.6 Policy MD7b of the SAMDev is concerned with new development in the rural areas that is not residential in nature. It states that planning applications for agricultural development will be permitted where it can be demonstrated that the development is:
- a. Required in connection with a viable agricultural enterprise and is of a size/ scale and type which is consistent with its required agricultural purpose and the nature of the agricultural enterprise that it is intended to serve;
 - b. Well designed and located in line with CS6 and MD2 and where possible, sited so that it is functionally and physically closely related to existing farm buildings; and,
 - c. There will be no unacceptable impacts on environmental quality and existing residential amenity.
- 6.1.7 The enterprise is not entirely agricultural in nature but it is an equestrian business that requires a countryside location and the criteria set out in this policy are considered to be helpful in the assessment of the proposal.
- 6.1.8 The proposal also includes a temporary dwelling to accommodate an equestrian worker on the site. Policy MD7a is concerned with new dwellings in the open countryside beyond the identified settlements in MD1. Such development will be strictly controlled with few exceptions. One exception relates to dwellings to house essential rural workers.
- 6.1.9 The development is intended to facilitate the relocation of the existing equestrian business from its current base near Newtown in Powys to this site in due course. The plan will allow time to assess the viability of the scheme before committing additional resources to the planned relocation. The enterprise has a need to be located within the rural area, being the type of operation normally associated with countryside locations. In respect of the equestrian business, it is considered to be consistent with Policies CS5 and MD7b and the principle of establishing a new equestrian development in this rural location is appropriate. The temporary dwelling and the impact of the overall development in respect of design, scale, visual

effects, highway safety and so forth also need to be considered in the planning balance and these are assessed separately below.

6.2 Siting, scale and design of development

- 6.2.1 The application site is located to the southwest of Norbury within the open countryside and close to the edge of the Shropshire Hills AONB. The site is used for the grazing of horses associated with an established equestrian business based at Newtown, Powys and currently comprises an existing barn and grazing land. The proposals include altering the existing barn by enclosing its open sides to form four new stables, a foaling area and a feed room. A new stock building measuring 36m x 20m x 6.1m (ridge height) is planned at the rear of the site hub. It will be constructed using a concrete base plinth with green coloured profiled metal panel elevations on top of this plinth. This building will provide six additional stalls, a wash bay and loose housing for foals and young stock.
- 6.2.2 Close by is proposed a ménage and a lunge ring. The proposed ménage will measure 40m x 20m and will be surfaced using a mixture of sand and fibre enclosed by a 1.2m high post and rail fence. No floodlighting is proposed. The adjacent lunge ring will be circular with a diameter of 20m enclosed by a 3m high vertical boarded wall.
- 6.2.3 In addition, a mobile home to be used as temporary accommodation for three years by an equestrian worker on the site is also proposed measuring 43 square metres in floor area. The application indicates that this will be occupied by the applicants and it will be located to the rear of the existing hedgerow within the site.
- 6.2.4 Externally, the site will include a concrete-surfaced yard area to provide circulation space. A car parking area accommodating eight parking spaces is also proposed within the main compound area.
- 6.2.5 The key consideration here concerns the scale of development given its relatively sensitive location. The Shropshire Hills AONB boundary lies approximately 1km to the north of the site and the impact of the development upon the AONB is a material planning consideration. The largest building proposed is the stock building. The dimensions are stated above and its size, design and use of construction materials are all similar to a typical livestock building found within the open countryside. It will be located to the rear of the existing farm building which is to be altered by enclosing the existing open face on the western side. It will not be increased in size and its impact will be no more significant as a result of the proposed alterations.
- 6.2.6 The ménage will be located to the southern side of the stock building and although covering 800 square metres, its visual impact will be relatively low. Its surface will be level with the existing and it will be bounded by a low level fence not exceeding 1.2m in height. The associated lunge ring will be more substantial in that the height of its walls will be 3m. However, the lunge ring will be located on the private side of the existing hedge which is of a similar height. It will be possible to impose a planning condition requiring the height of the hedge to be maintained at this height as a minimum.

