



Committee and date
 Central Planning Committee
 20 December 2018

Item
6
 Public

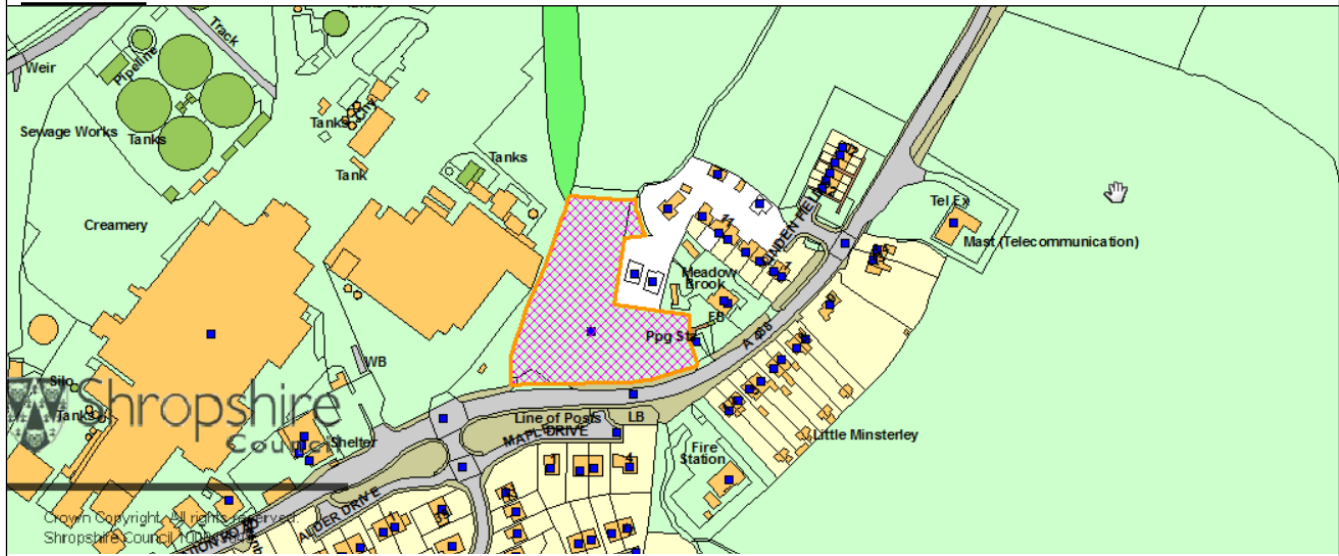
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 18/03583/OUT	<u>Parish:</u>	Minsterley
<u>Proposal:</u> Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved)		
<u>Site Address:</u> Proposed Development Land At Former Bus Depot Minsterley Shrewsbury Shropshire		
<u>Applicant:</u> Atbay Ltd		
<u>Case Officer:</u> Nanette Brown		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 337923 - 305285



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

Recommended Reason for Approval

REPORT

1.0 THE PROPOSAL

1.1 This application seeks outline planning consent for a mixed use for the site, to include residential, retail and business units with associated parking. All matters have been reserved for future consideration.

1.2 The application form submitted states that 10 open market houses are proposed along with 6000sqm gross internal floor space of retail space, 300sqm of B1(a) – Office and 300sqm of B1 (c) light industrial space which would equate to 25 full-time jobs.

1.3 An illustrated masterplan zoning plan has been submitted that shows the site split into three zones:

A retail zone at the western site frontage,

A residential zone at the sites eastern frontage,

A business zone (for up to 8 no. B1 a&c units) at the rear (north) end of the site.

The proposed new site access on this illustrative drawing is shown located centrally between these three zones.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application is set to the north of the A488, the main road that passes through Minsterley. The western boundary of the site extends to the eastern edge of the adjacent Muller dairy site, with residential housing located to the east, including the recently built housing accessed off Linden Fields. To the south of the site and A488 are situated some further residential properties, Maple Drive.

2.2 The site is currently open in nature, having been cleared of all vegetation and is surrounded by a metal security fence. The site area is stated as being 5737sqm.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The proposed development is considered to accord with the requirements of the Councils relevant adopted policies and no contrary opinions have been received that would require determination of the application by Committee under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

4.0 Community Representations

4.1 - Consultee Comments

SC Waste Management – Comments

Vital that new homes and businesses are designed to allow storage space and sufficient access for large waste collection vehicles. Recommend that the developer look at the Council's Waste Management guidance. Further detailed schemes should include a vehicle tracking of the vehicles manoeuvring the road to ensure that they can access and turn within the estate.

