

## Development Management Report

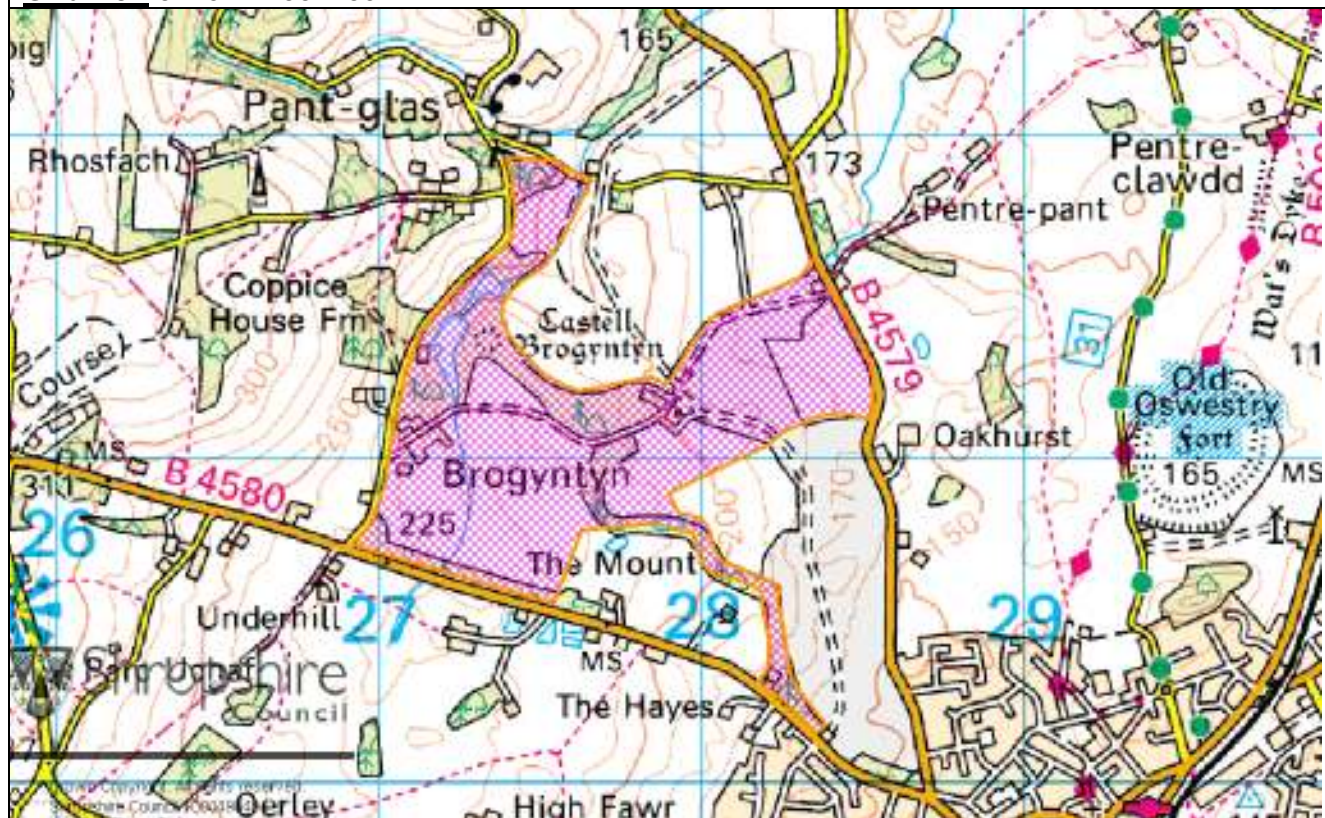
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number</u></b> : 14/03184/FUL	<b><u>Parish</u></b> :	Selattyn And Gobowen
<b><u>Proposal</u></b> : Change of hall from offices to residential with associated alterations to include demolition of service wing; conversion of Home Farm into 11 residential units; demolition of estate office and agricultural sheds; alterations to existing farm house and Dairy Cottage; erection of 50 dwellings within grounds; formation of vehicular access to B4580		
<b><u>Site Address</u></b> : Brogyntyn Hall Brogyntyn Oswestry SY10 7DA		
<b><u>Applicant</u></b> : J.Ross Developments Ltd		
<b><u>Case Officer</u></b> : Karen Townend	<b><u>email</u></b> : <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref**: 327921 - 331139



