# **AGENDA ITEM**



Committee and date

12th December 2023

# **Development Management Report**

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

#### **Summary of Application**

Application Number: 23/02796/FUL

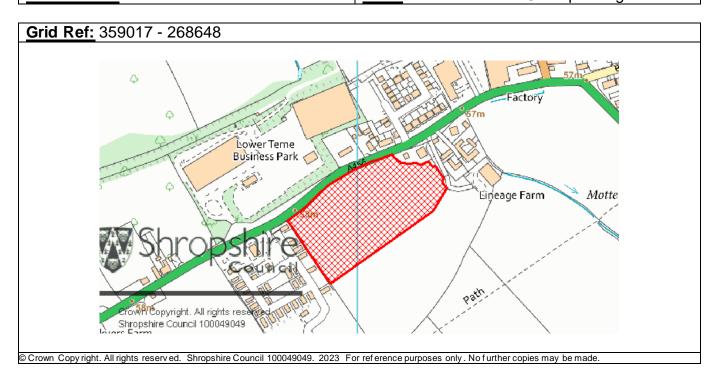
Proposal: Erection of 40 dwellings, vehicular, pedestrian and cycle access from the A456, landscaping, open space, sustainable urban drainage system and associated infrastructure

Site Address: Proposed Residential Development Land To The South Of A456 Burford Shropshire

Applicant: J.Harper And Sons (Leominster)

Case Officer: Louise Evans

email: Louise.m.evans@shropshire.gov.uk



**Recommendation:-** Approve subject to a S106 for affordable housing and a financial contribution towards highway works as well as the conditions set out in Appendix 1.

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#### **REPORT**

#### 1.0 THE PROPOSAL

- 1.1 The development relates to the erection of 40 dwellings, a new access from the A456, and associated infrastructure including landscaping, open space and a sustainable urban drainage system.
- 1.2 Of the 40 dwellings, 10 are proposed to be affordable dwellings made up of 2 one-bedroom flats, 2 two-bedroom bungalows, 4 two-bedroom houses and 2 three-bedroom houses. The remainder will be open market dwellings made up of 2 two-bedroom bungalows, 4 two-bedroom houses, 20 three-bedroom houses and 4 four-bedroom houses.

#### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises the northern part of a field in agricultural use and runs adjacent to the southern side of the A456 on the western side of Burford. The site is flat in character and measures approximately 2.27 hectares.
- 2.2 On the opposite side of A456 there is a mix of residential properties and the Lower Teme Valley Business Park. To the east of the site is a small residential development whilst to the west is a park home development on the site of the former Burford Nurseries. To the south of the site is a continuation of the same field from which the site is formed.
- 2.3 The River Teme lies 0.35km to the south of the site. It is designated as a Site of Special Scientific Interest (SSSI); notified because the channel is of special interest as a representative, near-natural and biologically rich river type associated with sandstone and mudstones.
- 2.4 The site is located in Flood Zone 1 on the Environment Agency's Flood Map for Planning.
- 2.5 The site is located in a Minerals Safeguarding Area for Sand and Gravel.
- 2.6 There are a number of heritage assets within the vicinity of the site including the Castle Tump Scheduled Monument which is located approximately 250 metres to the east.

# 3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 It is a major application which in the view of the Planning Services Manager in consultation with the Chairman should be determined by the relevant Planning Committee.