SC Economic Development – Support

Welcomed redevelopment of the former bus depot (brownfield site) for mixed use. Proposed uses would underpin the role of this market town as a service centre serving local inhabitants and the rural hinterland. The new workshop/commercial space will support the rural economy by facilitating opportunities for business start-ups and local company expansion with the generation of up to 25 jobs.

The illustrative layout has been designed acknowledging the site constraints/impact of the adjacent Muller factory with the B1 and the retail uses located next to the factory acting as a potential buffer to the residential uses.

To ensure that the whole scheme is built out it is suggested that a phased approach be adopted with all the roads and site infrastructure being installed prior to completion of the residential scheme and that the commercial development/workshops is completed before occupancy of the last dwelling. The following condition is suggested: The commercial development comprising B1 workspace shall be complete within two years of the occupation of the final dwelling.

A condition is also suggested on the employment of local people and engagement with the Job Centre Plus to ensure that local people are matched to available positions.

SC SUDS – Further information required

A FRA should be submitted for approval prior to the determination of the planning permission. No flood modelling has been carried out on the watercourse which runs through the development site but is known to have flooding problems. The land along the eastern boundary is in Flood Zone 3. The development is considered to be a 'More Vulnerable' development in Flood Zone 3 and a Sequential and Exception Tests should be carried out.

A FRA should include, as a minimum:

Assessment of the Fluvial flooding (from watercourses)

Surface water flooding (from overland flows originating from both inside and outside the development site)

Groundwater flooding

Flooding from artificial drainage systems (from a public sewerage system, for example)

Flooding due to infrastructure failure (from a blocked culvert, for example)

Flood compensation storage, finished floor levels and evacuation plan should be detailed.

Proposed surface water drainage strategy

Suggested conditions and informative in anticipation of an adequate FRA being submitted.

Further comments received on 12th November 2018

Our drainage comments dated 14 August 2018 remained the same.

1. A FRA as requested in our drainage comments No.1 should be submitted for approval prior to the determination of the planning permission.
2. The drainage proposals should be designed in accordance with the Informative Notes 3.1 to 3.5.
3. The proposed surface water drainage system should be designed to cater for a 1 in 100 year return storm event plus an allowance for climate change (25% for commercial use and 35% for residential use) and not 1 in 30 year return storm event as stated in the Drainage Statement.

SC Regulatory Services – Comments

The applicant has indicated in Question 6 (existing use) that the site is both known to be contaminated and contamination is suspected for all or part of the site. However, no contamination assessment has been submitted with this outline application.

The site is a former bus depot that included fuel storage and vehicle maintenance. Previous on-site investigations that Regulatory Services and the Environment Agency are aware of have identified significant contamination (organics TPHs, PAHs, and inorganics cadmium, arsenic and lead) in both soils and groundwater that remain un-remediated. Previous site investigations were carried out more than 11 years ago and given the potential mobility of the on-site contamination, Regulatory Services recommends that further investigation is now required in order to support remediation objectives for this site. Therefore, if this outline application is approved, conditions in respect of contaminated land are recommended to be included in the decision to cover contaminated land.

Additional Comments received 5.11.18

Concerning the objections raised by Muller, it is noted that prior outline application was granted on appeal in application 13/03197/OUT. It is noted that noise affecting potential residents was an issue raised in the appeal decision resulting from this 2013 application. At the time, according to the Muller's recent correspondence, the planning inspector deemed the noise unlikely to cause nuisance provided that suitable acoustic mitigation measures are put in place, namely acoustic fencing, façade protection (likely to be glazing, ventilation etc) and reference to an

'employment building' being screened . In light of these legitimate concerns would recommend that a new noise assessment is carried out to BS4142 to determine the potential of disturbance to detriment to the amenity of the occupants of the proposed residential dwellings and for appropriate mitigation measures proposed. The assessment will, and should take into account the various tonal and impulsive noises produced by Muller throughout their 24 hour production cycles to ensure accuracy.

SC Affordable Housing – Comments

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 15%.. 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.

SC Conservation – No objection

A desk-based assessment of historic OS mapping appears to indicate that this site is likely not occupied directly by any built heritage assets, and there does not appear to be any statutorily designated heritage assets in close proximity to the site, however there are likely some buildings in the wider vicinity that may represent non designated heritage assets, for example Little Minsterley to the east and Oak House to the west.

SC Ecology – Comments

A planning application on this site must be accompanied by an Ecological Impact Assessment of the land in and surrounding the proposed development and a discussion of any potential impacts resulting from the development.

Further advice on subsequently received ecology report received 28.11.18:
Have read the above application and the supporting documents including the Preliminary Ecological Appraisal prepared by Arbor Vitae Environmental Ltd (November 2018).

The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework.