**Recommendation:- Subject to satisfactory resolution of the outstanding ecology issues and the submission of amended plans for the buildings at Home Farm GRANT planning permission subject to the applicants entering into a S106 agreement to secure the repair and restoration of the grade II\* listed building and subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for three parts of an overall scheme, the proposal has been submitted as one planning application due to the linkages between the three parts. A separate application for listed building consent has also been submitted. The three parts of the proposal are as follows: firstly the change of use of the grade II\* listed building Brogyntyn Hall from its most recent use as offices to a single residential property. To enable the change of use works are proposed to the building, including demolition of one wing and the erection of new extensions to the building. The second part of the application is the conversion of the existing buildings at Home Farm into 11 residential units, including demolition of the estate office and some agricultural sheds, alterations to the existing farm house and Dairy Cottage, adjacent to the farm. The third part is the proposed erection of 50 dwellings within grounds of Brogyntyn Hall and the formation of a new vehicular access to B4580.
- 1.2 In support of the planning application the following documents have been submitted: full plans, Design and Access Statement, statement of community involvement, Hall condition report, Hall heritage statement, building regulations statement, heritage impact assessment, development justification statement, landscape and visual impact assessment, road safety audit, ecology report, landscape management plan, flood risk assessment, geo-environmental report.
- 1.3 In addition a set of confidential reports have been submitted detailing the financial costings of the work required to renovate and bring Brogyntyn Hall back into use; the costing and potential income from the proposed conversion of Home Farm and the new houses; the evidence of the marketing of Brogyntyn Hall and the other properties within the estate; and the proposed justification for the enabling development. These reports have been retained as confidential as they include commercially sensitive information.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 Brogyntyn Hall is a grade II\* listed building set within 93 hectares of grade II registered estate parkland which includes other buildings, houses, woodland, a lake, pastureland, Home Farm, Castell Brogyntyn (an Iron Age Fort). The estate also lies within the Pantglas and Brogyntyn Conservation Area. Several other buildings within the estate are Grade II listed and there are other listed buildings outside the estate. The Hall itself is on the English Heritage at risk register as a category A building as “immediate risk of further rapid deterioration or loss of fabric – no solution agreed” and has been on the register since 1998.
- 2.2 The 93 hectares within the applicants ownership is set within a wider parkland of 230 hectares in separate ownerships. It lies north west of the market town of

Oswestry and close to the border with Wales. The grade II registered park and garden has high value as, though held in a number of ownerships, it survives as a very complete form, without significant built development post-dating the main C18th and C19th phases of park formation. The estate is enclosed with stone boundary walls and the land to which to application relates lies between the B4580 and the B4579 both of which lead north out of Oswestry.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The application is considered to be a major and controversial application which has been recommended for committee determination by the Area Planning Manager in discussion with the committee chair and vice chair.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Oswestry Town Council** – The Town Council had been officially notified of this application which is clearly outside the Town Councils boundary. As Brogyntyn benefits from being in a conservation area there is an opportunity to provide comments and therefore it was agreed for a shared meeting to be held with Selattyn and Gobowen Parish Council to consider the Town Councils response.

4.1.2 **Selattyn and Gobowen Council – Support** the application as it will provide additional housing for the area and will assist the restoration of currently derelict historic buildings.

4.1.3 **English Heritage – 27.10.14 - No objection.** Has reviewed the previous comments (below) and, given the time passed and that the potential purchaser has declined to provide further information at this stage, English Heritage would no longer object to the Council determining the application on the grounds of prematurity.

If the Council was minded to approve the application subject to securing a section 106 agreement (setting out an appropriate programme, timetable and monitoring arrangements for the release of funds and implementation of repairs to the hall) English Heritage would welcome the opportunity of advising further. Once approval has been granted the Council comes under significant pressure to agree the content of the S106. The nature of such agreements requires particular expertise and would be happy to provide support.

12/08/14 response - Brogyntyn Hall is a grade II\* listed building at risk located in a grade II registered park and garden in the Pant-glas and Brogyntyn Park Conservation Area. The proposed change of use, which incorporates a significant element of demolition results in serious but less than substantial harm to the significance of the listed building. The proposal for an enabling development of 50 new houses results in substantial harm to the significance of the grade II registered park and garden and the conservation area. The justification for the proposals is the public benefit of bringing the hall back into a good state of repair in a form that will render it sustainable as a family house. Enabling development is only ever considered as a last resort and it is essential that the market is tested to explore the potential for alternative proposals which do not contravene planning policy. In this case the marketing exercise has resulted in the emergence of a potential buyer who is not apparently a developer, would not require enabling

development and who does not seek significant demolition of the hall. In these circumstances, English Heritage recommends that the Planning Authority postpones its decision in order to allow the applicant opportunity to complete negotiations for the sale of the hall and such property as is required for its preservation. If the Planning Authority is minded to determine the applications prior to this, English Heritage recommends that they are refused by virtue of the fact that at the current time, the enabling case has not been proved necessary.