- 6.2.7 The proposed mobile home will also be located on the private side of the hedge, thereby minimising its impact on the local area.
- 6.2.8 There are no public footpaths traversing the site and those that do exist further to the north and south are not affected by the development proposed due to a combination of physical separation and intervening landscape features.
- 6.2.9 The car park is proposed on the public side of the existing hedge and has the potential to intrude in views from the public road. However, the surface level of the car park will be level with the existing field and additional tree planting is proposed which will further mitigate any potential impact.
- 6.2.10 It is considered that the siting, scale and design of the proposed development is appropriate to this rural area and is consistent with Core Strategy Policies CS5 and CS6 and SAMDev Plan Policy MD2.

6.3 Visual impact including impact upon the AONB

- 6.3.1 The site is located within the open countryside but its degree of prominence when viewed from public vantage points is tempered by the fact the site lies on the crest of the slope and the majority of the built form will be positioned on the private side of an existing mature native species hedge, which is to be retained. It is also situated approximately 150m back from the public road to the east. It is unlikely to be visible to any significant degree. There is a public footpath approximately 1.5km to the north on elevated land. However, there are numerous landscape features in the intervening landscape such as trees, hedges and undulations which affect views towards the application site. The largest structures on the site are the stock building and existing barn; both of which have been designed to reflect the style of typical agricultural buildings found in rural areas.
- 6.3.2 The Parish Council has commented that the site lies within the Shropshire Hills Area of Outstanding Natural Beauty and it should not be permitted on the basis that it will have an adverse impact upon the AONB. The potential impact of the development upon the AONB is a material planning consideration to which the local planning authority must have regard in its assessment of the proposals.
- 6.3.3 The explanatory text to Policy CS5 informs us there will be areas of the countryside where development will need to pay particular regard to landscape character, including the Shropshire Hills AONB. Policy MD12 of the SAMDev Plan concerns new development that affects the natural environment. It lends support to proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB, Nature Improvement Areas, Priority Areas for Action or areas and sites where development affects biodiversity or geodiversity interests at a landscape scale, including across administrative boundaries.
- 6.3.4 The AONB Management Plan has been consulted and it transpires that the site is not located within the AONB boundary. It lies to the south of the AONB boundary,

which is on elevated land approximately 930m away to the north. Due to the character of the landscape in the area, it is unlikely that the proposed development will have an adverse impact upon the AONB or on other visual amenities in the area. Consequently, the proposed development, subject to appropriate materials and landscaping, would be consistent with Core Strategy Policy CS5 and SAMDev Plan Policy MD12.

6.4 Need for an essential workers dwelling

6.4.1 The proposal includes provision of a temporary dwelling for an essential rural worker in the form of a mobile home. Planning permission is sought for a three year temporary period. Paragraph 55 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances which would include the essential need for a rural worker to live permanently at or near their place of work in the countryside. It is incumbent upon the applicant to demonstrate that an essential need exists, even for a temporary dwelling.

6.4.2 The applicant has submitted a supporting statement entitled “A Report on the Need for a Temporary Rural Worker’s Dwelling” by the Equine Consultancy Group. This sets out the case for the proposed dwelling. In summary, the following facts support the case for a temporary rural worker’s accommodation on the site:

- There is approximately 7.7 hectares (18.9 acres) of land at the application site which is owned by the applicants and available to the business. This is currently sufficient land although there is the potential to purchase more land nearby.
- At the time of writing, the applicants have twenty two horses in total. This includes eight broodmares. They also have yearlings and young stock. In addition to this they have one hunter and one retired companion horse.
- The current business employs the applicants, a rider and his assistant and a further advanced event rider who prepares the horses for competition. It also employs riders to exercise the younger horses on a daily basis.
- There are no permanent dwellings associated with the property and no dwellings in the immediate vicinity which are available or suitable to serve the needs of the business, despite the applicants looking for the past seven years.
- Mares foal at the property at Newtown where there is on site supervision, and foals stay on site until they are yearlings, when they are then taken to the application site to be turned out with other young horses. The business has operated from the application site for some six years, the applicants having to travel a forty mile round trip every day to check and care for their stock.
- The current property where the applicants reside, and where the breeding operation is located is limiting the business growth as it has insufficient land and buildings and additional development is not possible given the proximity to a Grade II Listed house and the flood plain. In addition, the local road network is too dangerous to safely exercise young horses.

