

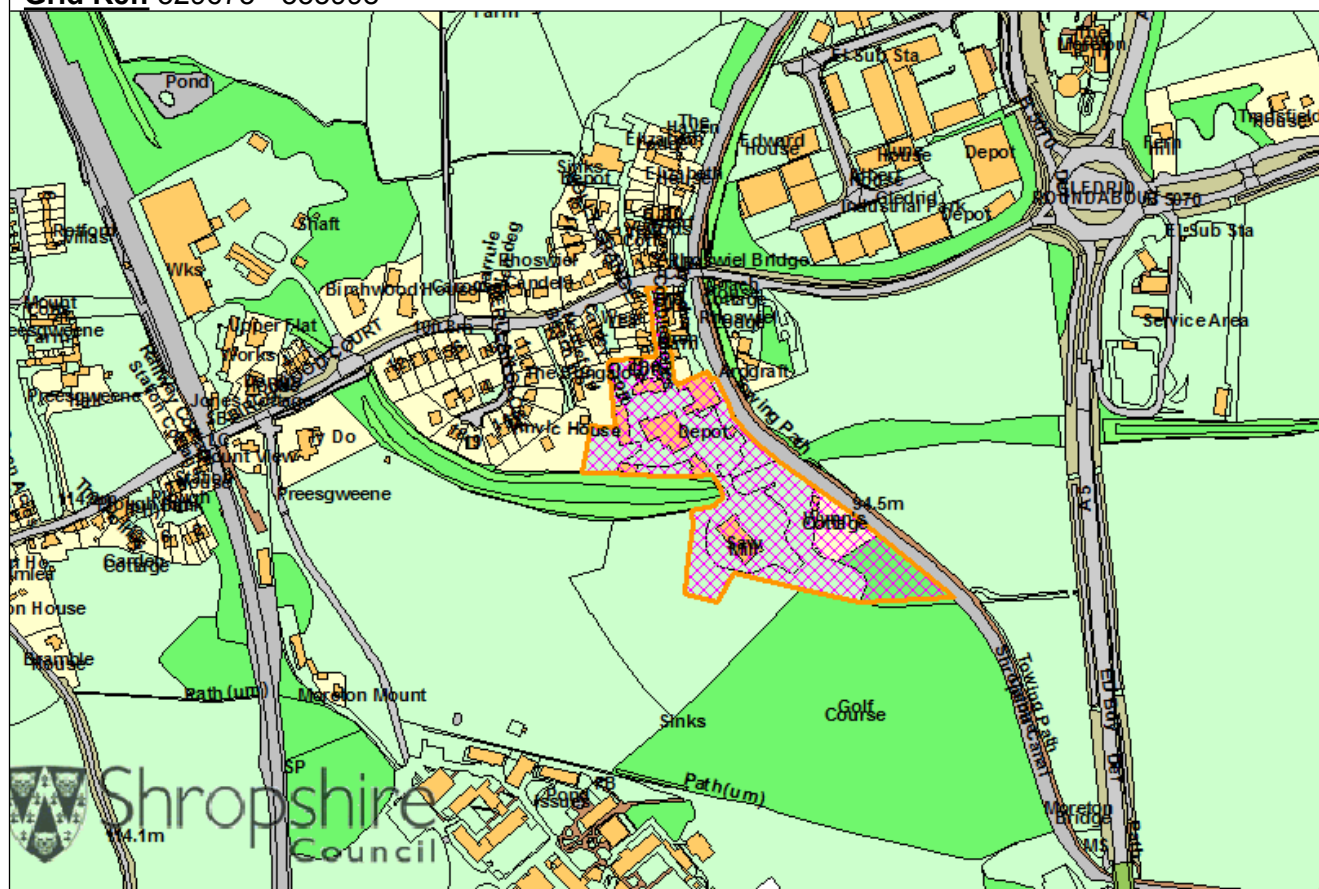
Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 14/05708/OUT	<u>Parish:</u>	Weston Rhyn
<u>Proposal:</u> Outline application (access for approval) for mixed use residential development; creation of vehicular access; demolition of all existing buildings		
<u>Site Address:</u> The Sawmills Rhoswel Weston Rhyn Oswestry Shropshire		
<u>Applicant:</u> RG Stones (Timber) Ltd		
<u>Case Officer:</u> Karen Townend		<u>email:</u> planningdmne@shropshire.gov.uk

Grid Ref: 329673 - 335998


REPORT

Recommendation:- Grant planning permission subject to the applicants entering into a S106 legal agreement to secure affordable housing and subject to the conditions set out in Appendix 1.

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on land currently used by RG Stones (Timber) Ltd, known as The Sawmills, Rhoswiell. The application has been submitted with access submitted for approval at this time and the matters of layout, scale, appearance and landscaping reserved for later approval. The application form and submitted supporting information notes that the proposal is redevelopment of a brownfield site and proposes demolition of all existing buildings and structures and the erection of up to 64 dwellings.
- 1.2 To assist in the consideration of the application the submission is accompanied by a design and access statement, planning statement, indicative layout, contamination surveys, flood risk assessment, travel plan, transport statement, tree survey and ecology survey. Revised masterplan, planning statement, design and access statement and documents have been submitted during the consideration of the application.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site area is 2.63 hectares and is currently in business use with areas of hard standing and buildings. It is generally flat across the whole of the site, with the exception of the disused railway which sits on an embankment. The site has been previously used as a sawmill and most recently by RG Stones, who provide modular buildings, and who also operate from a site on the northern side of Station Road. The agent comments that the site has been used as a sawmill for over 50 years.
- 2.2 The land lies on the southeast edge of Rhoswiell and is accessed between existing housing on Station Road, some of which are tight on the edge of the access road. The eastern edge of the site is defined by the Shropshire Union canal and the site is subdivided by the line of the now disused railway. Moreton Hall school lies to the south west of the site with agricultural land between and a golf course forms the southern boundary. The site is enclosed on the canal edge by existing landscaping but has gaps in this edge and also in the boundary to the south. The disused railway line embankment is tree lined and provides a break in the site.
- 2.3 Rhoswiell village is predominately to the west of the canal with an industrial estate to the northeast. To the west of the site lies an existing housing estate, enclosed by the railway line route. The village also expands onto the opposite side of the road but is limited in size and services and relies on the adjacent settlement of Weston Rhyn for the majority of the services.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has submitted a view which is contrary to the officers recommendation and is based on material planning reasons which can not be

overcome by condition or negotiation. Furthermore, both local members, Councillor Macey and Councillor Lloyd have requested that the application be determined by the North Planning Committee.

This request has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Weston Rhyn Parish Council – Object on the grounds of unsuitability of the access/ egress on to Station Road both for construction traffic and post construction when up to 128 extra vehicles could use this exit.

A copy of the Development Risk Assessment and Shropshire Council Highway Department traffic impact survey is required.

Following receipt of additional information Weston Rhyn Parish Council wish to re-iterate their previous objection namely the unsuitability of the junction for access/ egress from the site. The junction is situated on a blind bend on a very busy road which in excess of 1,300 vehicles use daily (which demonstrates and supports this Parish Councils campaign to have Station Road re-designated as a "B" Class road).

The size of the development means a vast increase of traffic trying to leave the estate directly onto Station Road which the Parish Council believes would create a severe traffic hazard. Also the Council question the capacity and suitability of the sewerage system to cope with such a large new housing development.

4.1.2 Affordable Housing – If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The current prevailing target rate for affordable housing in this area is 10% this would mean a provision of 6 Affordable houses on site along with a financial sum for the remaining percentage. The assumed tenure split of the affordable homes would be 4 for affordable rent and 2 for low cost home ownership and these would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme.

However as this is an outline application the percentage contribution and number of affordable homes will not be set at this time, but will be reviewed at the time of the reserved matters application. The size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team before any application is submitted.

4.1.3 Conservation – In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS5 Countryside and Green Belt, CS6 Sustainable Design and Development and CS17 Environmental

Networks, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published March 2012.

Whilst we do not agree with the findings of the heritage assessment, that Wynn Cottage is not a heritage asset, the report is sufficient and proportionate with regard to paragraph 128 of the NPPF in its assessment of the heritage assets and their contribution/of not their setting makes to significance identified on the site ie Wynn Cottage and the WHS (Buffer Zone) adjacent to the proposed site.

We do consider Wynn Cottage to be a non-designated heritage asset even though it is substantially changed and modified during the C20th. The reason for this is that although it is suggested that there is no association with the canal it is very likely that it was built either in connection with canal alone or that as the sawmill was sited there to make good use of the canal for its transportation purposes it was built to serve the sawmill use, which in turn thrived due to the canal. Also, there is no real evidence with regard to the roof structure and whether it is historic or not etc.

