



Committee and date

South Planning Committee

1 March 2016

Development Management Report

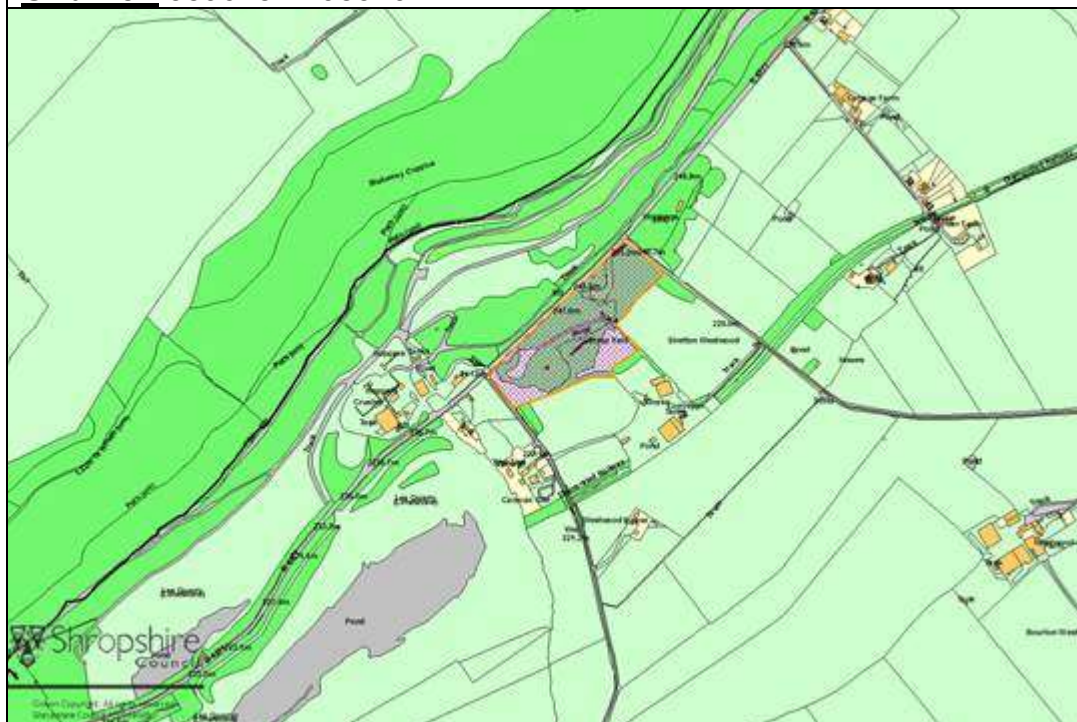
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Summary of Application

<u>Application Number:</u> 15/05359/FUL	<u>Parish:</u>	Much Wenlock
<u>Proposal:</u> Restoration of disused quarry to restore habitat, in particular to encourage the re-growth of calcareous grassland (UK Biodiversity Action Plan priority habitat), utilising surplus material from proposed attenuation ponds that will form the Much Wenlock Flood Alleviation Scheme		
<u>Site Address:</u> Westwood Quarry Stretton Westwood Much Wenlock Shropshire TF13 6DD		
<u>Applicant:</u> Mr David Edwards		
<u>Case Officer:</u> Richard Fortune	<u>email:</u> planningdmse@shropshire.gov.uk	