### Significance

Though there is built evidence of a Tudor house on the site, much of Brogyntyn Hall's value as a highly significant designated heritage asset derives from the quality of the surviving C18th and C19th work by its two main architects: Francis Smith of Warwick (1735) and Benjamin Gummow (1814-16). This significance is best preserved in the south range where the form of Smith's house is still clearly seen though overlaid by Gummow's aggrandisement for Mary Jane Ormsby and her husband William Gore. Gummow transformed the exterior of Smith's building in the neo-classical style, rendering the brickwork and adding a massive ionic portico to the south front. The parkland and gardens were also developed at this time to respond to the new architecture of the house and provide it with an appropriate setting.

There is little evidence that Smith did anything to the east range which retained its C17th form until raised a storey and completely remodelled by Gummow. This range was historically less well integrated with the principal accommodation. Floors at levels reflecting the almost completely eradicated Tudor form of the house compromised circulation, a problem that not even Gummow was able to resolve with great success. It was perhaps for this reason that, when occupied by the Post Office in the mid C20th, it was the east range which saw extensive removal of fabric to create the required institutional accommodation.

The value of the hall is enhanced by its setting in a registered landscape and the survival of numerous ancillary structures (the stable court, walled garden, lodges, terraces, ha-ha, estate cottages and farm buildings etc.) many of which are also listed in their own right. The grade II registered park and garden has high value as, though held in a number of ownerships, it survives as a very complete form, without significant built development post-dating the main C18th and C19th phases of park formation. It is possible to trace the various phases of expansion and development of the park and the way in which they reflect the development of ideas in landscape design complementing the changing architecture of the hall. The land remains in its historic parkland use and though some features have deteriorated over time, enhancement and restoration would be practicable and, indeed, has commenced in those areas subject to a Higher Level Stewardship Agreement with Natural England.

The grade II registered park and garden has high value as, though held in a number of ownerships, it survives as a very complete form, without significant built development post-dating the main C18th and C19th phases of park formation.

### Impact of the enabling development

The location of the proposed enabling development has been the subject of much deliberation; planting has been offered to mitigate its visual impact and, all things

considered, is regarded as the least worst option. This option in the context of the grade II\* Brogyntyn Hall is relatively successful and English Heritage considers that its impact on the setting of the hall is neutral. The impact upon the registered park and garden and the Pant-glas and Brogyntyn Park Conservation Area is however, considered substantial by virtue of its use, scale and form which are alien to the existing character and appearance of the open parkland and the settlement pattern and landscape character of the conservation area. In the context of a registered landscape which retains so much of its historic form and is notable for its completeness, English Heritage considers that the change of use, the permanent loss of parkland and the visibility of the development would result in substantial harm to the significance of the registered park and garden.

*Impact of the proposed alterations and partial demolition of Brogyntyn Hall*

The proposals for the hall have been designed to maximise the retention of existing fabric in the south and west ranges. There are minimal modifications to layout and the introduction of services to new bathrooms and the kitchen will not result in significant fabric loss or inappropriate visual intrusions. Evidential value of fabric surviving from the Tudor house, the Smith house, Gummow's alterations and later C19th modifications will all be retained and aesthetic and historical values are conserved. English Heritage has no objection to the proposals for the south and west ranges.

The principal area of impact is the demolition of the east range where the loss of fabric retains the Tudor elements in the basement but removes evidence of the post Tudor pre 1695 phase of alteration which characterised the east range's appearance prior to the reworking by Gummow in the early C19th. This fabric had however, been extensively modified by successive changes. All trace of earlier layout was eradicated by Gummow when he changed the floor levels and added an extra storey of accommodation. The extensive removal of fabric to create office and canteen accommodation in the C20th removed much of the evidence of the C19th plan form. The evidential value of this range is therefore limited and the principal phases of development are well recorded elsewhere in the building. Internally the aesthetic value of this range is compromised in all respects other than the billiard room. Externally, the east range's aesthetic value is diminished by the design compromises made when the earlier structure was incorporated into Gummow's neo-classical remodelling. This wing has gained in visual prominence since unfavourable fragmentation of ownership in the C20th isolated the hall from the principal drive serving the south elevation and front door. Access to the hall is now via the Oakhurst Lodge drive with the east range providing the first views of the building. Radical changes are therefore proposed for this view but the principal views of the hall from the south are conserved. Planting is to be introduced to provide a backdrop to the C19th terraces and shield any distant views in to the revealed service yard.