It is agreed that there will be no detrimental impact on the significance of the WHS through this development being within the wider setting of the boundary to the Buffer Zone edge.

Having acknowledged all of the above we do consider that the Wynn's Cottage should be considered as part of the planning process in relation to paragraph 135 of the NPPF, however, no objection is made to its demolition due to it degraded state as a non-designated heritage asset, as long as, in accordance with paragraph 136 of the NPPF, the building is not demolished prior to the proposed development having been proceeded with.

4.1.4 Highways – No Objection – subject to the development being carried out in accordance with the approved details and conditions/informatives.

It should be noted that the scale of development proposed is greater than that envisaged in the SAMDev. Highway Authority concessions for this limited residential development was previously accepted, as the existing inadequate site access conditions (poor visibility) would be improved by the cessation of the current HGV activity at this location.

Although the additional traffic impact of this larger residential scheme may not be severe enough to warrant a highway reason for refusal. It is considered that the additional turning movements associated with this size of residential development will increase the potential risk of incident, which will require mitigation. Particularly, given the lack of forward visibility (passing traffic) and that of vehicles emerging from this sub-standard access.

It is considered that should this proposed larger residential development be approved then it is incumbent on the applicant to provide some form of traffic control on Station Road to reduce traffic speeds passing the site. Thereby, potentially reducing the severity and risk of incident at this location. It is suggested that a form of carriageway narrowing/footway widening could be introduced on the adjacent canal bridge with an appropriate priority give-way

system for vehicles crossing the bridge. This could be effective to both reduce vehicle speeds as well as improve pedestrian connectivity to local amenities.

Whilst all matters are reserved as part of this application, including access, the red line area appears to fall short of the public highway. However having carried out further research the highway authority is satisfied that the red line abuts the highway boundary.

Whilst scale and layout are not included, an indicative layout drawing is submitted which gives an indication of the potential number of houses that could be accommodated within the land footprint, setting aside any planning or other constraints. The land area however extends well beyond the current brownfield site and the area which is included within the SAMDev land allocation.

The application is supported by a Transport Assessment which considers the proposed scale of the development against the current permitted use of the site.

Speed readings have also been undertaken to consider the visibility available and these show 85th percentile speeds at the 30 mph speed limit imposed. Manual for Streets advises a visibility splay of 2.4 x 43 metres based upon 30mph traffic speeds and it is clear that these splays cannot be achieved to the nearside edge of carriageway. In the easterly direction visibility of marginally in excess of 43 metres is available to the centreline of the road. In the westerly direction, the splay is required to be taken into the carriageway to 1.0 metres to gain visibility at marginally above 43 metres. This is however an excepted practise.

Notwithstanding the above, the highway authority require clarification that the visibility splays shown are actual measured distances contained within the land that the applicant owns/controls or within the highway limits.

The Transport Assessment has carried out a review of the trip rates of the proposed housing density of 64 units and compared this industrial use of the site. No information is given as to where these trip rates have been derived from, however the highway authority would not dispute that the overall difference in trip rates within the peak AM and PM hour periods is likely to be fairly comparable. The difference being the directional flow of vehicles into and out of the site where the peak flows of commercial/employment and housing oppose one another.

In the circumstances the highway authority accept that as a brownfield site, the principle of residential development is acceptable. There is the potential loss of commercial traffic to consider as an overall gain. The highway authority remain concerned at the access situation where any improvement is constrained by the alignment of the road and adjoining property boundaries. The highway authority would question also the principle of extending the SAMDev site beyond its current allocation. The amendment of the application site to reflect the SAMDev allocation would clearly have an impact upon reducing housing numbers.

- 4.1.5 **Rights of Way** – Previous comments regarding the application directly affecting Public Footpaths Weston Rhyn 3R and 3 still stand. Whilst the public right of way Weston Rhyn Footpath 3 has been acknowledged, the route indicated on page 09 of the Design & Access Statement does not follow the legal, definitive line of

Footpath 3. It may be that there is a different walked route on the ground, but that route has no legal status. The Council plan overlays the Site Masterplan onto the digital working copy of the Definitive Map. As you can see the legal line of Footpath 3 runs through proposed dwellings and gardens and we will require an application to legally divert Footpath 3 under the provisions of the TCPA (fees apply).

Diverting the footpath is the most practical solution. As the development is only at the Outline stage we do not necessarily require the application now. However, if outline permission is granted we will require the developers to apply for the diversion when the Reserved Matters application is submitted, if not before.

- 4.1.6 **Waste Management** – It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

Would recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice.

In regards to this particular application the cul-de-sacs off the main spine road do not allow turning spaces for refuse vehicles. This would then mean residents would have to put their bins at the end of the cul-de-sac. This could have an anti-social effect on the estate causing litter and possible flytip build up.

- 4.1.7 **Ecology** – Following further revised drainage details as the foul drainage is to be connected to the sewage treatment works therefore additional ecological information is no longer required.

Bats

Dusk emergence surveys were carried out on the 23rd May and 28th August 2013 and dawn re-entry surveys on the 7th June and 29th August 2013. No evidence of roosting bats was recorded during a daytime inspection or the activity surveys. Both common and soprano pipistrelle bats were recorded commuting along the canal corridor, and the former railway, with foraging in these locations and along the southern site boundary.

A dying poplar tree was categorised as having multiple, highly suitable features capable of supporting larger bat roosts, however no bats were recorded roosting in this tree. A further four trees in G4 were classed as C2 for bat potential but are shown for removal. JW Ecological recommended these tree removals are carried out using Reasonable Avoidance Measures for bats, including inspections and soft felling where necessary.

Further to my previous comments on bats, Kingdom Ecology has now provided details of the model and locations of bat and bird boxes and bat bricks proposed for the development. While these are welcomed, there may be changes in layout

between this outline stage and the reserved matters so I would recommend the positions of these are approved at the Reserved Matters stage.

The location of the proposed community park and native planting as a link between the former railway line and the canal is welcomed as this will provide an almost continuous flight path for bats. It will be important to control lighting of the access road through this landscape corridor, as well as along the access road running along the southern boundary.

Great crested newts

JW Ecological carried out surveys of one pond on the western site boundary in spring 2013. This recorded a small population of great crested newts (GCN) and eggs were found. Six GCN surveys were carried out between April and June 2015 confirming a 'small' population size class. Additional GCN surveys were carried out in 2015 of Pond 2 (sited around 20m south of the site), which were negative. Pond 3 (sited 200m from the site) was assessed as having 'poor' suitability for GCN and was scoped out for further survey.

A European Protected Species licence will be required before any development works can take place on site.

Further details of the GCN mitigation have been provided, which are now quite comprehensive. Kingdom Ecology recommends production of a four year management plan for the site, including management of Pond 1 and it's surroundings.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Water voles and otters

Kingdom Ecology carried out otter and water vole survey of the canal adjacent to the site in April 2015 but no evidence of either species was found. As otters may pass along the canal it is recommended that lighting is controlled onto the canal corridor. The lighting condition recommended above will allow control of lighting.

Reptiles

Kingdom Ecology carried out reptile surveys of the site between April and June 2015. No reptiles were recorded although frogs and toads were. The mitigation measures for GCN will ensure that any reptiles present as well as frogs and toads can be removed to a safe location before development starts.

Badgers

No signs of badgers were found in the vicinity of the site but as some areas could not be accessed fully the following informative is recommended. If evidence of badgers is found further badger survey work would be required.

Nesting birds

The site contains good breeding bird habitat. Where possible this should be retained and where unavoidable removal should take place outside of the bird nesting season. Recommends a condition following the updated Bat and Bird Mitigation Statement.

Trees adjacent to the Llangollen Canal

Expressed concern previously about removal of the mixed broadleaved/cypress woodland (G2 in the tree survey) to create a vista. This group of trees is likely to be important for bats, therefore retaining a continuous tree line along the canal bank is recommended. As this strip is proposed for garden areas it should be possible to retain the smaller trees and replant along the canal edge. The agent has confirmed by email to me that the tree removal is not included in the outline application, they are agreeable to suitable replanting and that this will be submitted as part of the Reserved Matters. This can be addressed by a landscape scheme condition.

- 4.1.8 **Trees** – There are a number of trees and hedges on this site, predominantly around the boundaries. A preliminary Arboricultural Impact Assessment has been submitted with the application.