### 4.0 Community Representations

#### 4.1 Consultee Comment

- 4.1.1 SC Trees: No objection, conditions recommended.
- 4.1.2 SC Ecologist: Recognises Biodiversity Net Gain proposals. A Construction and Environmental Management Plan and Habitat Management Plan will be conditioned to ensure that BNG is achieved onsite as described within the application. Conditions are also recommended in relation to the use of wildlife boxes and lighting. Informative notes have been suggested for bats in trees, nesting birds and general wildlife protection.
- 4.1.3 SC Highways: Noted that a small area of landscaping is shown across a visibility splay. Noted that the indicative locations for the lighting columns may need to be altered slightly for them to be adopted and that a relocation of a speed limit on the highway will be subject to a separate consenting process. No objection, conditions and informative notes suggested.
- 4.1.4 SC Regulatory Services: no comments in respect of contaminated land. Suggests a condition for the implementation of the noise mitigation as well as a condition for a construction management plan in order to protect the amenity of residents.
- 4.1.5 SC Rights of Way: No comments to make on the application.
- 4.1.6 SC Archaeology (Historic Environment): In terms of the impact on the significance of the Scheduled Monument as a result of development within its setting, we would broadly concur with the HIA and Historic England that the proposed development will cause less than substantial harm. It is therefore advised that the tests within the NPPF Paragraphs 199 and 202, need to be assessed by the decision maker when considering the planning balance. Conditions have been recommended.
- 4.1.7 SC Conservation (Historic Environment): HIA noted which concludes there may be less than substantial impact but suggests mitigation planting proposed will reduce this impact. The team concur with these conclusions and advise that in

accordance with paragraph 202 of the NPPF (2021), this harm should be weighed against the public benefits of the proposal, with great weight being given to the conservation of the heritage assets in line with paragraph 199 of the NPPF.

- 4.1.8 SC SUDS: Standard conditions for drainage recommended. No details of the maintenance of the attenuation pond have been provided. Details of who will be responsible for the vegetation and silt removal together with a maintenance schedule must be submitted for approval.
- SC Affordable Houses: (The following comments were received but do not take 4.1.9 account of the amendments to the scheme) Note that the site is an allocation in the draft Local Plan. If the plan is to be given weight, it should be read a whole. There is a need for level access accommodation within the affordable housing stock and therefore, suggest that 2 of the proposed 2 beds are substituted for the 2 bed bungalows. The 2-bed bungalow proposed as part of the market provision is considered to be an excellent type of dwelling for affordable housing provision and therefore strongly encouraged.67% of responses in the Right Home Right Place survey indicated a need for 2 and 3 bedroomed provisions, which proposed (26) dwellings provided at 2 and 3 bed). However, the provision is strongly weighted towards the provision of 3 bed provision (20), whereas only 6 x 2 bed dwellings are proposed. Therefore, suggest that 4 x 3 beds revert to 2 bed provision. Clarification as to which of the proposed dwellings meet M4(3) wheelchair user dwellings within Building Regulations and a further 70% of the dwellings will be built to the M4(2) (accessible and adaptable dwellings) or higher standard within Building Regulations, as per emerging Policy DP1.
- 4.1.10 SC Learning and Skills: There is no expectation that this development of 40 dwellings will impact negatively on local education provision. The primary aged pupil yield will be between 5 and 10 children once the dwellings are fully occupied. There are currently 111 primary aged children living in the catchment area, of which 88 (80%) go to the catchment school, Burford CE Primary. The current net capacity of the school is 140 places, so is sufficient to meet our statutory obligations for school places. The school draws a large number of pupils from out of county 62 from Herefordshire and Worcestershire LAs. In school place planning terms, there are no sufficiency grounds for increasing primary provision in the catchment area.
- 4.1.11 Historic England: Do not wish to offer any comments.
- 4.1.12 The following have not responded to consultation on this scheme:
  - Natural England

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- Environment Agency (Midlands Region)
- Malvern Hills District Council
- Worcestershire County Council
- Clinical Commissioning Group
- West Mercia Constabulary
- Severn Trent

#### 4.2 Public Comments

- 4.2.1 Nine representations have been received and the concerns raised have been summarised as follows:
  - Site depends on Worcestershire for services but collects council tax in Shropshire
  - Services are full to capacity already
  - Too many houses in the town
  - Query detail of submissions
  - Flood risk impact on house insurance and flood risk elsewhere
  - Concerns over site drainage
  - Concerns that hedges will not be replanted
  - Overlooking/loss of privacy
  - Concerns over highway safety A456 is a busy road
  - Noted bat activity recently
  - Impact from industrial estate opposite and the A456
- 4.2.2 No comments have been received by the Local Member or from Burford Parish Council in connection with this planning application.