The proposed development site has been cleared of vegetation prior to the

ecological report being undertaken. The proposed scheme must clearly demonstrate how the development will 'promote the preservation, restoration and re-creation of priority habitats and ecological networks' as required by paragraph 117 of the National Planning Policy Framework.

Prior to making a planning decision a layout plan should be submitted in order to show the indicative ecological buffers and biodiversity enhancements proposed on this development site. For example a 6m wide ecological buffer around the perimeter of the site.

Suggested conditions to update the ecological survey work at REM stage if it comes in after x amount of years (as well as the normal conditions).

SC Highways – No objection

Subject to the development being constructed in accordance with the approved details, and the following conditions & informative.

The proposal seeks outline consent with all matters reserved for a mixed-use development for residential, retail and business units at the Former Bus Depot, Minsterley. Previous planning applications include SA/07/0826/O for residential development which was withdrawn and SA/08/1506/O for mixed use which was refused and subsequently allowed at appeal on 09th September 2010. The highway authority did not object to that proposal.

It is considered that the principle of the development is likely to be acceptable from a highways perspective, subject to the access, visibility and parking facilities being commensurate with the local conditions and highway safety. As part of the development a footpath along the frontage of the site should be provided.

Any future planning application should provide any and all details necessary to assist with the appropriate determination from a Highways and Transport perspective. As well as, demonstrate that the proposed new vehicular access, associated visibility splays, parking and turning facilities are commensurate with the prevailing local highway conditions, in accordance with 'Manual for Streets 1 & 2'.

A Construction Method Statement is required for this development.

Minsterley Parish Council – Comments

The Parish Council broadly support development of this site. However there are concerns about the site that the Parish Council would want guarantees about before any development and so would ask that this be discussed at committee. The issues include :-

The covenant on the ground to be used for employment use? Car parking for the retail development, access from the new exit onto A488 (traffic calming) as there are already issues with the road at this point, footpath required along the a488 for

the length of the site, lighting to highway standard, flooding issue already apparent at neighbouring linden fields development, wayleave for new culvert from fire station to water course before it reaches Linden fields, consultation with Minsterley flood forum.

4.2 - Public Comments

4 objections and 1 neutral comment have been received on the application, points raised summarised as follows:

Conflict with adjacent use:

Muller's production facility at Minsterley occupies a 8ha site and comprises of production lines for manufacture of yoghurts, dairy products and puddings and associated processes; Muller has invested in the site significantly in recent years with the site running 24hrs per day, 7 days per week; previous permission granted at appeal in 2010 and renewed in 2013; inspectors report considered noise issues; would be inappropriate to rely on technical information from 2008 – ownership of the Muller site, working patterns and equipment used have changed considerably since this time.

Residential Amenity

New houses and their occupants need to be carefully considered particularly in relation to noise and disturbance from Muller and the proposed uses.

Contaminated land

How will contaminated land be addressed?

Drainage

Already experience considerable issues with drainage on adjacent sites, including flash flooding on the estate road of the adjacent new housing.

Highway Safety

Visibility and speed along this road are already problematic, how will traffic be slowed enough to make accessing the site safe?

5.0 THE MAIN ISSUES

Principle of development & Site History

Residential Amenity - Noise

Ecology

Drainage

Affordable Housing Contribution

Access

6.0 OFFICER APPRAISAL

6.1 Principle of development & Site History

6.1.1 Minsterley is allocated as a combined key centre along with the neighbouring village of Pontesbury. Policy CS3 sets out that Key Centres will maintain and enhance their roles in providing facilities and services providing focus for economic development and regeneration. Balanced housing and employment development, of an appropriate scale and design that respects each settlements distinctive character will also take place within the identified development boundaries and on sites allocated for development.

6.1.2 The whole of the application site is contained within the identified development boundary of Minsterley. The site is brownfield land and the front, south western corner of the site is also covered by an allocation for protected employment land where core strategy Policy CS14 seeks to identify and maintain a suitable portfolio of employment land. The submitted indicative layout plan shows this area of the site utilised as retail units, with an area of business units (Use Class B1 a&c) to the rear of the site. Officers consider on this basis that in principle the use of the site for mixed consisting of residential, commercial and business units will be acceptable and in line with current adopted policy aims.

6.1.3 Site History –

SA/08/1506/O – Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – granted at appeal.

13/03197/OUT - Renewal of Extant Planning Permission SA/08/1506/O - Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – Committee resolution to grant planning permission subject to a s106 agreement to secure affordable housing (s106 was not completed).

6.2 Residential Amenity - Noise

6.2.1 New housing has recently been built to the east of the site and these are now the closest residential properties as well as the existing property, Meadow Brook that is also used as the offices to the charity, The Pontesbury Trust.