The AIA has identified 15 individual trees, 13 groups of trees and 1 hedgerows which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.

The application is for outline planning permission and the AIA is based on the masterplan of the site. This indicates that the site can be developed with minimum impact on the trees.

No objection is raised to the application at this stage. The final layout must take account of the tree constraints identified in the AIA and make provision to accommodate all retained trees within the site design. The final site layout submitted as Reserved Matters, must be supported with an updated version of the AIA, assessing and considering any impacts that arise.

- 4.1.9 **Drainage** – The appropriate foul drainage options should be developed as outlined in the Foul Drainage Technical Note and any agreement submitted for approval.

The surface water drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted

The FRA is technically acceptable and the drainage details, plans and calculations should be submitted for approval. The use of soakaways should be investigated in the first instance.

- 4.1.10 **Welsh Water** – No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site. Recommends use of either of the following conditions:

a) No development shall take place until:

A scheme has been submitted to and approved with the local planning authority demonstrating only foul water from the development site shall discharge to the public sewerage system between manhole reference numbers SJ29368905 and SJ29369910 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.

Or:

b) A hydraulic modelling assessment has been completed assessing the impact of the development hereby approved on the public sewer network and:-

If necessary, a scheme to accommodate the development hereby approved as identified by the Hydraulic Modelling Assessment has been submitted to and approved with the local planning authority. No part of the development hereby approved shall be occupied until the approved scheme has been completed.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

The site is crossed by a 225mm public storm overflow pipe which will restrict development density for the site in the future. The approximate position of this sewer is marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 5 metres either side of the centreline of the public surface water sewer.

- 4.1.11 **Public Protection** – Having considered the location of the site and past land use I would recommend that conditions are placed should this application be approved.

At the reserved matters stage when location and orientation of dwellings are proposed this service will expect to see a noise assessment to take into consideration the impact of road noise from the A5 to the east of the development.

I would recommend that objections made by welsh water are taken on board. This service is aware of issues in the locality in respect of sewer capacities and welcomes improvements.

Having considered the most recent information I have no further conditions to propose. Contaminated land conditions are still appropriate should there be development of this site. In relation to the potential for part of the site being developed should non residential operations remain on site there would be the potential for noise to impact upon proposed residential dwellings. A noise assessment would therefore be necessary. This would not be required if the whole area is to be residential.

- 4.1.12 **Environment Agency** – No objection to the proposed development and would recommend the following comments and conditions be applied to any permission granted. We have reviewed the report produced by Betts Associates (Report No:

12CHE063/GI, dated May 2014). The site has a history of past, potentially contaminative, uses including a timber yard/sawmill dating back to at least the late 1800's. There is also an existing permitted landfill site as well as an older historic landfill.

The report provides a background to the site and reports on an intrusive site investigation. The executive summary recognises current site uses and suggests a number of contaminants of concern. However given that the predominant use has been as a sawmill, there is no mention made of specific timber treatment chemicals being targeted by the investigation. This information is clearly available in the DOE industry profiles and we would have expected the target species to be included in any sampling plan.

The investigation does show that the site is contaminated with metals, PAH's, hydrocarbons and asbestos (near surface samples) which means that further assessment would be necessary prior to any residential development on this site being progressed.

Landfill gas has been monitored at this site, both historically around the permitted landfill and also as part of this investigation in new boreholes. In addressing the landfill gas issues, historic landfill like the Wynn Cottage site identified are usually associated with the industrial activity nearby, so it is likely that there is a significant proportion of wood waste within this site.

Consideration needs to be given whether to apply for a surrender of the existing permit and / or continued monitoring of the boreholes on site.

It is noted that some areas of the site have yet to be investigated. Where buildings are due to be demolished, they should be surveyed for the presence of asbestos prior to demolition. This is especially pertinent given that asbestos has been found in multiple locations across the site, but not quantified and therefore risk assessed.

Some tanks have been identified with unknown contents and it is possible that these are associated with timber treatment. This should be confirmed by further investigation. The interpretation of geology and hydrogeology appears to be consistent with the proposed condition.

Advice to applicant: We recommend that developers should: 1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination. 2. Refer to the Environment Agency Guiding principles for land contamination for the type of information that we required in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health. 3. Refer to our website at www.gov.uk/environment-agency for more information. The recovery, treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an Environmental Permit. Treatment of contaminated soil by mobile plant requires a mobile treatment permit. Soil may be re-used on-site as part of a soil recovery operation by registering an exemption with the Environment Agency or by obtaining an Environmental Permit. Developers should ensure that

all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. It is recommended that developers should refer to the Environment Agency's:

- ☐ Position statement on the Definition of Waste: Development Industry Code of Practice and;
- ☐ website at www.gov.uk/environment-agency for further guidance.

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- ☐ Duty of Care Regulations 1991
- ☐ Hazardous Waste (England and Wales) Regulations 2005
- ☐ Environmental Permitting (England and Wales) Regulations 2010
- ☐ The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at www.environment-agency.gov.uk for more information. Reference should be made to Model Procedures for the Management of Land Contamination (CLR11) and 'Guiding principles for land contamination (GPLC)' which clearly explains the type of information that the Environment Agency requires in order to assess site investigation and remediation reports.

Reference should also be made to: "Investigation of Potentially Contaminated Sites – Code of Practice (BS10175), published by the BSI.

4.2 **Public Comments**

4.2.1 16 letters of representation have been received raising the following concerns:

- ☐ The SAMDev proposes 20 houses for this site due to access issues, distance from the village, sewage and water infrastructure, school capacity, environmental and heritage sensitivity
- ☐ Proposed development is contrary to SAMDev
- ☐ Site beyond SAMDev site is open countryside and not brownfield
- ☐ Weston Rhyn is on target for the allocated development
- ☐ Development in the village should be phased to allow for infrastructure
- ☐ Large scale development in small village will alter the character
- ☐ Overdevelopment of the site
- ☐ No heritage or landscape assessment for a site on the edge of the buffer zone of the Pontcysyllte Aqueduct and Canal World Heritage Site
- ☐ Heritage assessment does not acknowledge the canal as a heritage asset
- ☐ Existing dwelling on site is a heritage asset and should not be removed

- ☐ Canalside development is out of keeping with the rurality of the canal
- ☐ Removal of trees will open views of the site from the canal and impact on the use of the canal and tourism
- ☐ Does not maintain the green corridor along the canal as required in SAMDev
- ☐ 3 storey town houses would be out of keeping
- ☐ Impact on residents amenities from traffic and noise
- ☐ Insufficient visibility from the junction and this is often reduced by parked cars
- ☐ There are bends in the road and traffic often exceeds the speed limit
- ☐ Traffic is currently morning and evening week days only, housing development will result in traffic 24/7
- ☐ Will result in increase in traffic which is already congested at peak times
- ☐ The traffic documents submitted are from 2012 and are out of date
- ☐ There have been traffic accidents including a van overturning into the canal following collision with two cars
- ☐ Neighbouring properties have access on the lane and the lane is within the property deeds, furthermore three are directly on the lane
- ☐ Existing dwelling is the home of a handicapped and blind person and should not be demolished
- ☐ Impact on public right of way
- ☐ Impact on wildlife, especially otters which use the canal
- ☐ Replacement landscaping will take years to form an effective screen
- ☐ Insufficient capacity in sewerage system
- ☐ Revised plans to connect to mains drainage is over 1km away and across the canal and A5, no details have been provided to show this is achievable
- ☐ Potential contamination

4.2.2 The **Canal and River Trust** has also submitted comments following receipt of additional information advising they have **no objections** to the proposed development, subject to the imposition of suitably worded conditions.

Ecology

Are pleased to note that the ecological survey report recognises the value of the Llangollen Canal as a wildlife corridor. The report refers to general site precautions during construction to protect species including otter, which use the canal corridor and advises, for example, that any external lighting should minimise the impact on bats. These should be required by condition on any approval.

Lighting

Whilst it is anticipated that this would be dealt with at reserved matters stage, the Trust would advise that waterside lighting affects how the waterway corridor is perceived, particularly when viewed from the water, the towpath and neighbouring land, for example waterside lighting can lead to unnecessary glare and light pollution if it is not carefully designed.

The lighting should be restricted around the boundary edges, particularly along the Canal corridor, where protected species are likely to be found and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal wildlife.

Loss of Trees

The ecological report also recommends the retention of the existing trees and vegetation alongside the canal, to maintain its function as a wildlife corridor, and suggests that this be enhanced through the addition of new native hedgerow planting along the eastern boundary of the development site; potentially through the replacement of some of the mature Leylandii on the canal banks with native tree species. Proposals to incorporate bat boxes onto retained trees or new buildings on the site would help to enhance it for bats. The Trust would agree with these recommendations and encourage their implementation.