#### 5.0 THE MAIN ISSUES

Principle of development

#### 6.0 OFFICER APPRAISAL

- 6.1 Principle of development
- 6.1.1 A key objective of the adopted development plan is to concentrate residential development in locations that promote economic, social and environmental sustainability. The Council's Core Strategy Policies CS1, CS3, CS4 and CS5 seek to achieve managed, targeted growth by steering new open-market housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in the Site Allocations and Management of Development (SAMDev) Plan. Sporadic development in the countryside (i.e. outside the designated settlements) is generally unacceptable

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unless there are exceptional circumstances, typically as set out in Core Strategy Policy CS5 and SAMDev Policy MD7a.

- 6.1.2 Burford is defined as a community hub within the adopted development plan but the application site falls outside its development boundary and is located in the countryside. Therefore, having regard to the adopted development plan, the site is not in a suitable location for an open market housing development,.
- 6.1.3 With regards to the status of the adopted policies for housing, Shropshire Council can currently demonstrate 5.64 years' supply of deliverable housing land against the housing requirement within the adopted Local Plan, and 7.20 years supply of deliverable housing land against the housing need identified within the Local Housing Need Assessment. Consequently, the local planning policies with regards to the supply of housing remain up to date and contribute to achieving sustainable development through development of the right types of housing, in the right locations and within the right timescales.
- 6.1.4 The Council is at a relatively advanced stage of a Local Plan Review. Specifically, a draft Shropshire Local Plan (2016-2038) has been prepared and was submitted to the Secretary of State for examination in September 2021. The application site is a draft allocation (BUR002) within the plan for the provision of 40 dwellings.
- 6.1.5 With regards to the weight that can be given to emerging plans the NPPF advises the following at paragraph 48:
  - 48. Local planning authorities may give weight to relevant policies in emerging plans according to:
  - a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 6.1.6 With regards to the stage of preparation, interim findings from the Inspectors have determined that the plan is unsound and could not be considered for adoption at that time. The effect of the Interim findings is that only limited weight may be applied to the Draft Local Plan.
- 6.1.7 With regards to unresolved objections, the draft allocation (BUR002) is only subject to two objections from Malvern Hills District Council and a local resident. General support to the policy wording is provided by Historic England and a neutral response from the EA. The objection from Malvern Hills District Council largely raised concern

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with infrastructure provision in the area although was strongly rebutted by Shropshire Council in its summary/response document to representations received which was submitted to the Examination. This response set out that Burford's housing allocations reflected its role as a Community Hub. Malvern Hills District Council have been consulted on the current planning application and have not provided comments.

- 6.1.8 Additionally, it is important to note that, like the components of the Adopted Local Plan, the draft Shropshire Local Plan is intended to be read and applied as a whole. As such, all relevant draft policy requirements would need to be taken into account where it is proposed that any weight is given to the draft Shropshire Local Plan. The relevant draft policies are included within a later section of the report however, the scheme is considered to be generally compliant.
- 6.1.9 The NPPF is a material planning consideration but does not change the statutory status of the Development Plan as the starting point for decision making. The main consideration is whether the application site is in a suitable location for housing having regard to the development plan, and if not, are there any other considerations sufficient to mean that the proposal should be determined otherwise than in accordance with the development plan.
- 6.1.10 The applicant has submitted a supplementary statement to outline the benefits of allowing this proposal to be weighed against the conflict with the adopted development plan and this includes -
  - The delivery of 40 dwellings with a range of types and tenures
  - delivery of 10 affordable dwellings which equates to a 25% provision and a 5% increase above the policy requirement for the area as set out within Core Strategy policy CS11 and draft policy DP3.
  - 47.46% Biodiversity Net Gain in habitat units and 161% in hedgerow units which is above the policy requirement of 10% set out within Draft Policy DP12.
  - Provision of additional features to improve sustainability including PV Panels,
     Electric Vehicle Charging Points and cycle storage for all dwellings;
  - Delivery of 3,760.7 sqm of public open space (excluding the SUDS basin) provided over three large areas; and, this is a 14% increase above the policy requirement of 3,300sq.m set out in polices MD2 of the adopted SAMDev plan and DP15 of the Draft Local Plan.
- 6.1.11 The applicant has made reference to an Inspectors decision at Meole Brace Retail Park (PINS ref: 3267148). The scheme comprised an outline planning application for up to 150 residential dwellings on a site subject of a draft allocation for residential development in the Shropshire Local Plan (SHR145). The Inspector noted that although the Council could demonstrate more than a 5-years supply of deliverable