- An essential need is more likely to exist where circumstances requiring the prompt attention of a skilled worker could occur outside of normal working hours.
- The action of foaling is an extremely critical period for the health and welfare of mare and foal. An essential functional need is also generated throughout the year in the keeping of broodmares, foals and other young stock.
- Horses are unpredictable; they all react differently to different situations. It is particularly those situations that are unpredictable that give rise to the need for twenty-four hour supervision.
- Horses can easily become cast, or 'stuck' on their backs, more often when stabled, but can happen when a horse lies down or rolls in the field too close to a wall, hedge or fence. This is a potentially fatal emergency situation and needs rapid human intervention, requiring two people.
- There have been occasions where the applicants have had to stay overnight at the site to deal with injured or sick horses and a number of emergency situations have occurred when the applicants were absent resulting in serious welfare situations.
- In general terms, a good stockman living on site will often notice subtle behavioural changes that often mean that either something is wrong, or that something out of the ordinary is about to happen.
- No guidance is provided within the NPPF as to the meaning or interpretation of 'permanent', however it is considered that for there to be a permanent need, the business enterprise which generates that need should be capable of being viable and have a reasonable prospect of being sustainable in the long term.
- The applicants are not finding it cost effective to travel between places, and more importantly, the welfare of the horses can suffer. For these reasons the proposed dwelling is essential for the business to succeed and grow in the long run.

6.4.3 The case has been independently considered by Reading Agricultural Consultancy (RAC) (commissioned by the Council) with regard to the case made for essential need. RAC considers an assessment of essential need requires the following:

- An evaluation of risk;
- The frequency and type of out-of-hours emergency situations arising;
- The scale and loss should that emergency situation arise;
- The potential for an on-site worker to identify the problem; and
- His/her ability to rectify the situation.

6.4.4 RAC accepts that under the Animal Welfare Act 2006 it is an offence to cause unnecessary suffering to any animal. The Act also contains a duty of care which requires anyone responsible for an animal to take reasonable steps to ensure that the animal's needs are met and its welfare assured. In this case the duty of care for any horses stabled rests with the applicants.

6.4.5 In 2009 the equine industry and welfare organisations produced revised guidelines for the welfare of all horses, ponies and donkeys which states: "sufficient staff must

be provided at all times to ensure proper, regular and timely attention to all horses held.”

- 6.4.6 The ECG report that accompanies the application sets out a comprehensive list of the reasons why it is essential for staff to live on the site. RAC agrees with these insofar as ensuring the welfare of horses is not compromised; all as set out under 6.4.2 above.
- 6.4.7 These activities are currently carried out at the home site near Newtown where there is a clear and established essential need for worker’s accommodation. RAC were concerned initially that there was no confirmation that the applicants intend to move wholly to the application site. Furthermore, the lack of any financial information such as business accounts demonstrating that the business is capable of sustaining itself in the longer term was also of concern.
- 6.4.8 The applicants provided additional information as a result and RAC considered this further. In summary, it was agreed that there are horses kept at both sites although the inability of the applicant to confirm how many are kept at the application site remains perplexing. The applicants confirmed their intention to relocate the entire business to Norbury from Newtown and RAC accept that the proposed move of the entire operation to the land north of Three Chimneys Cottage would have the same essential need as that at the home site.
- 6.4.9 The applicant has provided confidential financial information that demonstrates it is a profitable business. However, this information would not meet the test of sustainable development if used to support an application for a permanent dwelling. However, this application is only for a temporary dwelling. What the applicant has failed to provide is a forecast budget to show that at the end of the three year period the level of profit would meet the cost of all labour both employed and notional labour charges for the applicant, return on capital invested and build costs. This remains a concern even for a well-established business seeking to relocate. However, in respect of the essential need element the additional information provided confirms that the applicant intends to move (re-locate) the whole operation to a new site and that in order to achieve that there would be an essential need for someone to be resident on site.
- 6.4.10 Further accountancy information that addresses the RAC concerns has been received from the applicant. This information is commercially sensitive and the applicant has requested that it be treated as confidential. It has been reviewed by RAC who have confirmed that the budgets for 2015/16 and 2016/17 show satisfactory projected net profits. As this application is for a temporary dwelling it is considered that these projections can be accepted. It is expected that over the three year temporary period for the mobile home that the net profits set out in the forecast would be met. However, if this does not happen then it may indicate that the enterprise is not viable. In that case, there would be a fundamental obstacle to granting a future planning permission for a permanent dwelling on the site.