Whilst it is noted that the applicant considers issues relating to tree removal can be dealt with at reserved matters stage we would reiterate our previous concerns with regard to the reference within the tree survey to removal of all of the trees on the canal cutting other than three mature sycamores

We would strongly suggest that any reserved matters submission is required to revisit this, bearing in mind the recommendations of the ecological report. In particular:

Group G2 – Dense, mixed broadleaf woodland copse. Recommendation: ‘fell to open up vista to canal’.

There does not appear to be any justification for the removal of these trees. The Trust therefore requests that the recommendation be re-considered.

Group G12 – Leyland Cypress. Recommendation: ‘fell to open up vista to canal’. This forms approximately 100m of hedgerow/vegetation along this boundary and although non-native provides good wildlife habitat and a visual screen. If these trees need to be removed they should be replaced by native tree planting.

The Trust also requests that, as part of any reserved matters application, the tree survey is re-visited to include the trees on the site of the existing residential property (Wynn’s). The proposed landscaping should take account of the site levels and include appropriate boundary treatment.

The method for any tree removal on the canal cutting must include a full assessment of the need to protect the canal and its users from any risk of harm. Any risk of damage to the cutting due to the gradual decay of any residual root systems should also be avoided.

Contamination

We are pleased to note that the Llangollen Canal is recognised as a receptor to pollution as a result of the contaminants present on the site. It is essential that the canal is fully considered and protected from any risk of pollution at every stage of development including the demolition of the existing buildings, site remediation and construction and occupation of the proposed dwellings. With this in mind we would request that the Trust be consulted on the site investigation and remediation strategy prior to their approval.

Surface Water Drainage

The Hydrock Technical Note dated 25th January 2015 identifies proposals to discharge treated foul water to the Shropshire Union Canal. There is currently no ‘in principle’ agreement to this from the Canal & River Trust.

This would require the formal written consent and agreement of the Canal & River

Trust and would be dependent on appropriate and effective pollution prevention measures as well as water level assessments. For clarity we would therefore request that full drainage details are provided.

Structural Integrity

I can confirm that the responsibility for the cutting and the canal washwall lies with the landowner/developer, as the Trust's ownership only extends to the water's edge. The washwall is currently in poor condition in places, and will require appropriate repair and re-instatement, including following any tree removal on the cutting. At the detailed application stage, once the extent of tree removal and a replacement planting scheme has been established, the Trust would therefore request a schedule of appropriate works to repair the washwall.

4.2.3 The **Inland Waterways Association** has also written providing the following comment:

This site is adjacent to the Llangollen Canal for about a quarter of a mile. The canal is the most popular canal for tourism in the whole of Britain, New Marton Lock, two miles to the west, being the busiest lock in the country in 2015 according to figures recently issued by the Canal & River Trust. Half a mile to the north is the start of the Pontcysyllte Aqueduct & Canal World Heritage Site. This is therefore a more very sensitive location which needs to be protected.

We **do not object** to the replacement of the industrial buildings by housing on the northern part of the application site (marked '5' on the Site Design Principles map on page 62 of the revised Planning Statement), subject to adequate screening from the canal. However, we do object to the canalside development at the south-east end of the site. Although the design appears to respect the canal, with the houses facing the canal rather than turning their back on it, this has all the appearance of a suburban development inappropriate for this rural location. The current industrial buildings are well away from the canal and well-screened, hence they are not intrusive. To consider this whole area as a 'brown-field site' would be wrong.

Granting the application would mean replacing the present green corridor by a built environment.

5.0 THE MAIN ISSUES

- ☐ Policy & principle of development
- ☐ Is the site sustainable?
- ☐ Economic considerations
- ☐ Social considerations
- ☐ Environmental considerations
- ☐ Layout, scale and design
- ☐ Impact on heritage
- ☐ Impact on residential amenity
- ☐ Highways, access, parking and rights of way
- ☐ Ecology and trees
- ☐ Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers). The Council can currently evidence a 5 year housing land supply and therefore the Council policies are up to date and relevant.

6.1.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below.

6.1.3 The Development Plan

For the purposes of the assessment of this application the development plan comprises of the adopted Shropshire Core Strategy 2011, the adopted Site Allocations and Management of Development 2015 (SAMDev) and a range of Supplementary Planning Documents. The Policies in the Oswestry Borough Local Plan (OBLP) were saved policies at the time of submission of the application, however since adoption of the SAMDev the OBLP policies have now been superseded and hold no weight in the consideration of the application.

6.1.4 **Shropshire Core Strategy policies CS1 and CS4** - Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision. It is envisaged that the community hubs and clusters will enable the rural rebalance to make rural areas more sustainable and accommodate around 35% of Shropshire's residential development. The identification of hubs and clusters has been done through the SAMDev and therefore policy CS4 is reliant on the SAMDev for the detail of settlement allocation; however CS4 does set principles for future development of settlements which are not identified in CS2 or CS3. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.

6.1.5 **Other Core Strategy policies** - Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will

help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

- 6.1.6 Policy CS5 is also relevant for the reasons given below. This policy seeks to control development in the countryside in accordance with national planning policies. The detail of the policy provides a list of development which may be considered appropriate in countryside locations.
- 6.1.7 SAMDev Policy – The SAMDev was adopted by Shropshire Council on the 17th December 2015 and therefore now holds full weight as part of the development plan. Rhoswiell has been identified in the SAMDev as part of a Community Cluster with Weston Rhyn, Wern and Chirk Bank. The SAMDev Plan provides a detailed map showing the development boundary and detailed policy setting out the development guidelines for the cluster and identifying two allocated sites. Policy S14.2(xi) advises that the whole of the cluster will provide for a housing growth of about 78 dwellings on specific site allocations in Weston Rhyn and Rhoswiell delivering around 45 dwellings and suitable infill sites, conversions and small groups of houses. The current application site is, in part, the proposed allocated site for Rhoswiell, but also extends beyond the proposed allocation into land considered as countryside for planning purposes.
- 6.1.8 The allocation suggests the provision of around 20 houses and that the development is subject to design measures which maintain the existing ‘green corridor’ and respect the setting of the Llangollen Canal whilst also taking into account the presence of a public sewer crossing the site. As such the scale and extent of the development proposed in the current application exceeds the allocated site and guidelines as detailed in the adopted SAMDev.
- 6.1.9 The agent has commented on the allocation within the submitted Planning Statement raising concerns that the allocation of 20 units for the application site was not based on quantitative or qualitative assessment but based purely on the desires of the Parish Council. Following a meeting between officers and the agent additional information has also been provided by the agent which seeks to justify the development of the whole site and the increase in numbers. This is dealt with later in this report.
- 6.1.10 Given that the site is partly outside the development boundary policy MD7a of the SAMDev is also relevant. This policy supports CS5 in seeking to control housing development in the countryside to exception sites, affordable housing and conversions. The current application is for open market housing and therefore the development of the parcel of land outside the development boundary would be contrary to both policies within the Core Strategy and the SAMDev.
- 6.1.11 The NPPF - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’ and to take into account any other material considerations.
- 6.1.12 At para 10 the NPPF states that policies in local plans should follow the approach

of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.

- 6.1.13 The business case put forward by the agent for developing the whole of the site, not just the part allocated in the SAMDev, and also for developing more than the guidelines in the SAMDev is a material consideration and needs to be taken into account in the determination of the application. The agent has commented that the whole of the site is brownfield, not just the parcel allocated, and that there is support within the NPPF for redevelopment of brownfield sites. He has also commented that the whole site is affected by contamination, is currently used by the existing business and served by one access. The agent suggests that developing only part of the site will not allow for dealing with the contamination, will not allow the relocation of the business and would result in conflict between residential and business use. Furthermore, developing the whole site allows for shared infrastructure costs and a single site design for the development and landscaping.
- 6.1.14 These matters need to be given careful consideration in the determination of the application. Officers accept that the proposal is beyond the land allocated in the SAMDev and also for more dwellings than the guidelines suggest in the SAMDev. However, if the agent is correct the SAMDev site is not developable. It would not be financially viable to only build on the land allocated or for the number detailed in the guideline. This would then result in the site not being developed, which in itself could harm the Council's 5 year housing land supply (as this site is relied on to form part of the future housing land).
- 6.1.15 Furthermore, as noted by the agent there are economies of scale in developing the whole of the brownfield site. The installation of roads and services is cheaper done at one time rather than piecemeal and also the partial development of the site would risk leaving a commercial use accessed through a housing development. The agent also comments in the addendum to the planning statement that there is no evidence of the housing guidelines for the settlement being met and that reliance on small infill sites would not provide the same level of affordable housing and CIL payments as developing the whole of the sawmill site.
- 6.1.16 The guideline figure in the SAMDev is only a guideline, there is no automatic refusal if the guideline is exceeded. The agent has put forward other material considerations which they consider should be given significant weight in allowing the development of the whole of the site for more housing than the guideline. Furthermore, officers consider that it is highly unlikely that the whole of the site would be developed within the first couple of years, the size of this site for the size of the village will result in a phased development, growing over time. Granting of outline consent on the whole of the site would secure the consent for any developer and provide certainty to enable the cost of providing the infrastructure and removing the contamination.
- 6.1.17 Officer accept that there is a local unwillingness to accept the larger site and housing numbers in this application but also accept that the issues raised by the agent are material considerations which need to be considered. Officers consider that these matters should be taken into account and do, on balance, justify the development of the whole of the application site rather than just the smaller parcel

allocated in the SAMDev. However, officers do not necessarily accept the scale of the increase in housing numbers and this matter is dealt with in greater detail below.