Grid Ref: 359618 - 298370



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

- 1.1 This application relates to some 4.2 hectares of land, which is a former quarry. Planning permission has been given for the construction of two attenuation ponds on the outskirts of Much Wenlock as part of the flood alleviation scheme for the Town. These consents comprise 14/01753/FUL for a pond on the Shylte Brook near to Bridge House, off Stretton Road, Much Wenlock, and 14/01754/FUL also on the Shylte Brook and located at the end of Sytche Lane to the north of the town. The excavation of these ponds will result in 26,000 cubic metres and 13,000 cubic metres of surplus material respectively once pond landscaping has been completed. Initial ground investigations have established that this material is largely naturally occurring soil, gravel and limestone that is inert and uncontaminated. The material is from the same geological strata and expected to have similar characteristics to that previously excavated from Westwood Quarry.
- 1.2 The proposal is to use the excavated material from the pond sites to partially restore Westwood Quarry and to create priority habitat (Calcareous grassland). (It is known that one pond includes some imported material associated with the historic railway which previously ran through part of the site. As far as possible this material would be reused within the pond site, but any that cannot be accommodated will be disposed of in a licenced tip elsewhere and not taken to Westwood Quarry.) There is currently some calcareous grassland present within the site boundary. The areas located to the west of the quarry, are on unquarried land. The only patch to have established within the quarry floor is shown towards the centre of the site. Calcareous grassland is a UK Biodiversity Action Plan (BAP) priority habitat. This has been identified as being one of the most threatened habitats, requiring conservation under the UK BAP. This grassland requires well drained soil formed by natural weathering of limestone or other calcareous rock, and which as low fertility.
- 1.3 The upper material to be excavated at the pond sites has been mainly in agricultural use and is generally expected to be too fertile for the immediate creation of the desired habitat. This material would be placed in the base of the proposed deposition areas to create the desired variable profiles, before it is covered with the less fertile material from the lower levels of the pond excavation. It is intended to place the material in such a way as to encourage a diverse ecostructure. This will include relatively steep side slopes, particularly the south facing ones. For the purposes of illustration and evaluation of quantities achieved the proposed sections show relatively smooth profiles. However it is intended that the final surface will be deliberately uneven, with localised hollows and hummocks, and if possible areas will be formed using rocks of the largest size which can be easily excavated from the pond sites i.e. large boulders will be left intact, rather than broken down to form a homogenous surface. A proposed sections drawing shows the extent of the proposed levels changes in the quarried areas, with the existing areas of calcareous grassland and broadleaf woodland retained. The maximum amount that existing ground levels would be raised in creating the uneven landscape would be by some 6.1 to 6.8 metres.

- 1.4 The finished mounds would be left with no additional imported topsoil, and would not be seeded with any imported seed mixture. Within the existing quarry floor, beneath the footprint of the mounds there are some areas of developing calcareous grassland, and these areas would be scraped off and temporarily stored for distribution on the finished mounds in areas to be agreed with the site ecologist. The long term requirements to establish the required vegetation would be limited to the control of scrub and other invasive species, and the grazing or occasional cutting to maintain and enhance the target grassland species. It is proposed to create ponds in an area between the main quarry face and one of the mounds, where there is a localised seepage of water from the face, which can be collected to maintain water levels. As the inlying strata is permeable it would be necessary to line the ponds with either clay puddle or a geosynthetic bentonite lining. Full details of the proposed ponds would be developed prior to the application for a Great Crested Newt licence, which can only be progressed after planning consent is granted. (Great Crested Newts are known to be present on site but there are no ponds suitable for breeding in the immediate area).
- 1.5 The site contains some more recent relics of past use within the areas where the mounds will be placed, and these would be removed in the case of scrap vehicles and machinery, or broken up or covered in the case of concrete slabs and other bases.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated some 2.5km to the south west of Much Wenlock. The site is bordered by the B4371 road to the northwest and by unclassified roads to the southwest and northeast. Other parts of the former quarry area are to the southeast. The majority of the quarry floor is currently bare ground, ephemeral/short vegetation, ruderal tall herb and broadleaved semi-natural woodland. The quarry floor is 10-15 metres lower than the B4371 which runs parallel to the site. The cliffs, hedges and woodland screen the quarry from the highway and adjacent land.
- 2.2 Part of the site is designated as a Site of Special Scientific Interest (SSSI). This part of the Wenlock Edge SSSI is primarily for geological features but also covers habitat and biodiversity. Westwood Quarry is noted as having one of the best exposures showing the large scale relationships between reef and inter-reefal sediments. One of the cliffs to the south west is important as it shows contact with the overlying Elton Beds.
- ## **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**
- 3.1 The proposed development is to be carried out by Shropshire Council and determination by Committee is required under the Council's scheme of delegation.
- ## **4.0 Community Representations**
- Consultee Comments
- 4.1 Much Wenlock Town Council - No objection, but the Council would like to see strict traffic management during the works due to poor visibility with egress from the site on to the B4371 and the A458. The Council does not support the works being carried out during the winter months due to mud on the road and the hazards this may create.

4.2 SC Drainage – No Objection:

The management of the surface water runoff in the FRA using infiltration via informal swale-type arrangements and the creation of a calcareous grassland from the material excavated from the pond sites is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable.

4.3 SC Public Protection – No Objection:

Having regard to the conclusions in the Mouchel December 2015 report submitted with this application I can confirm that there is the potential for contaminants to be found on site at levels which require further investigation. As a result should this application be granted approval I recommend the following condition:

Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be

carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5.

4.4 Environment Agency – No Objection

Waste

The proposal is located within Flood Zone 1 (based on our indicative Flood Map for planning) and relates to the restoration of Westwood Quarry using wastes generated from two flood alleviation schemes in the local vicinity.