6.5 Highway safety implications

- 6.5.1 Core Strategy policy CS6 seeks to secure safe developments. In the context of highway safety this requires the access and local road network to be capable of safely accommodating the type and scale of traffic likely to be generated. The proposals will utilise an existing track that serves the site direct from the public highway through a gated entrance set back from the edge of the carriageway. The verge along this side of the road is approximately 2m deep allowing relatively good levels of visibility in each direction along the road (approximately 100m to the south east and significantly more to the north east)). The hedgerow to either side of the access is set back behind the verge and is maintained at a low height and is not considered to impinge on sight lines to an unreasonable extent. It is proposed to surface the track (where it is not already tarmacked) with stone. Application of national visibility standards of 2.4m x 215m for a road subject to the 60mph national speed limit would result in a substantial degree of hedgerow removal, which would harm the character and appearance of the local area. The use is likely to be a relatively low traffic generator and the road is comparatively lightly trafficked. Existing visibility in both directions is reasonably good and is considered to be adequate, all matters considered, in this particular case.
- 6.5.2 Parking is to be provided within the site to meet the needs of the business and amounts to eight parking spaces. A new mixed hedge with post and rail fence is proposed around the north and east boundaries of the car park with new tree planting beyond to the east. The access arrangements, including the degree of visibility, and parking arrangements are all considered to be adequate to serve the development.

6.6 Protected species

- 6.6.1 The Framework places high importance on protection of biodiversity interests and new development should minimize impacts on biodiversity and the natural environment. Planning permission should be refused where significant harm from a development on such interests cannot be avoided. This is reflected in Policies CS6 and CS17 of the Core Strategy and MD2 and MD12 of the SAMDev Plan.
- 6.6.2 The site is not located within or adjacent to a protected area or other environmental asset and no European Protected Species are likely to be directly affected by the proposals. The Council's Ecologist has commented on the scheme and recognises an opportunity to enhance the biodiversity interests of the area through the development. This amounts to provision of bat boxes, bird nesting boxes and submission of a lighting scheme to ensure the final scheme is not harmful to the local bat population. All of these may be secured through planning conditions and the scheme is, therefore, considered to be in accordance with the above policies.

6.7 Drainage and Flood Risk

- 6.7.1 The Framework and the adopted development plan (Policy CS18) are both concerned with ensuring new developments do not cause drainage or flooding problems. The Council's Flood Team have commented on the scheme and have no objections subject to submission of details of the drainage scheme for the site for

approval prior to commencement of development. There is, therefore, no objection to the proposal on drainage grounds.

6.8 Heritage impact

6.8.1 The Parish Council has objected on the basis that the development proposal is likely to have an adverse impact upon the Norbury Conservation Area, a designated heritage asset. The Framework requires developers to describe the significance of any heritage assets affected, including any contribution to their setting. Core Strategy policy CS6 requires new development to conserve and enhance the historic environment. Insofar as the Framework's requirements are concerned, the applicant has not provided any information in respect of potential impact upon the conservation area.

6.8.2 However, the application site is neither located within nor adjacent to the Norbury Conservation Area. In fact, the boundary of the conservation area is located approximately 800m away from the site to the north east "as the crow flies". The intervening landscape undulates and contains a number of hedges, all of which combine to obscure views of the site from the conservation area. The application site cannot be viewed in the same context as the conservation area and it is considered, therefore, that the proposed development would not have any detrimental effect upon the heritage asset.