6.2 Is the development sustainable?

6.2.1 Objections have been received from the local community raising concerns about the scale of development proposed and the pressure on local services, sewage, water and school capacity as well as heritage and environmental impacts. Concerns have also been raised about the visual impact, traffic, access, impact on neighbours amenities, impact on the rights of way, wildlife and possible contamination. These later matters are considered in detail in the following sections of the report.

6.2.2 The agent considers that the proposed development is sustainable due to the delivery of housing supply, economic and public benefits, environmental improvements and the redevelopment of a brownfield site. The submitted Design and Access Statement (DAS) notes construction jobs, local economic investment, council tax and CIL receipts as economic benefits, retention of existing jobs and support for local services as social benefits and redevelopment of the brownfield site and providing public access as the environmental benefits of the development.

6.2.3 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided jointly and simultaneously and as such the planning balance needs to be undertaken to ensure that the benefits and harms are weighed appropriately and taken into account in the decision making process.

6.2.4 The initial assessment of potential sites in the community cluster considered 25 sites in total. The whole of the application site, not just the smaller allocated site, was assessed under stage 2 by Shropshire Council Policy Officers who scored the site positively for access to bus service, being previously developed land and flood zone 1 but negatively for distance from a primary school and any recreation space and negatively for being within the World Heritage buffer zone and for being, in part, grade 3 agricultural land. The site was considered to have a moderate landscape sensitivity and was also noted as having an unacceptable access but that acceptability could be achieved. It was considered to be capable of providing new housing subject to careful consideration of the constraints and that a small allocation within the larger area of land could provide an appropriate site to address the Parish Council's preferred level of growth.

6.2.5 The above assessment shows how the site was allocated in the SAMDev and that the reduced site area was based on the Parish Council's growth plans rather than the larger site not being sustainable. The smaller, allocated site, is clearly sustainable development when considered against the NPPF, the issue is whether the proposed development of the larger site is also sustainable or not.

6.3 Economic considerations?

6.3.1 It is acknowledged that the site is on the edge of a rural village and therefore not

within walking distance of employment or supermarkets. However, the aim of the Shropshire Core Strategy is to promote development in villages and rural areas with services or where new development can help to improve sustainability.

6.3.2 The redevelopment of the brownfield site should be given significant weight in the planning balance. The Planning Statement advises that the proposal is to demolish all of the existing buildings, totalling approximately 3,108sqm, and to relocate the remainder of the business from this site to the applicants other business site on Birchwood Park, which is also in Rhoswiol village. The proposal will allow the consolidation of both parts of the business onto one site. Policy MD9 of the adopted SAMDev protects existing employment sites from redevelopment unless it can be shown that they are no longer required. Although the site has not been marketed for alternative uses it is, as detailed above, partially allocated for redevelopment to housing within the SAMDev. As such officers consider that the requirements of MD9 do not apply to this site and have been superseded by the allocation of the site.

6.3.3 Within the supporting information submitted with the application the agent is suggesting that 64 houses are required to fund the remediation works on the site and also to make the development viable. He comments that the development of the allocated part of the site alone would not provide sufficient funds, however no financial information has been provided. The agent has commented that they have undertaken a viability appraisal which advises that development of the northern part of the site would not be viable due to the need for remediation of contamination, the cost of infrastructure and the cost of relocating the existing business. As such it is the agent's view that restricting the site to the northern parcel alone would be unlikely to be delivered.

6.3.4 The agent's general comments on the economic considerations are detailed above and officers accept these comments as relevant. New housing will provide economic benefits and this must be given weight in the determination of the application. The agent's comments relating to the economic viability and physical constraints of developing only part of the site are also noted and officers agree that these issues are material considerations that can be weighed against the non-compliance of part of the site with the development plan. The economic benefits of redeveloping the site are significant and should be given significant weight.

6.4 **Social considerations?**

6.4.1 Policy CS11 of the Shropshire Core Strategy requires all new housing to contribute towards affordable housing. The applicant has acknowledged the need for the site to provide affordable housing within the design and access statement. At present the target rate for this area would be 10%, however as an outline application the level of affordable housing to be provided on the site would be dependant on the target rate at the time of the submission of reserved matters and a legal agreement will be required as part of this outline consent to ensure that the affordable housing is provided and retained as such. The agent also suggests that the regeneration of the site, relocation of the existing business and support to local services and facilities are social benefits of the development.

6.4.2 Policy CS9 also requires all new housing to financially contribute to the provision

of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing and in the case of the application site would be £80 per square metre of new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent.

- 6.4.3 Concern has been raised by local residents about the pressure on the local school and other services. No evidence has been provided of the capacity of the school, this was not raised as an issue during consideration of the whole site in the SAMDev and the Council Learning and Skills team have not provided any comment on this issue in response to this application. The CIL contribution could provide for infrastructure enhancements or could also be used to contribute towards school places if this is considered to be a priority in the local area. As noted above the development of this site will add pressure but also income for local services and facilities and as such any harm resulting from the development needs to be balanced against the benefits.

6.5 **Environmental considerations?**

- 6.5.1 The main issues with developing the site are the environmental issues. The whole of the application site is in part previously developed land, or brownfield, however the SAMDev site assessment also notes that the land is in part grade 3 agricultural land but continued to promote part of the site for development. It is therefore considered that to enable development and growth of the village will result in the loss of some agricultural land. The loss of best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area proposed for the development would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing.
- 6.5.2 The redevelopment of the brownfield land is also a positive environmental consideration and can be given weight. The development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to appropriate design and layout to maintain the 'green corridor' and respect the setting of the Llangollen Canal, this follows from a note in the SAMDev assessment of the site of the close proximity of the canal and the Pontcysyllte Aqueduct and Canal World Heritage Site (WHS) Buffer Zone.
- 6.5.3 The agent, in the recent update to the planning statement, suggests that the SAMDev and Core Strategy have a degree of inconsistency with the NPPF in regard to delivery of houses on brownfield sites. Officers would disagree with this comment and refer the agent to the fact that part of the site is allocated for the reason that it is brownfield. However, the allocation of the site did not take into account the economic issues raised by the agent with this application and as such only allocated part of the site. In now considering the economic difficulties with only developing part of the site and that the whole of the site is brownfield land significant weight needs to be given to this brownfield character.
- 6.5.4 This site is materially different from many other brownfield sites in Shropshire in

that it is located on the edge of an identified settlement and partially allocated. As such officers are of the opinion that there is limited risk of support for this site being used as a reason to support other brownfield sites situated in more remote countryside locations. That being said the support of officers remains to the principle of developing the site. The main consideration of environmental impact is dependent on the layout, scale and design which are reserved for later approval. An indicative layout has been submitted and can be commented on. Furthermore, the impact on heritage assets, highways, trees, ecology and drainage also need to be considered.