6.2.2 SC Regulatory Services have requested that a noise assessment be carried out on site due to the time that has passed since the previous applications submitted and the factors raised by agents acting on behalf of Muller's that identify that since the appeal decision in 2009, the Muller site has changed ownership with different resulting work patterns and new plant equipment and machinery used.

6.2.3 The proposal and indicative layout/zoning plan submitted by the applicant shows

the part of the application site located immediately adjacent to the Muller site to be used for either retail or business units. The proposed housing is shown to be sited at the eastern part of the site and would be located no closer than the existing newly built housing. The applicant and their agents have confirmed that they are willing to carry out a noise assessment on site the details of which would be submitted as part of the first submission of reserved matters, when any mitigation works identified as required as a result could then be designed and directly related to the proposed detailed reserved matters scheme. Officers consider that this approach is acceptable, and the location of the residential properties within the site could be controlled by condition that requires all of the housing to be sited no closer to the adjacent Muller site than the existing dwellings.

6.3 Ecology

6.3.1 This is a brownfield site and does not currently contain much vegetation and is fenced with metal security fencing. An ecological report has been submitted in support of the application that concludes that although the site within 350 metres of the Minsterley Meadows SSSI the proposed development does not constitute a risk to the SSSI. No evidence of badgers were found on site. The report recommends some ecological enhancements including hedge planting, erection of bat tubes and bird boxes. SC Ecologists have requested that ecological enhancement is carried out as part of the scheme, requesting that an ecological buffer be provided around the edge of the site.

6.4 Drainage

6.4.1 SC Suds/drainage officers have requested that a flood risk assessment (FRA) be submitted. No modelled flood outline exists for the adjacent watercourse but it is a watercourse that is known to have flooding problems and using the strategic flood risk assessment the drainage officers have identified that the land along the eastern site boundary is in flood zone 3. As such the development is considered to be a 'more vulnerable' development, requiring a FRA and Sequential and Exception tests.

6.4.2 The applicant has submitted a copy of a drainage report dated 28th September 2006 that was considered as part of the earlier planning applications for the site and has requested that any further information on drainage and flooding be conditioned to be submitted and approved prior to any works commencing on site and to be considered as part of any first reserved matters application. This would then enable these reports to incorporate the proposed drainage system and improvements for the site specific to the proposed final scheme.

6.4.3 Officer consider that this proposed means of addressing the issue of drainage is acceptable in this instance.

6.5 Affordable Housing Contribution

6.5.1 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 15%.

6.5.2 As this is an outline application the percentage contribution and number of affordable homes will not be set at this time although the indicative zoning plan indicates 10 dwellings to be constructed. This will be reviewed at the time of the reserved matters application. The Housing Enabling team has requested that the size, type and tenure of any affordable housing needs to be agreed in writing with the before any reserved matters application is submitted.

6.6 Access

6.6.1 Means of access to the site is to be held as a reserved matter and will be subject to detailed consideration at that stage. SC Highways officers have not raised any objection to the proposal at this time and consider that the principle of the development is likely to be acceptable from a highways perspective, subject to the access, visibility and parking facilities being commensurate with the local conditions and highway safety. They also recommend that as part of the development a footpath along the frontage of the site should be provided.

7.0 CONCLUSION

7.1 The whole of the application site is contained within the identified development boundary of Minsterley, a joint key centre with Pontesbury. Officers consider that in principle, the use of the site for mixed use of residential, commercial and business units will be acceptable and in line with current adopted policy aims. Officers are satisfied that issues of drainage and flooding, noise assessment and mitigation and ecological enhancement can all be required and considered as part any first submission of reserved matters.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

☒ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with

the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:

CS3 - The Market Towns and Other Key Centres
 CS10 - Managed Release of housing Land
 CS14 - Managed Release of Employment Land
 CS17 - Environmental Networks
 MD1 - Scale and Distribution of Development
 MD4 - Managing Employment Development
 MD9 - Protecting Employment Areas
 MD12 - Natural Environment
 Settlement: S12 - Minsterley - Pontesbury

RELEVANT PLANNING HISTORY:

SA/08/1506/O – Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – granted at appeal.
 13/03197/OUT - Renewal of Extant Planning Permission SA/08/1506/O - Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – Committee resolution to grant planning permission subject to a s106 agreement to secure affordable housing (s106 was not completed).

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Planning file 18/03583/FUL
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Nick Hignett
Appendices APPENDIX 1 - Conditions

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

A Flood Risk Assessment for the site;

A Noise Assessment of the site carried out to BS4142 to determine to the potential of disturbance of the occupants of the proposed residential dwellings and for appropriate mitigation measures proposed to be identified and put forward;

Details of ecological enhancements proposed.

Reason: To ensure the development is of an appropriate standard and to address the potential issues of flooding, noise and disturbance and ecological enhancement.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

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