6.9 Other Matters

6.9.1 Several other matters have been raised in both the representations and consultation responses that are not covered in the above assessment. The Parish Council has made a number of other points that require a response.

6.9.2 Firstly, the issue concerning the trench on the adjacent owner's land is a private matter and is not relevant to consideration of this scheme. Similarly, comments about the applicant's alleged personal attitude are not relevant either.

6.9.3 The site is separate from the village and is not viewed in context with it. It is not considered it will extend the village envelope and there is no evidence that its approval will cause an influx of applications in fields along that route and also other isolated areas in the parishes. Applications have to be considered on their individual merits and against the provisions of the development plan. Approval of this scheme will not, for example, open the way for new residential development in the open countryside beyond the village limits.

6.9.4 There is no evidence that other sites are available, suitable and affordable for this form of development within the locality. The matter of potential light pollution will be addressed through a suitable condition.

6.9.5 The applicant has confirmed that the ground conditions at the site are suitable for the keeping of animals. The previous use of the site was for the keeping of livestock associated with the prior notification approval for the existing stock building in 2009. There is no evidence that suggests the site is no longer suitable for livestock.

6.9.6 The previous scheme included a plan showing a splayed entrance but no condition was added to the decision specifically requiring the splays to be implemented. The current proposals show that a 2.4m x 214m splay in each direction can be provided. However, this is likely to result in loss of a substantial length of existing boundary hedge which would be harmful to the character and appearance of the area. As reasoned above, there needs to be a degree of balance brought into the assessment. The use is likely to generate low levels of traffic movements and the current visibility in both directions is reasonably good. The road is also comparatively lightly trafficked. It is considered that to insist on the national standard of visibility splays in this instance would be both unnecessary and result in an over-engineered solution leading to removal of the hedge and thereby harming the character and appearance of the area.

6.9.7 The comments made by the Fire Authority are covered by the Building Regulations and an appropriate informative for the applicant's benefit will be added to any grant of planning permission.

7.0 CONCLUSION

7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

7.1.2 The National Planning Policy Framework provides for a presumption in favour of sustainable development. However this must be balanced against the impact that a development scheme will have on the character of an area and its surroundings. The 'presumption in favour of sustainable development' entails weighing the benefits of the scheme against those impacts.

7.1.3 The proposal for a new equine centre with ancillary essential worker's accommodation (for a temporary three year period) is considered to be appropriate for a countryside setting. The scale and visual impact of the development is considered acceptable subject to agreeing materials and additional landscaping before development commences.

7.1.4 In conclusion, the proposed development is considered to be in accordance with the provisions of the adopted Development Plan and constitutes sustainable development.

8.0 Risk Assessment and Opportunities Appraisal.

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be

awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **Financial Implications**

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

10. Background

National Planning Policy Framework:

The following paragraphs are considered to be relevant:

7, 14, 17, 28, 54, 55, 56, 58 and 109.

Shropshire Adopted Core Strategy:

CS1 Strategic Approach

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS13 Economic Development, Enterprise and Employment

CS17 Environmental Networks

CS18 Sustainable Water Management

Shropshire Adopted SAMDev Plan:

MD1 Scale and Distribution of Development

MD2 Sustainable Design

MD4 Managing Employment Development

MD7a Managing Housing Development in the Countryside

MD7b General Management of Development in the Countryside

MD12 Natural Environment

RELEVANT PLANNING HISTORY:

09/00142/AGR - Erection of an agricultural building (for livestock). Approved 8th May 2009

11. Additional Information

View details online:

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

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Mrs Charlotte Barnes

Appendices
APPENDIX 1 – Planning Conditions and Informatives

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STANDARD CONDITIONS

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 following approved plans and drawings:
 - I. 765/14/1 – Site location plan dated August 2014
 - II. 765/14/4 – Proposed site plan dated July 2014
 - III. 765/14/7 – Proposed alterations to the barn dated July 2014
 - IV. 765/14/8 – Proposed stock building dated July 2014
 - V. 765/14/10 – Proposed mobile home dated July 2014
 - VI. 765/14/11 – Proposed fencing details dated July 2014

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall be commenced until full details of landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i. Planting plans;
 - ii. Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - iii. Schedules of plants, noting species, planting sizes and proposed numbers / densities where appropriate; and
 - iv. Implementation timetables.
 - v. Details of existing trees and hedges to be retained, which shall include retention of the hedge adjacent to the lunge ring and mobile home at a minimum specified height.