6.6 Layout, scale and design

- 6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.6.2 SAMDev policy S14.2(xi) provides detailed policy for the settlement cluster including Rhoswiel. The policy advises, as noted above, that the development of the site is subject to design measures which maintain the green corridor and respect the setting of the Llangollen canal and take account of the public sewer crossing the site.
- 6.6.3 The design and access statement acknowledges the need to provide positive frontage to the canal and notes the views of the school and golf course from within the site. The D&A seeks to set principles for the future development of the site and promotes high quality, accessible development with a sense of place whilst also retaining the landscape and views to and across the canal. The layout is indicated to provide a principle street with lower order roads leading off and with in-curtilage parking, where possible behind properties.
- 6.6.4 The design and access statement confirms that the plan submitted with the application is for indicative purposes only and is intended to show that the site can be developed for housing. The assessment of the site for early consideration in the SAMDev notes that the site could be developed for up to 51 dwellings at a density of 18 per hectare. The indicative plan suggests 65 dwellings and therefore a density of around 24 dwellings per hectare.
- 6.6.5 Local objectors have raised concerns about the scale of the development proposed and the impact it would have on the character of the village, that three storey town houses are out of keeping with the immediate area and that the removal of trees, which is considered later in the report, will also open up views of the site.
- 6.6.6 It is officer's opinion, including the Conservation Officer, that the density and layout of the development and the scale and design of the houses indicated in the submitted information would not be appropriate for the site, the village or the rural edge location. It is acknowledged that the plans are indicative, albeit the description of development applied for by the applicant is for up to 64 dwellings and the indicative plan is intended to indicate how the site could be developed.

6.6.7 However, scale and layout are reserved matters, not for consideration at this time. Accordingly the Council could not refuse the application on the basis of the indicative plan or the “up to 64” figure. The issue has been raised with the agent and could also be reiterated to the applicant at the time of the submission of the reserved matters. It is at that time that the exact number of dwellings, the layout, scale and impact on the character of the canal and village will be assessed and unsuitable development could be refused at that time.

6.7 **Impact on heritage**

6.7.1 The buffer zone for the Pontcysyllte Aqueduct and Canal World Heritage Site (WHS) lies to the north of the application site, the boundary of which runs along Station Road. As such the site is not within or immediately adjacent to the World Heritage Site or the buffer zone but is in very close proximity and also is adjacent to the same canal that is within the WHS. The Conservation Officer raised concerns about the lack of an assessment of the impact on heritage of both this designated and other non-designated assets and this information was requested from the agent. The concerns of the Council Conservation Officer are also repeated by local objectors who have also noted the existing dwelling on site could be considered to be a heritage asset.

6.7.2 A heritage assessment has since been carried out and submitted with the application and an addendum to the report also provided. The assessment notes the railway embankment and the canal and also the World Heritage Site and its associated buffer zone. The report considers that there are no buildings of merit on the site. Most of the structures are modern steel sectional buildings or portakabins. Wynn Cottage is greatly altered with large side and rear extensions, replacement Upvc windows and rainwater goods and the report suggests that it is architecturally unremarkable and that its historical significance is limited. Furthermore, Wynn Cottage is not considered to be rare, it is a typical example of its type.

6.7.3 With regard to the WHS the site is on the very southern edge of the buffer zone but outside the limits of the zone. As such the assessment accepts that the impact should be considered. The assessment comments on the proposed layout of the site and considers that the proposal will provide views directly and indirectly of the canal whilst also reinforcing the tranquil setting of the canal by landscaping. The assessment notes that the canal sits below the site and that there is an existing dense tree screen which the application proposes to manage, retain and strengthen. The report author concludes that the proposed development will enhance the WHS and its buffer zone and that the development will provide for characterful new dwellings and that the proposal appreciates its valuable setting adjacent to the canal.

6.7.4 The Council Conservation Officer's comments are provided in full under section 4.1.3 above which concludes that, in principle, the development of the site would not cause detrimental impact on the significance of the World Heritage Site or the buffer zone and that there is no objection to the demolition of Wynn's Cottage due to its degraded state providing it is not demolished prior to the developing proceeding. This is understood to mean that the Conservation Officer would like to ensure that Wynn's Cottage is not demolished until the commencement of the

development, which would not be until a reserved matters consent for the detailed design of the layout, scale, appearance and landscaping of the site has been approved.

- 6.7.5 As such, although concerns have been raised locally about the loss of this building, the condition of the building does not warrant its retention in the development and overall the redevelopment of this site for housing would not have a detrimental impact on the significance of either designated or non-designated heritage assets in accordance with section 66 of the Town and Country (Listed Buildings and Conservation Areas) Act 1990. This is of course subject to appropriate design and layout which will need to be shown in any future reserved matters applications.

6.8 Impact on residential amenity

- 6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Local objectors have commented on the potential for loss of amenities, specifically from traffic, which is considered below, but also from noise.
- 6.8.2 As an outline application it is not possible to provide a detailed assessment on the impact on the amenities of existing properties. There are existing properties to the north of the site and to the east and west of the northern part of the site. The properties to the east are on the opposite side of the canal and the properties to the west are set within large garden areas which provide good separation distances to the site. The main impact of the development will be on the properties immediately to the north along the access road into the site and also the two dwellings within the site. One of these is currently indicated to be demolished, however if at reserved matters stage this dwelling is retained its amenities should also be considered.
- 6.8.3 The reserved matters layout will need to ensure that there is not unacceptable loss of light or privacy to the houses to the north. The indicative layout, notwithstanding the density and layout comments, does show sufficient separation distances between the proposed dwellings and the existing dwellings to ensure that amenity is protected to a satisfactory level.
- 6.8.4 As noted above concerns have been raised by local residents regarding the potential for noise impacts. There is a potential that during the development stage there will be noise, dust and construction traffic. This can be controlled by appropriately worded conditions controlling the hours of construction. Post development the site will not result in noise emanating development any different to any other residential development and, given the existing and previous use of the site, there is also the potential for reduction in potential noise.
- 6.8.5 Consideration also needs to be taken of the potential impact on the proposed dwellings on the site as noted by the Council Public Protection Officer. A noise assessment is recommended to fully understand the potential impact on these properties from the A5 which lies to the east of the site. A condition can be used to require this to be carried out as part of the first submission of reserved matters to ensure that the layout takes into account the potential for noise.

6.8.6 Taking into account the allocation of the site and that the current application is for outline consent only it is considered that the allocation has accepted that there will be some level of impact on the neighbouring properties. However, the extent of the impact will need to be considered at the reserved matters stage and significant adverse impact will need to be avoided. The above confirms that, at this time, the expected impact is not significant and would not result in unacceptable adverse impact and therefore the principle of developing the site can be accepted.

6.9 **Highways, access, parking and rights of way**

6.9.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.9.2 The application has been submitted with a Transport Statement (TS) which considers the impacts of the potential traffic from the development as not being severe. The TS considers the site is in an accessible location, has little or no impact on the highway network, provides improved pedestrian and cycle linkages and therefore benefits the wider community and also will reduce the reliance on car trips to local services and facilities. The TS notes that roads in the local area are of standard width, speed limits are 30mph where the residential properties begin and speed surveys show that traffic speeds are just above the limit but that vehicles are slowing as they approach the village from the 60mph section. The TS also notes that there are no recorded accidents along the site frontage, 1 in the wider village and a small cluster of accidents at the A5 roundabout. The accident data is, on average, less than 1 per year. All the accidents are slight and therefore does not show a poor safety record. Within the TS the consultant concludes that there are no safety or capacity issues which would prevent the scheme coming forward.

6.9.3 With regard to sustainability the TS notes that an 800m walking distance covers the village and services, including the school. Other leisure and shopping facilities are within 2km or 5km and therefore are also accessible on foot or bicycle. The nearest bus stop is 750m to the west and 55m to the east with an hourly service during the week making the site accessible by bus.

6.9.4 The access to the site is 5.5m wide with a 6m radii and 2 paths. It narrows adjacent to The Firs to 1 path. Within the site it is proposed that the layout will provide short cul-de-sacs, private drives and shared spaces off an urban square. Visibility is 2.4m by 47.5m and car parking will be provided at 2 space per dwelling. The TS predicts average trip rates of the proposed development and also takes into account the fall back position of the business use of the site. The traffic levels are predicted as lower than could be achieved from a full business use. The TS also acknowledges the potential for traffic impact during the construction and recommends a routing plan and restricting the hours of construction vehicle movements to try and minimise the impact.

6.9.5 The Parish Council objection is wholly on the grounds of the suitability of the

access and the potential traffic movements which will arise from the proposed development. Local residents have also objected on the grounds of insufficient visibility, traffic levels, highway safety and access.