An Environmental Permit, in accordance with the Environmental Permitting Regulations (2010), will be required in order to carry out the proposed activity. The majority of the site is situated within a Site of Special Scientific Interest (SSSI). The standard rules permit for waste recovery can only be issued where sites are >500m from a SSSI. Therefore, in this circumstance, a Bespoke Permit would be required. This will control the testing of material to confirm the suitability of importation of waste to site etc.

Based on the information provided we do not see any significant cause for concern at this stage, without prejudice to the permit application, with consideration to the possible land use planning implications.

For pre-Permit discussions and/or to apply for a Bespoke Permit the applicant should contact Samantha Wilson in our EPR Waste team on telephone: 01743 283533 or samjwilson@environment-agency.gov.uk for more information.

Contaminated Land

The applicant recognises the former usage of the site. This includes a small area of landfill (reference PL/74) and some contamination from oils / hydrocarbons and fly-tipped wastes. These fly-tipped wastes and areas of contamination should be removed prior to any further tipping of wastes at this site. Our GIS records state that "a risk assessment carried out by the environmental health department suggests a low risk of landfill gas production or effects upon property". This report should be sourced by the applicant to gain a better insight into the risks of the contamination here.

Based on the scale nature of the proposal and the previous use of the site, we would make no comment on land contamination matters associated with this planning application. However, you are advised to seek the comments of your Public Protection / Environmental Health team and refer to the following standing advice: The National Planning Policy Framework (NPPF) takes a precautionary approach to land contamination. Before the principle of development can be determined, land contamination should be investigated to see whether it could preclude certain development due to environmental risk or cost of clean-up (remediation). For sites where land contamination may be present as a result of previous or current land use, the planning application should include appropriate information about this and demonstrate how the development will deal with any contamination present. This is so that the development does not cause or exacerbate contamination, and to ensure that it, future users and the environment are not at unacceptable risk from contamination.

This is a requirement of the NPPF and the National Planning Practice Guidance (NPPG). See paragraphs 109, 120, 121 and 122 of the NPPF, and the 'Land Affected by Contamination' section of the NPPG, available at:

<http://planningguidance.planningportal.gov.uk/blog/guidance/land-affected-by-contamination/land-affected-by-contamination-guidance/>

The applicant should identify whether the site has known or suspected contamination associated with it. Certain types of previous / current land uses are likely to have caused contamination. These include uses such as gasworks, landfills, industrial uses, petrol filling stations or land where fuel tanks have been sited, cemeteries, abattoirs, vehicle servicing garages, and land adjacent to major infrastructure routes such as railway cuttings and motorways. Intensive agricultural uses may also have caused contamination from chemicals and pesticides. For further information you may wish to refer to:

- ☐ The Council's Public Protection / Environmental Health Department – for historic records of landfilling or waste activities, and to ascertain whether the site has been determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.
- ☐ Historic land use maps

GIS layers showing closed/historic landfills and open /current landfills (your Council should already have these GIS layers from the Environment Agency, but if not they can be obtained via our Geostore.

Information that should be submitted with the planning application

Preliminary Risk Assessment: As a minimum the applicant must submit a Preliminary Risk Assessment. (This is also known as a Phase 1 Desk Study, and may include a site walkover.) The Preliminary Risk Assessment should include a '*conceptual site model*'. This model considers firstly all potential sources of contamination (i.e. information on all previous land uses that may have given rise to contamination), secondly any likely receptors (e.g. proposed future users of the site and ground or surface water on or off site) and thirdly any possible pathways between them (such as through the ground or along pipes as a result of development). Where all three exist this is defined as a pollutant linkage. The conclusions of the report should contain recommendations on how the contamination, if present, will be dealt with through the development so that the site can be made safe for users and the environment and will not cause or exacerbate pollution.

In some cases this information may be sufficient to determine whether the principle of development is acceptable subject to planning conditions to secure the conclusions of the report, such as further detailed investigation, site remediation and validation (see conditions section below).

In other cases there may be insufficient information at this stage to make a decision on the application, and more information may be required prior to determination. This is more likely to be the case if the site is particularly contaminated, the site setting is more sensitive or the end use proposed is particularly sensitive to contamination. In these cases the applicant will need to submit more detailed information.

Site Investigation Report: The next stage of more detailed information is a Site Investigation Report. (This is also known as a Phase 2 Detailed Site Investigation.) The 'Detailed Investigation' phase is the on-site validation of the conceptual model. Through intrusive investigation, chemical testing and quantitative risk assessment, the Phase 2 study can confirm possible pollutant linkages. It should also provide appropriate remediation options, if these are required.