Reason: These details are required prior to the commencement of development to ensure the provision of amenity afforded by appropriate landscape design.

4. No development shall commence on site in connection with the approval until samples of materials including colour finishes for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: These details are required before the commencement of development to ensure the materials are appropriate in the interests of visual amenity.

5. Development shall not commence on site until full details of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. These details shall include plans, dimensions, location and sizing of any proposed septic tank and soakaways including percolation tests for the drainage fields should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 3 should be used to determine the number of persons for the proposed development and the sizing of the septic tank and drainage fields should be designed to cater for the demands of the development. The approved drainage scheme shall be carried out before the development is occupied or otherwise brought into use.

Reason: These details are required before the commencement of development to ensure that adequate drainage is provided in the interests of safeguarding the environment from potential sources of pollution.

Notes:

i. Consent or an exemption certificate is required as appropriate from the Environment Agency for discharging treated foul effluent into the watercourse. However, if the ditch/ watercourse is occasionally dry, the treated foul effluent should discharge into a drainage field.

ii. If using water butts on site these must be monitored to ensure they do not overflow. Opening the tap to allow water to drain freely from the water butt is acceptable as this will act as to attenuate the flow of the surface water collected. It is recommended that the flow route from the water butt is determined to ensure this does not cause issues elsewhere on site.

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

6. The car parking area shown on the approved site plan shall be laid out and be made available for use before the approved development is first brought into use.

Reason: - In the interests of highway safety.

7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

Reason: To control potential light pollution in the interests of local visual amenity and to minimise disturbance to bats, a European Protected Species.

9. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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

10. The buildings and equestrian land hereby approved shall be used only in connection with the applicant's equestrian usage and shall not be used for other commercial or livery purposes.

Reason: - To prevent a more intensive use being introduced in the interests of protecting the character and appearance of the countryside and highway safety having regard to the network of country lanes within the locality.

11. The occupation of the temporary dwelling hereby permitted shall be limited to a person or persons solely or mainly, or last working at the equestrian business within the application site or in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990 (as Amended)), in the locality or to the spouse, widow or widower of such a person and to any resident dependents.

Reason: - The site is located in the open countryside and the development has been permitted solely because it is required to meet the essential need for a rural worker to live at or near to their place of work in the countryside.

12. The permission for the temporary worker's dwelling hereby granted shall expire three years from the date of this permission. Thereafter the building/mobile home hereby permitted shall be removed and the land restored to its former condition on or before the expiry of three years, in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

Reason: - The permission is granted on a temporary basis to enable the Local Planning Authority to assess the viability of the business prior to the assessment of the need for a permanent dwelling in three years' time.

INFORMATIVES

Informative 1

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

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Informative 2

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.

Informative 3

Badger 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. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

Informative 4

Access for Emergency Fire Service Vehicles.

It will be necessary to provide adequate access for emergency fire vehicles. There should be sufficient access for fire service vehicles to within 45 metres of every point on the projected plan area or a percentage of the perimeter, whichever is less onerous. The percentage will be determined by the total floor area of the building. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advises that early consideration is given to this matter. The Building Regulations 2000 (2006 Edition) Fire Safety Approved Document B5 provides details of typical fire service appliance specifications.

Informative 5

Water Supplies for Firefighting Building Size

It is important to note that the current Building Regulations require an adequate water supply for firefighting. If the building has a compartment of 280m² or more in area and there is no existing fire hydrant within 100 metres, a reasonable water supply must be available. Failure to comply with this requirement may prevent the applicant from obtaining a final certificate.

Informative 6

As part of the SuDS, and to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner, the applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Attenuation

Greywater recycling system

Green roofs