- 6.9.6 Immediate neighbouring residents have also raised concerns about the impact on the access road which they note is within their ownership. However the application shows the access road within the red edge of the application and the application form notes land owners which have been notified of the application. The ownership of the lane would be a civil matter and proof of title would be required as part of the legal agreement. As such this issue is not something which would prevent planning permission being granted.
- 6.9.7 The Council Highway Officer's comments are detailed in full under section 4 above. The Highway Officer has acknowledged the local concern and that the scale of the development is greater than the scale indicated in the SAMDev but has balanced this against the established use. The Highway Officer has advised that the indicative scale would not result in severe traffic movements that would warrant a refusal of the application but has recommended highway improvements to mitigate the impact of the potential traffic levels. The Highway Officer has no objections on the matters of visibility, traffic levels or the access junction subject to conditions as proposed in their consultation response. The conditions will ensure that details of the visibility and junction onto the main road and details of the internal estate roads are submitted for approval and will also require details of the highway improvements to be submitted and approved and thereafter carried out before any of the development is begun.
- 6.9.8 Local concerns have also been raised about the potential impact on the public right of way. The Council Rights of Way Officer has advised that the application directly affects Public Footpaths Weston Rhyn 3R and 3 and whilst the applicant has acknowledged the rights of way in the Design & Access Statement, the proposed outlet for Footpath 3 at the southern boundary of the site does not follow the definitive line of the right of way. However, as an outline application the plan, although intended to show an indicative layout, is not for approval and can be amended to take into account issues such as this. Alternatively, as noted by the agent and agreed by the Council Rights of Way Officer, the existing footpath can be diverted through a separate application process.
- 6.9.9 As such, although the concerns of the local community, including the Parish Council, are that the proposed development will result in significant levels of traffic, the advice from the Highway Officer is that the development will not result in severe traffic that would warrant a refusal of the current application. Such a refusal would not be defensible and improvements can be made to the local highway and the junction to mitigate the impact of the development.
- 6.10 **Ecology and trees**
- 6.10.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

- 6.10.2 The submitted Ecology Report records the closest protected sites as being the River Dee and Bala Lakes SAC which is 800m from the site and Henlle Hall local wildlife site at 950m from the site. No direct impacts are expected on either of these sites given the distance and the intermediate roads and buildings. The report notes local records of otter on the canal and water voles, bats, great crested newts and birds in the local area. Site inspections were carried out of the site, buildings and trees and any ecology features in the wider area. One pond on the western boundary was surveyed and a small population of GCN were identified and the report notes that existing rough grass/ scrub areas on the boundaries and the railway line provide foraging and refuge areas. Daytime, dusk and dawn bat surveys were undertaken and no bats were recorded roosting on site, either in buildings or trees. Bats were recorded as using the site for foraging and commuting mainly on the railway line, canal and woodland area. The canal and banks were noted as suitable habitat for water voles and otters and a bankside survey showed no signs of either species but the report does recommend a survey from a boat. The report also comments that birds are likely to nest in the trees and scrub areas and along the banks of the canal.
- 6.10.3 The report recommends the retention of trees and other vegetation along the canal and railway line to retain the wildlife corridors, it also recommends that the canal corridor could be enhanced with new native planting and the replacement of the Leylandii with native species. The pond on the western boundary should also be retained and enhanced for the GCN and areas of rough grassland and tall herbs on the boundaries should also be retained where possible and any areas removed should be replaced with similar planting. A licence from Natural England will also be required as the development has the potential to affect GCN, the licence will need to show mitigation and compensation measures and also detail fencing and trapping proposals. Reasonable avoidance measures are recommended for works to trees in relation to bats, bat boxes should be provided and lighting should be appropriately designed so as not to impact on bats commuting. A 6m buffer to the canal should be retained to protect water vole and otter and general site precautions or fencing should also be carried out to ensure that otter are not affected by the development. With regard to birds tree removal should be carried out outside bird nesting season and bird nesting boxes should be provided within the site.
- 6.10.4 Concerns have been raised locally about the potential impact on wildlife, especially otters which local residents advise use the canal. The concerns of the local residents are reflected in the ecological reports undertaken by the applicant. The Council Ecologist initially raised no objections to the proposal and recommended conditions and informatives and also provided a Habitats Regulations Assessment for the site. The Council Ecologist's initial advice included information on considering and mitigating the impact on otters.
- 6.10.5 However, during the consideration of the application a revised foul drainage proposal was submitted which change the proposed foul drainage from mains connection to on-site treatment and disposal to the canal or watercourse. The Council Ecologist therefore advised that further details of the system and potential impact on protected sites and species was required. An on-site package treatment plan has the potential to impact upon the River Dee & Bala SAC or Cole

Mere Ramsar. Full drainage details were requested to see what is going to be discharged into the watercourse and additional ecology information was also requested.

- 6.10.6 The agent reconsidered the foul drainage proposals again and went back to negotiating with Welsh Water to establish whether there is a potential for connection to the mains drainage system. The details of the drainage matters are considered below. However, reversion to a mains drainage system has removed the need for additional ecology surveys to be carried out as the scheme no longer proposes outfall from a package treatment plant to the canal and therefore the risk to the SAC and Ramsar is removed.
- 6.10.7 The Council Ecologist has therefore reverted to their previous comment of no objection subject to conditions and the HRA 3 test matrix is attached as appendix 2 to this report. The content of the matrix should be noted by members as a requirement of the Habitats regulations.
- 6.10.8 A Tree Survey has also been submitted with the application which identifies 15 trees, 13 groups of trees, and one hedge. The report suggests that one oak and a group of sycamores are category A, 1 oak, 2 cherry and 1 ash as category C as are 7 groups of mixed trees and then leads on to propose removal of 4 individual trees, 3 of which are category C and 1 is category B, and 6 groups or parts of groups of trees.
- 6.10.9 Local objectors have raised concerns about the loss of trees and this was reiterated by the Council Ecologist. Canal and River Trust have also commented on the proposed development and specifically the tree works. CRT have noted that the ecology survey recognises the value of the canal as a wildlife corridor and recommends the retention of the trees yet the application and tree survey proposes removal of the majority of the trees along the canal cutting. CRT have suggested that further justification is required for the removal of these trees and this would also respond to the concerns raised by the residents regarding the potential for impact on tourism following the removal of trees
- 6.10.10 A continuous tree line along the canal bank should be retained by retaining as many trees as possible and replanting along the canal edge. The agent has confirmed that the tree removal is not included in the outline application, they are agreeable to suitable replanting and that this will be submitted as part of the Reserved Matters. This can be addressed by a landscape scheme condition and is considered to be a reasonable means of overcoming the concerns of all parties in relation to trees.
- 6.11 **Drainage and flood risk**
- 6.11.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The application proposed sending the foul drainage from the site to the existing mains system in the village and dealing with the surface water through various systems. Details could be conditioned as recommended by the Council Drainage Engineer, however Welsh Water initially objected to the proposal on the grounds of insufficient capacity in the mains sewerage system.

- 6.11.2 Following receipt of this objection the agent revised the foul drainage proposals for the site. Two alternative options were explored, connection to the watercourse and connection to the canal. The agent has discussed the options with Welsh Water to confirm that it would be possible for Welsh Water to adopt an on-site package treatment system, discussed the options with the Council Drainage Team and also with the Environment Agency. However, as noted in the previous section of this report either connection could impact on statutorily protected species and detrimentally harm habitats.
- 6.11.3 The case officer also drew the agents attention to the National Planning Practice Guidance which advises that: *“Applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment...when drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies).”*
- 6.11.4 Given the risks to protected species and the uncertainty about which of the on-site systems could be developed it is officer’s opinion that there is not currently sufficient justification with the application to satisfy the national advice and support a private treatment plant. The agent has therefore revised the drainage proposal again, which has been the reason for the significant delay in presenting the application to members, and reverted to connecting the foul drainage to the existing mains drainage system.
- 6.11.5 The agent has discussed this latest proposal with Welsh Water who have confirmed direct to the agent that a connection at the point proposed would overcome their objection and would not require hydraulic modelling. However, they have also noted that the latest proposal would require significant off-site works and associated costs and therefore Welsh Water have recommended that the outline consent can be determined subject to an appropriately worded condition to require submission of the scheme for foul drainage prior to the commencement of any development on the site.
- 6.11.6 The condition recommended is as follows:
No development shall take place until:
i) A scheme has been submitted to and approved with the local planning authority demonstrating only foul water from the development site shall discharge to the public sewerage system between manhole reference numbers SJ29368905 and SJ29369910 as indicated on the extract of the Sewerage Network Plan.
Or:
ii) A hydraulic modelling assessment has been completed assessing the impact of the development hereby approved on the public sewer network and:-
iii) If necessary, a scheme to accommodate the development hereby approved as identified by the Hydraulic Modelling Assessment has been submitted to and approved with the local planning authority.
No part of the development hereby approved shall be occupied until the approved scheme has been completed.
Reason: To prevent hydraulic overloading of the public sewerage system, to

protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

- 6.11.7 Such a condition would allow the outline consent to be granted whilst ensuring that the development adequately addresses the disposal of foul drainage from the site before any development commences. The condition as recommended by Welsh Water only allows for connection to the existing mains drainage system but does allow for two options to be considered, either connection to the nearby system subject to hydraulic modelling, or connection to the system 1km away.
- 6.11.8 The cost of either connection would have to be met by the developer of the site. It is acknowledged, as noted by a recent objection, that the further away connection requires significant off-site works including crossing the canal and existing highways. However, this is not necessarily unachievable and it is not necessary given the wording of the condition proposed by Welsh Water to have a detailed plan submitted at this stage to show how a connection can be made. The latest advice from Welsh Water is that there are two options available to the applicant which would overcome their initial objection, either pay for the hydraulic modelling or pay for the lengthy connection further away. Which the developer decides on is a matter for them not for the Council and as there is no longer an objection from Welsh Water it would be unreasonable of the Council to refuse the proposal on foul drainage grounds.
- 6.11.9 A flood risk assessment has also been submitted which notes that the site is wholly within flood zone 1, that there is a low risk of flooding from the canal, little likelihood of flooding from rain water and no ground water flood risk identified but that infiltration for dealing with surface water is not suitable due to ground conditions. The FRA also calculates existing surface water run off rates and advises that the development will increase impermeable areas and recommends that surface water be attenuated using storage and restricted flows with final discharge being to the existing watercourse.
- 6.11.10 The Council Drainage Engineer has commented that the FRA is technically acceptable but has recommended that additional details are required for the surface water drainage of the site. The Drainage Engineer has recommended conditions to deal with this matter.
- 6.12 **Other matters**
- 6.12.1 Both the Council Public Protection Officer and the Environment Agency have noted that the site has the potential to have contamination both through the previous uses on the site and also from permitted and historic landfill. Local objections have also raised this as an issue. A report was submitted as part of the application which has identified existing structures and conditions and potential for contamination. The report notes that there are above ground and below ground tanks, areas of landfill, made ground, ponds and the railway line route. On-site tests were therefore undertaken and evidence was found of contamination and ground gas across the site but no hot spots were found and the evidence was as expected given the previous uses. The report advises remediation action, gas protection and monitoring, the provision of clean soil to garden areas and areas of pile driving required where peat has been noted.

- 6.12. The submitted report was considered by both statutory consultees and both have advised that further survey work is required but neither have raised an objection or recommended that the application does not proceed until the surveys are undertaken. It is therefore considered, as suggested by the Council Public Protection Officer that the additional information can be conditioned for approval at a later date.

7.0 CONCLUSION

- 7.1 The site is located within the recently adopted development boundary for Rhoswiell and is a site partly allocated for housing development in the Site Allocations and Management of Development (SAMDev) Plan. It is therefore accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the village and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9, will result in the redevelopment of a brownfield site and will not result in significant loss of agricultural land.

- 7.2 The access to the site and its relationship with the adjacent canal and associated World Heritage site buffer zone will influence the future reserved matters applications layout and design, however in principle the site could be developed for housing without adversely affecting the amenities of the existing properties and in context with the surrounding built form. Furthermore, subject to submission of detailed designs, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity and public open space will be provided which also improves the accessibility and the landscaping of the area.

- 7.3 Accordingly, subject to conditions and the applicant entering into a S106 legal agreement to secure affordable housing, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with policies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy and policies MD1, MD2, MD8, MD12, S14.2 and S14.s(xi) of the SAMDev. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural

justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

10. **BACKGROUND**

10.1 Relevant Planning Policies

National Planning Policy Framework
 CS4 - Community Hubs and Community Clusters
 CS5 - Countryside and Greenbelt
 CS6 - Sustainable Design and Development Principles
 CS7 - Communications and Transport
 CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 MD1 - Scale and Distribution of Development
 MD2 - Sustainable Design
 MD8 - Infrastructure Provision
 MD12 - Natural Environment
 Settlement: S14 - Oswestry

10.2 relevant planning history:
 None

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr David Lloyd MBE Cllr Robert Macey
Appendices APPENDIX 1 - Conditions

EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

14/05708/OUT

The Sawmills, Rhoswiel, Weston Rhyn - Outline application (access for approval) for mixed use residential development; creation of vehicular access; demolition of all existing buildings

Date of consideration of three tests:

5th August 2015

Consideration of three tests carried out by:

Alison Slade

Planning Ecologist (01743 252578) Alison.Slade@Shropshire.gov.uk**1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?**

The development of the site is considered to be of overriding public interest for both social and economic reasons. The site is allocated for housing development to support the Council's housing delivery requirements and as such, the allocated part of the site, is required to be developed for housing.

2 Is there ‘no satisfactory alternative’?

There are no satisfactory alternatives given the allocation of the site for housing

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

JW Ecological carried out surveys of one pond (Pond 1) on the western site boundary in spring 2013. This recorded a small population of great crested newts (GCN) and eggs were found. Six GCN surveys were carried out between April and June 2015 confirming a ‘small’ population size class. Additional GCN surveys were carried out in 2015 of Pond 2 (sited around 20m south of the site), which were negative. Pond 3 (sited 200m from the site) was assessed as having ‘poor’ suitability for GCN and was scoped out for further survey. Details of mitigation, including exclusion and trapping, enhancement of Pond 1 and creation of hibernation sites are contained within the Great Crested Newt Mitigation Statement by Kingdom Ecology dated July 2015.

The proposed development will not be detrimental to the maintenance of the populations of great crested newts at a favourable conservation status within their natural range, provided that the conditions and informatives detailed in the response from Alison Slade to Karen Townend dated 5th August 2015 are attached to any consent and thereafter implemented.

Guidance for filling in the EPS form

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests. Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

1 Is the purpose of the development/damaging activity for '*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*'?

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure (e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

2 Is there no satisfactory alternative?

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort. Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

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

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be. In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species. In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. This permission does not purport to grant consent for the layout shown on the deposited plan submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

- The number of units
- The means of enclosure of the site
- The existing levels of the site
- The finished floor levels across the site
- Details of all earthworks, mounding and the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land, buildings and the canal
- A noise assessment to take into consideration the impact of road noise from the A5
- An updated AIA and tree survey

Reason: To ensure the development is of an appropriate standard and to ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and the canal and establish the impact of the proposals on the stability of the canal cutting.

6. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

7. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.

8. Work shall be carried out strictly in accordance with the Great Crested Newt Mitigation Statement by Kingdom Ecology dated July 2015

Reason: To ensure the protection of great crested newts, a European Protected Species.

9. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

10. Prior to the commencement of the development full engineering details of the proposed highway improvements (footway widening/priority Give-Way) on Station Road (canal Bridge) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be fully implemented in accordance with the approved details before the development is begun.

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

11. 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.

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

12. No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

13. 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 Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

14. No development, demolition or site clearance procedures 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.

15. No development shall take place until:

i) A scheme has been submitted to and approved with the local planning authority demonstrating only foul water from the development site shall discharge to the public sewerage system between manhole reference numbers SJ29368905 and SJ29369910 as indicated on the extract of the Sewerage Network Plan.

Or:

ii) A hydraulic modelling assessment has been completed assessing the impact of the development hereby approved on the public sewer network and:-

iii) If necessary, a scheme to accommodate the development hereby approved as identified by the Hydraulic Modelling Assessment has been submitted to and approved with the local planning authority.

No part of the development hereby approved shall be occupied until the approved scheme has been completed.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

16. No development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/ brought into use (which ever is the sooner).

No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding and to protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

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

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

18. Prior to the commencement of development, details of appropriate mitigation measures to prevent pollution of the waterway or other damage to the Llangollen Canal infrastructure or its users during the demolition, remediation or construction of the proposed development, shall

be submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal and River Trust. The approved measures shall be fully implemented in accordance with the agreed details.

Reason: To prevent any detriment to the Llangollen Canal and its users, and avoid damage to or contamination of the waterway and ground water from wind blow, seepage or spillage at the site.

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

19. Prior to occupation, a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority. The strategy shall show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

20. As part of the reserved matters details of the location and design of five bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

21. 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, including great crested newts.

22. Prior to the first occupation of the dwellings a range of 11 artificial nests suitable for small birds such as garden birds, house sparrow, house martin and swallow shall be erected on the site.

Reason: To ensure the provision of nesting opportunities for wild birds