English Heritage is of the view that on balance, the evidential, historic and aesthetic value of the listed building rests to a greater degree in the south range than in the east range. Though the impact of the proposals is therefore clearly harmful, it does not amount to substantial harm.

*Justification*

The condition of the hall has been set out in detail in the report by Aroll and Snell

and is evidently poor with water penetration through the roof coverings resulting in repeated outbreaks of dry rot. The building has been on the Heritage at Risk Register since 1998. Two phases of marketing reported in June 2014 suggest that the cost of repairs and the size of the hall are significant factors deterring potential purchasers looking at the property as a family home. It is in this context that the proposals for demolition to create a more sustainable family dwelling have been developed.

A measured cost plan for repair and re-use has been presented as part of a detailed enabling case made by the applicant in accordance with English Heritage's published guidance on enabling development. This case has been scrutinised by independent advisers commissioned by English Heritage and Shropshire Council and we are advised that the conservation deficit has been appropriately calculated, that the development appraisal is reasonable and that it seeks only the minimum amount of enabling development. In these circumstances English Heritage would be minded to accept that the impact of the proposed development, though very harmful, is justified by the public benefit of bringing the hall back into good repair and providing it with a sustainable future. On balance therefore, English Heritage would not therefore object to the applications but would recommend that they were subject to conditions to secure the quality of development proposed and a S.106 agreement setting out an appropriate programme, timetable and monitoring arrangements for the release of funds and implementation of repairs to the hall.

However, a crucial test is whether there would be any other owner who could purchase the building, carry out the repairs necessary to remove it from risk and provide a sustainable future for it without the enabling development. The property has been marketed since January 2014 to test this and in the last month a potential buyer who neither wishes to carry out enabling development nor to demolish the east range has come forward. It is not yet clear whether they are able to deliver this solution but English Heritage considers that while an interest of this type exists it would be premature to approve the application for enabling development, as the development may not, in fact, be necessary.

#### Recommendation

English Heritage recommends that it is premature to determine the applications for planning permission and listed building consent which would result in significant harm to the designated heritage assets while the possible sale of the property to a new owner, not requiring enabling development or the demolition of the east range, is under negotiation.

If, notwithstanding this, Shropshire Council is minded to determine these applications, English Heritage would object and recommend refusal on the basis that the necessity for the harm remains unproven while such a sale is under negotiation.

- 4.1.4 **Georgian Group – Object.** Whilst the group welcomes the proposed repair and reuse of parts of the house, we nevertheless wish to register a formal objection to certain aspects of these proposals.

This is a complex application which involves works to buildings and a designed

landscape which contain elements from a number of periods; not all of these heritage assets however date either in whole or in part from the period covered by the Group's 1700-1840 date remit. The Georgian Group therefore wishes to defer to the Garden History Society, and Victorian Society over the impact of the proposed enabling development works. The Group also wishes to defer to the Victorian Society over the future of the billiard room range within the mansion, and over the proposed conversion works to the Home Farm buildings. The Georgian Group wishes to limit its comments to the proposed works of demolition, and alteration to the GII\* listed house itself.

The Significance of those parts of the house which would be either significantly altered or demolished

Earlier this year after a pre-application site meeting the Group wrote to the applicant's architect expressing its concerns over the written interpretation of the architectural development of the NW wing and over the accompanying assessment of the wing's architectural and historic significance. The Georgian Group remains of the opinion that the use of the term 'service wing' in this case is a misleading and pejorative one. The use for which the seventeenth century classical range was originally designed remains unclear, and we do not agree that there is enough evidence to conclude that it was subservient to the main house as claimed within the document. In the early nineteenth century the upper floors of the range were primarily used for reception rooms and guest bedrooms, and the wing remained part of the house's polite accommodation until at least the time that the billiard room was added. This wing retains Benjamin Gummow's elegant staircase, one of the few surviving features to survive from the early c19th remodelling of the house. It also contains significant evidence of the earliest surviving phase of the house's development. The billiard room range which is attached to its NW end also survives largely intact.