For more complex sites, it is more likely by this stage that the applicant will have submitted enough information to establish that the site can be developed for the proposed use in a safe manner that will not lead to pollution or harm. At this stage therefore it is likely that a determination can be made. (There may still be some cases where additional information on the remediation measures / remedial actions – see below – is needed before permission can be granted). Where approval is given the decision notice should contain relevant conditions to secure the recommendations of the Preliminary Risk Assessment and Site Investigation Reports, such as site remediation, validation and any necessary monitoring.

Discharge of conditions after permission is granted

Once permission has been granted subject to conditions, the developer will need to deal with the contamination on site. This is the remediation phase. The remediation phase of the process is generally split into two parts – remediation and validation. The developer will need to submit relevant Reports for these parts of the process at the right time as part of a discharge of conditions application.

Remediation Strategy: This is a document detailing the objectives, methodology and procedures of the proposed remediation works. (It may also be called a Remediation Method Statement or Remedial Actions Statement or Report.) Where necessary it should also include a **verification plan** that provides details of the data that will be collected in order to demonstrate that the works set out in the Remediation Strategy are complete and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works to ensure development occurs in the right parts of the site in the correct sequence to ensure pollution is not caused. The developer should submit this information for approval before any works commence. Once this has been submitted and approved as part of the discharge of conditions application the development can proceed in the way the Remediation Strategy has set out.

Validation Report: Following completion of the works, the developer must submit a Validation Report as part of the discharge of conditions application. (It may also be called a Verification Report.) This document demonstrates that the works have been carried out satisfactorily in accordance with the Remediation Method Statement and that the remediation targets have been achieved. In most cases this will allow the planning conditions to be discharged in full.

Monitoring Programme: In some cases a programme of monitoring is required as part of the remediation phase, or as part of the validation to demonstrate the site has been satisfactorily remediated. Sometimes monitoring may be required for a longer time period after the development has been completed. The Remediation Method Statement (and possibly the earlier Preliminary Risk Assessment and Site Investigation Reports) should have made clear where this will be necessary and established in detail what will be involved.) Monitoring may be necessary for landfill gas, groundwater and surface water (such as taking samples from a watercourse

on a regular basis over a set period of time). Where these measures are necessary the planning conditions should include this, and in some cases a Section 106 Planning Agreement may be a more appropriate mechanism for securing necessary monitoring, such as when monitoring from off-site locations is required or if it is required for a particularly long time period.

Biodiversity

The plan to re use spoil to create calcareous grassland and Great Crested Newt habitat at Westwood Quarry is welcomed. The scheme has the double benefit of reducing the environmental pollution associated with the haulage of the spoil from the flood alleviation pools to a disposal site further away and the re-use of rare calcareous soil to create calcareous grassland. Calcareous grassland has been identified as being one of the most threatened habitats, requiring conservation under the UK Biodiversity Action Plan and it is designated as a habitat of principal importance for the conservation of in England under Section 41 of the NERC Act 2006. When planning to enhance a site it is important to assess the current habitat and species that are present to ensure that legally protected species or any uncommon or rare plants are not adversely affected by the enhancement scheme. Eco-Tech's Ecological Assessment Report has comprehensively assessed the current habitat and species at the site and has informed the restoration plan for Westwood Quarry that will avoid areas that currently provide valuable habit. The plans are to only create new habitat in areas of current low biodiversity and only import soil to areas where beneficial habitat can be created.

We have no objection to the proposed habitat creation as shown on Fig 8 of the design and access statement, providing the guidance is followed within the planning submission/Ecological Assessment report. The scheme should help improve Biodiversity and minimise run-off in line with WFD objectives. We would suggest that Natural England be consulted on the restoration plans.

Informative - an appropriate management plan should be agreed to include:

- *ongoing control of Japanese Knotweed*
- *scrub clearance to maintain exposure of designated geological features of the site*
- *clearance and / or suitable grazing of invasive scrub and vigorous grassland species on the grassland areas -Coppicing of woodland on the edges of the site and suitable management hedgerows;*

4.5 Natural England – No Objection: no conditions requested.

This application is in close proximity to Wenlock Edge Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Wenlock Edge Site of Special Scientific Interest (SSSI) is notified.

Natural England notes that the applicants positively engaged with Natural England

via our pre-application Discretionary Advice Service. As part of this, the special features of the Wenlock Edge Site of Special Scientific Interest (SSSI) were discussed and geological and biodiversity / habitat advice sought and received.

Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- ☐ local sites (biodiversity and geodiversity);
- ☐ local landscape character; and
- ☐ local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

Protected Species

Where there is a reasonable likelihood of a protected species being present and affected by the proposed development, the LPA should request survey information from the applicant before determining the application (Paragraph 99 Circular 06/05)¹.

Natural England has produced standing advice, which is available on our website [Natural England Standing Advice](#) to help local planning authorities to better understand the impact of particular developments on protected or BAP species should they be identified as an issue. The standing advice also sets out when, following receipt of survey information, local planning authorities should undertake further consultation with Natural England.

4.6 SC Ecology – No Objection:

Great Crested Newts

Great crested newts have been recorded within the site boundary. There are currently no ponds within Westwood Quarry and it is concluded that newts are able to get into the quarry but not able to get back out due to the steep cliff sides (15m tall). There are 5 ponds within 250m of the site. As there are works within 50-250m of a confirmed great crested newt breeding pond Eco Tech has recommended that works should be undertaken under mitigation licence from Natural England. The site will be fenced and cleared prior to works. In addition to the creation of calcareous grassland there will be the formation of 2 wildlife ponds and 2 herpetile refuges.

Dormice

There is a known dormouse population at Wenlock Edge (within 500m of the proposed site). The larger areas of woodland on site are considered to be moderately suited to dormouse use in that they have a contiguous canopy and a dense shrub layer. The smaller patches and thin strips, such as that within the

proposed works area are considered to be poorly suited to dormouse use in that it has a discontinuous canopy with no nut bearing trees or shrubs. A population may be present within the application area, but is considered unlikely to occur within the proposed works area. Given the small extent of moderately suitable habitat present, the application area is considered likely to be of site value for this species. However, the small area of poorly suitable habitat present within the proposed works area is considered to be of negligible value for this species. The vast majority of woodland will be retained in-situ by design. It will also be taped or fenced as required to discourage accidental access by machinery. A method statement for dormice has been produced by Eco Tech and will be followed to further reduce any potential impact on the species. SC Ecology would encourage that a woodland management plan is created on site specifically designed to enhance the site for dormice (a European protected species). SC Ecology recommend that Hazel and Honeysuckle are planted within the woodland/woodland edge and a management plan created and followed to allow light into the woodland and create a diverse understory to include bramble.

Bat

The cliffs on site have moderate potential to support bat roosts, especially hibernation roosts. It is considered highly unlikely that the proposal will impact on bats. Avoidance of potential roost sites will include taped or fenced buffers as required to discourage accidental access by machinery.

Badger

A single entrance outlier sett is present at the eastern end of the application area, some 20m beyond the limit of the proposed works area. Mitigation is largely the design of the work which avoids the sett entrance by some 20m. It will also be taped or fenced as required to discourage accidental access by machinery.

Designated Sites

Part of the application area is within the boundaries of the Wenlock Edge Site of Special Scientific Interest (SSSI).

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. The SSSI does not represent a constraint in determining this application.

Calcareous Grassland

The proposal will create areas of priority habitat (1.45 ha). The transported topsoil will be placed first (at the base of the mounds), then the sub-soils on top of this until finally any bedrock (suitably broken up as part of the excavation). South facing steep slopes/cliffs have been incorporated into the proposals, providing habitat for ephemeral plant species and burrowing bees and wasps. A full habitat management plan should include the future management of the site.

Peregrine and other bird species

Any removal of vegetation should be restricted to the period between September and February (inclusive), in order to minimise any potential for damage or destruction of active nest and so comply with existing legislation for most bird species. On completion of the works the cliff nest site will still be available for use.

Invasive species

Areas of invasive Japanese knotweed are understood to have already been treated by injection with herbicide in autumn 2015. Control will continue in line with the latest government guidance.

Please include the following conditions and informatives below on the decision notice;

1. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Eco Tech dated December 2015 attached as an appendix to this planning permission.

Reason: To ensure the protection of Great Crested Newts, Dormice, Bats (Conservation of Habitats and Species Regulations), Badgers (badgers Act), Nesting Birds (Wildlife & Country Side Act).

2. No development, demolition or site clearance procedures that have the potential to impact upon great crested newts shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

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

3. No development or clearance of vegetation shall take place until a Wildlife Protection 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;
- c. 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 unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

4. 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

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

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.

Informative

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.

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).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

Informative

Hazel Dormice are a European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

Informative

Japanese Knotweed is an Invasive Non-Native Species listed on Schedule 9 of the Wildlife and Countryside Act. Any soil excavated that contains parts of this plant is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991.