housing that these requirements are set a minima and the delivery of the appeal scheme's housing would positively support the Government's objective of significantly boosting the supply of homes. Likewise to the proposed development, the scheme provided 5% affordable housing above the Council's policy requirement. The Inspector noted that this would positively contribute to the Council's strategic objective for delivering affordable homes and was a significant benefit of the proposal and to which substantial weight was attached to the decision to allow the development.

- 6.1.12 It was also noted that there would be substantial economic benefits associated with the delivery of this scale of major development, including direct and indirect jobs during construction, along with the increase in resident spend to the benefit of local facilities and other financial receipts.
- 6.1.13 The applicant has argued that the same weight should be afforded to these matters within the current proposal and that more weight can be afforded to the draft allocation of the site as the emerging plan has progressed since the determination of that appeal.
- 6.1.14 It is Officer's view that that the draft Local Plan should still only be given limited weight in the determination of planning applications, however, the benefits of the scheme, specifically the over provision of affordable housing, biodiversity net gain and open space should be given significant weight in the determination of this application.
- 6.2 Layout, Scale and Design
- 6.2.1 The development includes a mix of one and two storey properties ranging from one to four bedrooms in scale. The proposed elevations illustrate a traditional material pallet of light and dark red brick walls and grey and red roof tiles. Details such as brick plinths, brick arched heads, stone cills and chimneys are also included within the design. The varied materials palette and architectural details aim to reflect the character of the village and provide an interesting design variation across the site.
- 6.2.2 The layout of the development is acceptable and provides an active frontage towards the A456 and the public open space within the site. Objectors have raised concern over impact to existing properties, however, the design, location and orientation of the proposed dwellings is appropriate and will not lead to unacceptable effects in this regard.
- 6.3 Heritage
- 6.3.1 The application includes a Heritage Statement which assesses the impact on designated and non-designated heritage assets in the area around the site. The assessment establishes that impacts to the heritage assets within the surrounding

area are limited, though a 'less than substantial' impact could be perceived to the Castle Tump Scheduled Monument. SC Conservation and Archaeology as well as Historic England have been consulted and none object to the development, subject to the inclusion of a landscaping condition as a mitigation measure to minimise impact on setting of the nearby heritage assets. In accordance with paragraph 202 of the NPPF, the 'less than substantial' harm should be weighed against the public benefits of the proposal, with great weight being given to the conservation of the heritage assets in line with paragraph 199 of the NPPF.