The Proposed Justification for the Works of Demolition

The Georgian Group accepts that there may be a need to rationalize and reduce the available accommodation within the house, however we are not convinced that a strong case has been made for such substantial works of demolition in terms of the criteria laid down by the Secretaries of State in the NPPF.

The justification for the radical remodeling of the internal spaces behind the three retained bays north of the canted bay is a particularly weak one when measured against the criteria contained within the NPPF for such works. For the justification for this element of the demolition work is substantially different from that provided elsewhere. These demolition works are primarily required to allow for the remodeling of the courtyard façade, and to facilitate the relocation of the billiard room paneling. This part of the house presently contains Gummow's elegant early nineteenth century staircase, and significant elements of seventeenth century fabric including a first floor room which retains sections of a substantial moulded seventeenth century cornice. Whilst the rooms are on a different level to those in the main block, this is little more than a minor inconvenience.

The retention of these rooms would preserve in situ some of the earliest fabric to survive within the house, and would also provide a far more convenient site for a kitchen as this part of the wing is located directly by the dining room. There is a



strong case for preserving the Gummow stair in situ for reasons of its architectural significance, and as it provides an important access route to the basement in this part of the house. The possible use of the adjoining area of retained fabric as a kitchen would also potentially allow for a more sympathetic use of the octagonal music room. (If the demolition of the billiard room wing were to be agreed, then its paneling could be re-erected in a further retained single storey section of the wing).

#### Recommendation

The Georgian Group must advise that it believes that that the architectural and historical significance of those parts of the house's historic fabric which are proposed for demolition has been underplayed within the supporting documentation. The Group questions the need for the scale of demolition proposed, and recommends in particular that a strong case for facading the three southern bays of the NW wing has not been made.

Your authority should look carefully at the proposed plan of the house and judge whether the plan is indeed a practical or a viable one. The scale of the demolition works proposed would leave the principal reception rooms without convenient access to kitchens and other service rooms. In addition to being highly damaging to the house's significance, the Georgian Group believes that this could make the house unattractive to potential purchasers. The present scheme could we therefore advise make a further series of damaging alterations more likely in the medium to long-term. The Georgian Group would recommend therefore that listed building consent is refused.

- 4.1.5 **Shropshire Parks and Gardens Trust** (on behalf of Garden History Society) – (i) Proposed alterations to Brogyntyn Hall, including demolition of service wing  
We note that Brogyntyn Hall is Listed Grade II\* and that the proposal to demolish what is described as the 'service wing' has, unsurprisingly, caused concern. As both the Georgian Group and English Heritage are closely involved in discussions regarding the building itself, and this falls outside our areas of expertise, we will not comment directly on the effects of the proposed alterations to the building itself.

Our main focus of interest is the *designed landscape* of which Brogyntyn Hall is an integral part. In this, our principal concern is the impact of the proposed alterations to the outward appearance of the building and hence on the apparent design intentions of the surrounding parkland. It is clear that the relationship between the Hall and the landscape is a reciprocal one – the park provides an important part of the setting for the Hall, while the Hall itself is similarly a highly significant, if not irreplaceable, design element in the parkland landscape. We agree that the approach across the parkland from the south and east and in particular the post-1815 drive from Oswestry to Brogyntyn Hall's colonnaded south front, as well as the that through the pleasure ground woods from the south, are highly significant routes in the experience of Brogyntyn Hall itself, of its place in the surrounding landscape, and of the parkland itself.

We note however that these are only two out of five possible approaches, the others being from the north and north-east and in these, it is the 'west' or 'service' wing which is the principal focus in the landscape (this is discussed in detail in our



earlier pre-application response). Its modification as proposed will clearly have a substantial effect on its appearance as seen from the park, although it seems that the proposals as they stand will on the whole produce a 'balanced' structure when viewed from these approaches.

The relationship between the building and the adjacent garden terraces will however be substantially altered and great care must be taken in the treatment of these areas, to rebalance this relationship and provide an appropriate setting for this aspect of the building. We note that outline proposals have been made for these areas, including sketch designs for both a formal garden area and what appears at present to be an open-air swimming pool.

Whatever is done in these areas, we urge that a professional designer be involved who is fully conversant with the relationship between historic buildings and their settings and who has demonstrated this understanding in previous works of this kind. Additional planting may also be required in the parkland itself, to integrate any new works into the surrounding parkland.