- 4.7 Shropshire Peregrine Group – No Objection, provided the conditions in respect of nesting peregrine falcons at this site are approved and implemented.

These refer to timing of the work only to be carried out between September and February, i.e. outside the peregrines' normal breeding period to avoid disturbing the nesting birds, and secondly that no work is carried out on the cliff area below the main road where the peregrines have nested and bred successfully since 2010, and that placement of soils and rock at the site will take place well away from the base of the cliff along its' whole length.

The Peregrine Falcon is a species of national importance which the RSPB and BRO believe that the highest level of protection is essential to the conservation of the species, which remains comparatively rare, and is extremely vulnerable to human activities. In view of the enhanced conservation status, I suggest it would be more appropriate when assessing planning applications where peregrine may be at risk, to examine the implications in more detail, as is the practice with certain at risk invertebrates, plants and mammals. Grouping schedule 1 protected bird species general, "with other wild birds" tends to diminish their importance and associated mitigation factors.

- Public Comments

The full comments received may be inspected on the Council's web site and are summarised below:

- 4.8 2 Objections:

B4371 is a very busy road and dangerous road with access onto it very difficult from Stretton Westwood.

The amount of material to be brought on to the site is very large and result in 4000 lorry loads.

How many loads per day and who will be responsible for cleaning the road?

With the large amount of HGVs coming from Edge Renewables site think there will be more vehicles using the B4371 than when all the quarries were working.

Site has not been quarried since 1960/70s and has had 50/60 to regenerate itself already; what will become of existing flora and fauna already on site.

Have studies been done of what is actually there already there

If permission given will take to 2070-2080 for site flora and fauna to become as it is now.

May be pollution of nearby watercourses as landfill could be disturbed.

Landfill licence needed?

Believe existing entrance was created without planning permission.

Can see no decision on application 14/05272/COU for use as a caravan site.

Shropshire Peregrine Group strongly object. (Officer comment – see 4.7 above for their comments).

Application should not have been lodged over the Christmas period, cutting down the period that the public can put their comments forward.

No indication of the cost of the landscaping works.

Surely tipping into the empty quarries closer to the site of the attenuation ponds would be cheaper.

No information provided on the time of year or hours of operation of lorry movements; time-scale or effect on congestion on A458 and B4371.

No detail of how the placing of material including large rocks is to be accomplished.

5.0 THE MAIN ISSUES

- o Principle of development
- o Highway Safety
- o Ecology
- o Contamination
- o Landscape Impact
- o Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) seeks to ensure that the planning system contributes to and enhances the natural and local environment. One of the bullet points at paragraph 109 in relation to this matter is remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 117 advises planning policies should promote the preservation, restoration and re-creation of priority habitats, of which calcareous grassland is one. This is carried forward by Core Strategy policies CS6 and CS17, and the related Site Allocations and Management of Development (SAMDev) Policy MD12. There is, therefore, no in-principle planning policy objection to what this application sets out to achieve.

6.1.2 The Much Wenlock Neighbourhood Plan forms part of the Development Plan. Policy LL1 states proposals for the restoration and the implementation of aftercare proposal for former quarries will be permitted where they deliver restoration for wildlife, biodiversity and public access and are consistent with other Plan policies. Policy LL2 states that new industrial and commercial uses will not be supported at Lilleshall, Westwood and Farley quarries. Policy LL3 states that the Plan will expect developments to retain features of high nature conservation or landscape value, including mature trees, species-rich hedgerows, ponds and existing areas of woodland.

It is considered that the application proposals accord in principle with the above Neighbourhood Plan policies. The acceptability or otherwise of the proposed works therefore depends upon the consideration of the detailed matters set out below.

6.2 Highway Safety

- 6.2.1 Core Strategy policy CS6 seeks to secure safe developments. With regard to highway matters it is the importation of the material which would temporarily generate traffic flows on the local highway network.
- 6.2.2 The agent has advised that it has been provisionally agreed with the landowner at the Sytche Pond that access to this site would be off the A458 at Newtown Farm to the west of the pond site. This would avoid bringing heavy plant up Sytche Lane which is narrow and adjoined by residential properties and a caravan site. From Newtown Farm the route would be along the A458 Shrewsbury Road to the junction with the B4371 Stretton Road, then along the B4371 to the unclassified road on the west side of Westwood Quarry. The access to the Shylte Pond would be through the former overflow car park which has a direct access onto the B4371.
- 6.2.3 The access requirements to the site post the importation of materials and ground re-profiling would be only for maintenance and ecological visitors. A small area of existing hardstanding, in the northwest corner of the quarry, within the quarry floor, would be retained for the parking of vehicles. The agent has advised that new vehicular access has been constructed to the unnamed road to the west as the parcel of land purchased by the current owner did not benefit from the existing access when they acquired it. (This access was granted planning permission on 18th December 2013 – ref 13/04315/FUL). This access would be used for the importation of the material and subsequent site maintenance.
- 6.2.4 It is considered that the access and local highway network is capable of safely accommodating the traffic movements that would be generated by the importation of the material. It is acknowledged that the proposed routing for the traffic from the Sytche Pond would mean that the vehicle movements would have to pass properties on a section of the A458 and the B4371, but this would mitigate the impact upon residential amenity of much of the Town. A construction traffic management plan would be a condition on any approval issued to cover matters such as the routing of vehicles, the timing of vehicle movements each day and measures to prevent the build-up of mud on the public highway.