- 6.4 Ecology and trees
- 6.4.1 Neither the council's Ecologist nor the Tree Officer have objected to the development subject to implementation of the identified mitigation, tree protection and landscaping together with the inclusion of conditions to secure these. On this basis there are no significant outstanding issues in relation to ecology or trees.
- 6.5 Highway Safety
- 6.5.1 It is proposed that the site will be accessed in the form of a simple priority junction taken from the A456. The application is accompanied by a Transport Statement which concludes that the proposed development can be accommodated without detriment to the operational capacity or safety of the local highway network and that it can be suitably accessed. The Local Highway Authority do not object to the scheme and have recommended conditions to be attached to any permission granted.
- 6.5.2 The proposal involves the relocation of a 40mph speed limit along the A456 which would be subject to a separate consent known as a Traffic Regulation Order. A planning condition would be necessary to secure the 40mph speed limit relocation and a financial contribution towards the cost of the TRO would be secured by a section 106 agreement.
- 6.6 Amenity for future occupiers
- 6.6.1 Potential noise impacts from Teme Business Park and road noise from A456 have required assessment and a noise survey has been submitted with this application. This sets out the required façade sound reduction by glazing and ventilation to be compliant with guideline values. This is in line with a recently approved scheme on the other side of the A456 where double glazing with passive ventilators were proposed to meet the internal guideline values and provide sufficient alternative means of ventilation. A condition requiring submission of details has been recommended to cover this matter.
- 6.7 Capacity of local services
- 6.7.1 Several of the third-party representations have raised the issue that existing community facilities including local schools, dentists and doctors are at full capacity

and cannot cope with the additional demands arising from further new housing development. The site will be liable for Community Infrastructure Levy (CIL) payments and will contribute to the schemes set out in the LDF Implementation Plan which is derived from the Ludlow Place Plan.

- 6.7.2 Furthermore, Shropshire Council's Learning and Skills department recognises that the development will generate very small numbers of pupils and that the local primary school has sufficient capacity to accommodate such numbers. This is supplemented by a capacity study of secondary education undertaken by the applicant and again which identifies that the development will not lead to a shortfall in provision. With regards to healthcare services, no response has been provided to the consultation undertaken. Without evidence of a specific shortfall generated by the development, the Local Planning Authority is unable to seek developer contributions above that generated through the CIL.
- 6.8 Flood risk and drainage
- A number of concerns have been raised by third parties about potential flood risk and drainage concerns. Whilst flood zones 2 and 3 from the River Teme do come within close proximity, the entire development site is located within flood zone 1 (i.e. not at risk from flooding). With regards to surface water flooding, the application demonstrates, with the provision of an appropriately sized attenuation basin, that greenfield run off rates can be maintained. Finally, the applicant has provided a consultation response from Seven Trent indicating their agreement, in principle, to connection of the site for foul drainage. With the above in mind, it would be difficult to maintain objections to the scheme on the grounds of flood risk or drainage.
- 6.9 Mineral Safeguarding
- 6.9.1 One final consideration to note is that the site is located in a Mineral Safeguarding Area. However, as the development site is located within the built area of Burford, that is surrounded by existing development and is only 2 hectares in area, there is no likelihood of it ever being developed as a mineral extraction site and its development cannot be considered to have any implications for mineral safeguarding. Therefore, it does not present any significant issues in terms of Core Strategy Policy CS20 and SAMDev Policy MD16 which seek to ensure that new non-mineral related development do not sterilise mineral resources.

#### 6.10 CONCLUSION

6.10.1 The scheme constitutes a departure from the adopted development plan which remains up to date with regards to its housing policies. Planning applications should be determined in line with the development plan unless material considerations indicate otherwise. The material considerations in this case are that the site is a

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draft allocation in an emerging plan, which officers suggest is given only limited weight in the planning balance, but also that it will provide above policy requirements for affordable housing, biodiversity net gain and public open space, and these matters can be given substantial weight. The less than substantial harm to a scheduled ancient monument also needs to be brought into the planning balance but in all other respects, the development can be made acceptable with the use of the planning conditions and a section 106 agreement.

6.10.2 Taking the above into account, it is the view of Officers that the material considerations put forward in relation to this scheme are overriding and that the development is recommended for approval subject to the planning conditions detailed at the end of this report and a section 106 agreement to secure the provision of affordable housing in perpetuity and a financial contribution towards the cost of a Traffic Regulation Order to relocate a speed limit.

#### 7.0 Risk Assessment and Opportunities Appraisal

#### 7.1 Risk Management

- 7.1.1 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.
- 7.1.2 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.

#### 7.2 Human Rights

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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.