Repair and refurbishment proposals for the Stable Block are welcomed. It was understood also that the walled kitchen gardens would similarly be repaired, refurbished and stabilised. Sadly, these no longer house their former greenhouse ranges, but they do incorporate what appears to be an early-19<sup>th</sup> century 'hot wall' and as such are of great interest and significance. We would in due course wish to see these restored as working gardens, ideally with their glasshouses reinstated.

(ii) Proposed conversion works to Home Farm, with additional buildings as outlined

The area of park at Brogyntyn where the Home Farm is situated appears to have been agricultural in character since at least the creation of the Home Farm in the mid- to late-19<sup>th</sup> century and the eastern boundary of the proposed development is the stream which feeds the two lakes now within woodland to the north.

The proposed 'hamlet' development is well designed and situated and does not appear out of scale. We understand that a loose 'parkland' style of native tree planting (e.g. Oak, Beech, Lime as in the belts to the south) is proposed to the east, with wetland species (Alder, Willow) adjacent to the stream itself. An understory of Hawthorn and other species may also be appropriate within this area, to provide additional screening for the proposed developments.

(iii) The designed landscape of Brogyntyn Park

It is clear from a number of historical sources, and from reports commissioned to inform the current proposals, that the design of the parkland landscape at Brogyntyn was highly finished, strongly suggesting the hand of one or more professional designers, as yet unidentified. Given the above, it is a matter for some concern that the parkland at Brogyntyn, which is included at Grade II on the English Heritage Register of Parks and Gardens of Special Historic Interest, and appears also to correspond to the greatest extent of parkland shown in the later-19<sup>th</sup> century, is in divided ownership among 7 different titleholders.

It is recognised however that Brogyntyn Hall itself, with the larger part of the park and all of the pleasure ground areas, is currently held as a single unit. We

welcome the placing of these core parkland areas in an existing Higher Level Stewardship agreement with Natural England, with the support and protection which this scheme affords. Ideally, the historic parkland would be under a single ownership, but failing this, we would wish to see a dedicated Conservation Management Plan for the whole of the Registered Parkland area, this to be agreed and implemented by all owners.

*The pre-application response has been uploaded to the website for information but is not repeated here*

4.1.6 **Affordable Housing** – As this is an enabling development no affordable housing will be provided on site.

4.1.7 **Crime Prevention Design Advisor for West Merica Police** – I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime and /or the fear of crime and to promote community safety.

Therefore should this proposal gain planning approval, I request that the following planning condition be placed upon the said approval.

The applicant should aim to achieve the Secured by Design (SBD) award status for this development. SBD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment, the scheme has a proven track record in crime prevention and reduction. The opportunity for crime to occur can be reduced by up to 75% if Secured By Design is implemented.

The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

4.1.8 **Conservation – No objection** is raised to the scheme as a whole. The case for enabling has been made and fits with the EH Guidance on such matters.

The applicants have been endeavouring to find a new viable use for this site for many years, prior to the making of the Unitary Shropshire Council (2009) and this has continued with Shropshire Council. These endeavours have seemed to have covered many different potential uses, none of which were able to be brought to fruition for various reasons, such as viability, economy etc. During this time there has been deterioration of the building but this is not considered to be of entirely the existing owners making, but over a period of time from the occupation of BT through to the current time. Lack of significant repairs to the structure, predominantly the roof, has manifested itself over the last 5 years, and this is the period within which the owners have been in discussion with Shropshire Council and English Heritage with a view to a realistic resolution. This has taken a lengthy period of time in working up details etc. and major repairs to the building are subject of the application under consideration at this time.

Details:

The Hall

The proposed removal of the east range has been discussed within the relevant supporting documents and commented on by English Heritage in their response. It is considered that whilst this is the earliest part of the house, it is by far the most compromised element of the house in terms of the amount of serious alterations having taken place, in the early C19 and the BT occupation in the mid C20. However, its removal cannot be taken lightly and as explained within the scenarios relating to its retention or removal and obtaining the most viable reuse of the building going forwards have been discussed, and the balance to be made between them. The reuse of the remaining Hall and the proposed alterations within it, have been achieved through relatively sensitive modifications resulting in the minimal loss of historic fabric, other than the east range. The visual appearance of the hall from the approach, off Oakhurst Road, will obviously be altered by the proposed demolition but as the terraces are being retained and planting introduced this will partially mitigate the distant views of this part of the site.

The justification put forward for the overall work ie the demolition, refurbishment and works of making good are supported by a detailed marketing report which indicates that the amount of repair needed to the whole Hall and the size of the Hall, as existing, were all factors which served to deter prospective purchasers who had previously shown interest in it as a family home. This justification served to form the basis for the proposed reduction in the size of the Hall which is accepted.