6.3 Ecology

- 6.3.1 A component of sustainable development set out in the NPPF at paragraphs 7 and 9 is seeking to improve biodiversity. This is expanded upon in section 11 of the NPPF. Core Strategy policies CS6 and CS17 seek to conserve and enhance the natural environment, with SAMDev policy MD12 setting out further criteria for the avoidance of harm to Shropshire's natural assets and to achieve their conservation, restoration and enhancement. Part of the site is designated as a Site of Special Scientific Interest (SSSI) primarily for geological features, but also habitat and biodiversity. The application is accompanied by an Ecological Assessment, a Design and Access Statement and an Environmental Desk study. The works to the low grade areas of the site would enhance biodiversity, but measures would need to be taken to protect any legally protected species or rare plants already on site. The Environment Agency has no objection to the proposed habitat creation. The Council's Ecology Team have studied these reports and are content that ecological interests can be safeguarded by planning conditions requiring works to be carried out in accordance with the Ecological Assessment, obtaining a European

Protected Species Licence in respect of Great Crested Newts, the submission of wildlife protection and habitat management plans. The proposals would comply with policies LL1 and LL3 of the Much Wenlock Neighbourhood Plan with regard to restoration and aftercare of this quarry, retaining and enhancing features of high nature conservation value.

- 6.3.2 The obtaining of a European Protected Species Licence requires the Planning Authority to complete a three tests matrix. With regard to the question is the development in the interests of public health or safety, or for other imperative reasons of overriding public interest, It is considered that the provision of an enhanced surface/flood water drainage scheme for Much Wenlock, of which these proposals are an essential element, is a matter of overriding public interest and public safety, meeting this requirement.
- 6.3.3 As to whether there is no satisfactory alternative, an evaluation of potential alternatives to this proposal has been carried out by the agent. This has included reusing all excavated material at the two pond sites, but this would not be practical due the topography and the restricted nature of the pond sites. Taking the material to a landfill site would not be a sustainable option and the nearest potential site would be in Telford some 17.7km away and require some 2600 lorry movements from the Shylte pond through the town and past the school. The Sytche pond would require 1400 lorry movements past the school. The use of the material to cap a closed landfill site is not considered to be an option as the nearest one still requiring capping is the Granville landfill in Telford, but this will not take place for approximately 2 years and would involve all traffic going through the town. The nearest recycling facility that could process the material is 48km away and the environmental and financial impact of this option resulted in it being discounted. The excavated material would not be suitable for quarry restoration near Morville and timescales would not coincide. Other quarries in the Much Wenlock area were considered but dismissed for reasons which include vehicles having to pass through the town (Farley Quarry and Shadwell Quarry); a site already capable of grazing use opposite the Shylte pond site not requiring improvement; no requirement for the bulk of the material by the owners of Lea Quarry North; Lea Quarry South is now a large pool since the pumping of ground water ceased; Lilleshall Quarry is a further 2km away compared to Westwood Quarry and would require further environmental impact investigations. It is considered that these investigations have been sufficient to establish that there is no satisfactory alternative to this proposal in respect of the test to be applied in safeguarding European Protected Species.
- 6.3.4 The third element of the tests that the development should not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, has been confirmed by the Council's Planning Ecologist and would be secured through the planning conditions recommended. It is noted that Natural England and the Shropshire Peregrine Group have no objections to the proposals.