#### 7.3 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.

#### 7.4 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.

#### 8.0 Background

#### Relevant Planning Policies

Central Government Guidance:

- National Planning Policy Framework
- National Planning Practice Guidance

Core Strategy (Adopted March 2011):

- Policy CS1: Strategic Approach;
- Policy CS4: Community Hubs and Community Clusters;

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- Policy CS5: Countryside and Green Belt;
- Policy CS6: Sustainable Design and Development Principles;
- Policy CS11: Type and Affordability of Housing
- Policy CS17: Environmental Networks;
- Policy CS18: Sustainable Water Management; and
- Policy CS20: Strategic Planning for Minerals

Site Allocations and Management of Development (SAMDev) Plan (Adopted December 2015):

- Policy MD1: Scale and Distribution of Development;
- Policy MD2: Sustainable Design;
- Policy MD7b: General Management of Development in the Countryside;
- Policy MD8: Infrastructure Provision;
- Policy MD11: Tourism Facilities and Visitor Accommodation;
- Policy MD12: Natural Environment;
- Policy MD13: Historic Environment;
- Policy MD16: Mineral Safeguarding; and
- Settlement Policy S10: Ludlow.

#### Emerging Policy Shropshire Local Plan 2016 to 2038 (not adopted)

- The settlement guidelines in draft Policy S10.2
- Draft Policy SP1: The Shropshire Test
- Draft Policy SP2: Strategic Approach
- Draft Policy SP3: Climate Change
- Draft Policy SP4: Sustainable Development
- Draft Policy SP5: High Quality Design
- Draft Policy SP6: Health and Wellbeing
- Draft Policy SP8: Managing Housing Development in community Hubs
- Draft Policy SP16: Strategic Planning for Minerals
- Draft Policy DP1: Residential Mix
- Draft Policy DP3: Affordable Housing Provision
- Draft Policy DP11: Minimising Carbon Emissions
- Draft Policy DP12: The Natural Environment
- Draft Policy DP14: Green Infrastructure
- Draft Policy DP15 Open Space and Recreation
- Draft Policy DP16: Landscaping of New Development
- Draft Policy DP18: Pollution and Public Amenity
- Draft Policy DP20: Water Efficiency
- Draft Policy DP21: Flood Risk
- Draft Policy DP22: Sustainable Drainage Systems
- Draft Policy DP27: Broadband and Mobile Communication Infrastructure

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# **RELEVANT PLANNING HISTORY:**

22/03646/FUL Erection of 40 dwellings, vehicular, pedestrian and cycle access from the A456, landscaping, open space, sustainable urban drainage system and associated infrastructure WDN 2nd June 2023

#### 9. 0 Additional Information

<u>View details online</u>: <a href="http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RWXBW1TDI4Q00">http://pa.shropshire.gov.uk/online-applicationDetails.do?activeTab=summary&keyVal=RWXBW1TDI4Q00</a>

List of Background Papers

Planning application reference 23/02796/FUL and plans and supplementary reports.

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member - Cllr Richard Huffer

**Appendices** 

APPENDIX 1 - Conditions

#### **APPENDIX 1**

#### Conditions to include

- 1. Time limit
- 2. Development in accordance with the plans
- 3. Archaeological written scheme of investigation (WSI).
- 4. Surface and foul water drainage scheme including a management and maintenance plan.
- 5. Schedule and specification of the products that will be used to provide sound insulation.
- 6. Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) agreement.
- 7. Construction Management Plan and Method Statement (highway safety)
- 8. Phasing plan
- 9. Construction Management Plan (amenity)
- 10. Public open space scheme and management
- 11. Securing of speed limit relocation
- 12. Road phasing
- 13. Road phasing implementation
- 14. Construction details of roads
- 15. Pre commencement tree protection measures implementation
- 16. Tree retention and tree protection measures during construction.
- 17. Landscaping scheme implementation
- 18. Wildlife boxes agreement and implementation
- 19. External lighting

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- 20. Management and maintenance of the proposed streets
- 21. Materials samples agreement
- 22. Hard landscaping details