The phasing of the repair of the Hall and how this works with the enabling development will need to be appropriately dealt with by legal obligation. The legal obligation should ensure that the Hall and the other Heritage Assets, subject of this application, are repaired to a condition that is satisfactory to the LA prior to the completion of the enabling development.

Conditions which should be attached to any permission issued for this work should be robust enough to ensure that every detail of existing fabric should be recorded by scaled drawings and any replacement or renewal should match the existing exactly, unless details are otherwise agreed by the LA prior to that element of work being commenced.

#### Enabling Development

During negotiations that have taken place over the past years, the site of any proposed enabling development has been discussed in great depth, taking into consideration the impact on and the setting of the Designated Heritage Assets, these include the built form and the setting of the Designated Grade II Parkland and Pant Glas and Brogyntyn Park Conservation Area. After much deliberation the proposed site was considered to be the least harmful. However, it is recognised that this does not mean that there is no harm but that the public benefit of the repair, refurbishment and reuse of the Hall, as a nationally significant building at risk, helps to balance this harm together with appropriate planting re-enforcement proposed as part of the application.

A full schedule of repair and refurbishment of the Hall and the conservation cost deficit it showed has been independently reviewed. This review advised that the conservation deficit has been calculated in line with the English Heritage

published Enabling Guidance and this view is concurred with. Therefore, as the basis for providing the minimum of enabling development to facilitate the repair and thus the reuse of the Hall, it is considered that the information submitted is sufficient to comply with paras 55 and 140 of the NPPF and the EH Guidance noted above. However, part of the test for enabling is that there is no one wishing to purchase the building and repair it without the benefit of enabling development, hence the marketing exercise which was required to be undertaken. Whilst this was started in January 2014 it would appear that no one came forward within the 6 month period, but during the course of the application a potential buyer has shown interest in the property. To that end, despite having been requested to provide further information in this regard nothing, to date, has been received from the potential purchaser to suggest that the interest shown could provide a viable alternative to the provision of enabling development to provide a solution for the Hall and therefore cannot be considered.

The phasing of the proposed enabling development and how this facilitates the repair of the Hall will need to be carefully considered. At present the Phasing Plan submitted with the application relates only to the enabling development phasing and makes no reference to how this may be proposed to fit with the works to the Hall. This plan should not be approved as it is submitted, without firstly requesting a costed phasing of development statement and plan for both the Hall and the enabling development to ensure that the Hall is repaired in a timely manner that does not allow too much of the enabling to be completed beyond which is necessary to repair the Hall. It is also a concern that the farm building conversions will be left until last, like the Hall, they are in need urgent attention to avoid unnecessary deterioration within the structure and should not be left until the last phase of the development.

The design of the proposed dwellings is considered acceptable in that they are varied and the layout responds to the constraints of the site. Recommends conditions.

### Farm Buildings

The principle of the scheme of conversion of the existing buildings at home farm is considered acceptable, however, the following comments on the farm building conversions, alterations to existing dwellings on site and the access to the site are made:

1. **Farm buildings** - There does not appear to be a comprehensive Heritage Statement for the farm building complex, although I felt sure this had been done. Please request the agents to provide a written statement, as much of the recording element is covered by Archaeology Wales, but no statement of significance has been submitted in line with NPPF para 128. This should include all buildings, including those to be demolished. Other farm buildings being taken down should also be noted within this.
2. Existing and proposed sections of the farm buildings do not appear to have been submitted. These will be required.
3. Inner courtyard elevations will be required for units HF2 and HF5. Also the elevations for the South East side of the conversions is not consistent – elevations should show – one set of elevations showing the internal