6.4 Contamination

- 6.4.1 The NPPF at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the

developer and/or landowner. The NPPF continues at paragraph 121 that planning applications should be accompanied by adequate site investigation information, prepared by a competent person. Core Strategy policy CS6 also seeks to secure safe developments. Westwood Quarry was worked as a limestone quarry until approximately the 1960s/1970s. The north eastern part of the site was then subject to household landfill until the mid-1970s. The site has subsequently been used as concrete manufacturing works and a haulage and scrap yard. The quarry ownership has been divided over the years with the northern section being sold separately to the current owners in October 2013. The site has largely been unused since this time. The likelihood of contamination has been identified by the applicants and an Environmental Desk Study Report accompanies this application. The application and this report has been studied by the Council's Public Protection Team and the Environment Agency. Both are content that contamination issues can be dealt with adequately through conditions on any planning permission issued. A separate Environmental Permit will also be required from the Environment Agency for the importation of the material.

6.5 Landscape Impact

6.5.1 The NPPF at paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and geological conservation interests. Core Strategy policies CS6 and CS17 seek to protect, restore, conserve and enhance the natural environment. The SAMDev Plan references the policies contained in the Much Wenlock Neighbourhood Plan, with policy GQD1 seeking to protect the high quality natural landscape outside the development boundary of the town, with policy LL1 supportive of the appropriate restoration of former quarries. Restoration for wildlife and biodiversity here would also be consistent with policy LL2 which do not support industrial and commercial uses as part of the restoration of Westwood Quarry. The site is adjacent to part of the Shropshire Hills Area of Outstanding Natural Beauty and it is considered that the proposed works, when complete, would enhance the landscape character of the area.

6.6 Other Matters

6.6.1 It is considered that the proposals would have no significant impact upon the residential amenities of the locality (with the temporary impact of lorry movements associated with the works being mitigated by a construction traffic management plan). Application 14/05272/COU for use of part of the site as a static and touring caravan site was withdrawn on 7th September 2015.

7.0 CONCLUSION

7.1 There is no in principle planning policy objection to the proposed works, when the development is assessed against NPPF, Core Strategy, SAMDev and Much Wenlock Neighbourhood Plan policies. The access and local road network is considered capable of safely accommodating the traffic movements that would be generated by the importation of the material, subject to there being a traffic management plan agreed through a planning condition. The proposed development would enhance biodiversity and existing ecological interests can be safeguarded through the recommended planning conditions. Contamination issues can also be addressed through the recommended conditions to secure a safe development. The proposed restoration would not detract from the visual amenity and rural

character of the area, or the residential amenities of the locality.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks

Much Wenlock Neighbourhood Plan:
GQD1 Good Quality Design
GQD2 Good Quality Design
LL1 Local Landscape and Wildlife
LL2 Local Landscape and Wildlife
LL3 Local Landscape and Wildlife

RELEVANT PLANNING HISTORY:

13/04315/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the creation of a vehicular access on land on the B4371 at Stretton Westwood (Retrospective)
GRANT 18th December 2013

14/05272/COU Change of use of site to use as a static and touring caravan site with associated residential supervision and infrastructure WDN 7th September 2015

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)

Design and Access Statement

Ecology Report

Environmental Report

Soil Test Interpretation
Flood Risk Assessment

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member

Cllr David Turner

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 – EPS Three Tests

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Eco Tech dated December 2015 in respect of Westwood Quarry, nr. Much Wenlock (v1).

Reason: To ensure the protection of Great Crested Newts, Dormice, Bats (Conservation of Habitats and Species Regulations), Badgers (badgers Act), Nesting Birds (Wildlife & Country Side Act).

4. No development, demolition or site clearance procedures that have the potential to impact upon great crested newts shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

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

5. No development or clearance of vegetation shall take place until a Wildlife Protection 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;
 - c. 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 unless otherwise approved in writing by the local planning authority.

Reason: This information is required prior to the commencement of development to protect features of recognised nature conservation importance

6. A habitat management plan shall be submitted to and approved by the local planning authority prior to the completion 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.

7.
 - a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.
 - b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
 - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5.

8. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i - the parking of vehicles of site operatives and visitors
 - ii- loading and unloading of plant and materials
 - iii- wheel washing facilities
 - iv- measures to control the emission of dust and dirt during site works
 - v- routing of construction traffic over the local road network between the sources of the fill material and the application site, together with the hours of operation of these vehicle movements.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

Informatives

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required by the National Planning Policy Framework, paragraph 187.
2. 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.

3. 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.

4. 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.

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).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

5. Hazel Dormice are a European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

6. Japanese Knotweed is an Invasive Non-Native Species listed on Schedule 9 of the Wildlife and Countryside Act. Any soil excavated that contains parts of this plant is classed as 'controlled waste' and as such must be disposed of safely at a licensed landfill site according to the Environmental Protection Act (Duty of Care) Regulations 1991.