- elevations covered under loose yard area etc and one set of elevations with both this and the walls/gates/doors etc shown.
4. It is considered a great shame that the central blacksmith's forge is to be lost. Could this be partially incorporated within the kitchen scheme?
  5. It is unclear where HF Outbuilding shown on drawing HOM/GEN/03A is to be sited, is it the garage and store building for units HF3 and 4?
  6. Machinery, pulleys and wheels etc should be retained where possible and incorporated within the scheme of conversion. It would be useful to have comment on this at this time to ensure that the majority can be retained.
  7. Similarly where there are structural metal ties in the roof structure these should be retained, confirmation of this will be advisable at this stage.
  8. Built in stores within the upper floors – will these be to the ceiling or retained at a lower level and to be able to see the structure more clearly?
  9. Rooflights – this element of the scheme should be revisited in terms of the existing should be clearly shown on the existing drawings and the proposed on the proposed drawings (not just floor plans but elevations too). Any reductions where they are considered unnecessary should be carried out ie ensembles, landings etc.
  10. Are the vents in the main range North East elevations being glazed? What will be the finish? – Could be conditioned.
  11. **Home Farmhouse** - No photo record of the area of change to proposed play room and study are drawing 2607/FHS/GEN/01. Is this entirely necessary as it places the new wall directly adjacent to the chimney breast. No objection is made to making an opening from the play room to the hall but the changes appear for the sake of change.
  12. Details on the South West elevation for the rear entrance hall are not ideal – this could be conditioned.
  13. **Dairy Cottage** – No objection to extension but other alterations should be reduced/omitted –
    - Chimney breast etc to the existing living/kitchen area should remain and the new extension should be the kitchen/breakfast, inc utility in this, and the rest of the internal alterations revised.
    - Chimney to the original scullery should be retained.
    - Original door opening to the dairy should be retained.
    - Proposed window to south elevation should either be omitted or reduced as this alters the character of the building that was constructed ie dairy, albeit for fun, as it would not necessarily have wanted south sun on the building?
    - Stairs should be retained in their original location and not altered and the scheme revised to suit.
  14. **Sawmill** – no objection to the conversion, however, as much as possible of the machinery etc should be retained in situ. A condition will be imposed to deal with this further.
  15. **Farm Office** – It is considered that the replacement of the farm office is unnecessary and it should be retained and reused. There is no statement of significance to suggest that it is of very low heritage value and therefore can be removed. It is more sustainable to reuse existing buildings than remove and rebuild another. This should be included within the current application.
  16. **Demolition of dilapidated buildings at the North end of complex** – No

objection is made to this.

17. Overall comment for the whole of the Home Farm site is with regard to boundary treatments to all the various plots and their garden spaces etc – especially relevant to 1/K, HF3, HF4, HF6, HF7, HF8, and the farm building conversions, Dairy Cottage and Home Farm. The boundary treatments for the new buildings both internal and external to the site will also need to be considered, by condition.
18. General thermal upgrading for all existing and proposed dwellings will need to be provided as there is no reference to this on any drawings so far.
19. Details for the new bridge over the brook will be required, this could form part of the landscaping and boundary treatment condition?
20. New entrance wall – it is unclear from the details provided how far the wall is to be lowered down to 1050 mm back from the new entrance. This needs to be made clear at this stage and shown on a plan.

Recommends that the above alterations should be made prior to consent being issued and also recommends conditions relating to the farm buildings.

- 4.1.9 **Archaeology – No objection.** The proposed development site is located within Brogyntyn park, which has been included on English Heritage's Register of Historic Parks and Gardens of England (at Grade II – National Heritage List Ref. 1001326), and includes Brogyntyn Hall (Listed Grade II\* - National Heritage List Ref. 1367373) and the associated stable block (Listed Grade II - National Heritage List Ref. 1054218) and intervene gate piers (Listed Grade II - National Heritage List Ref. 1054219).

It is also situated within the Pant Glas Conservation area and the proposed enabling development lies c.400m south-west of the Scheduled Monument of Castell Brogyntyn (National Heritage List Ref. 1013488). It is understood that the proposed development comprises an enabling development scheme to address the severe conservation problems currently affecting the Hall, and has been prepared in relation to English Heritage's guidance on Enabling Development and the Conservation of Significant Places.

The proposals include the demolition of the east wing of the Hall, which originated as an early 17<sup>th</sup> century house, thought to have been built on the site of a late medieval precursor, to which a further wing was added in the later 17<sup>th</sup> century. The late Tudor house is understood have been demolished when Francis Smith rebuilt the Hall in 1735. Parts of the later 17<sup>th</sup> wing are, however, understood to survive within the core of the east wing, which was very heavily altered when it was converted to office space and telecommunications facility under the GPO in the later 20<sup>th</sup> century. As a consequence, the standing fabric of this part of the building is deemed to hold significant archaeological interest.

The Shropshire Historic Environment Record contains a record of earthwork remains features (HER PRN 04592), together with a putative World War I military camp (HER PRN 30682), on the site of the proposed housing for the enabling development immediately south of Brogyntyn Farm. From the Heritage Impact Assessment it is understood that the earthworks within this area most likely represent pre-parkland, possibly agricultural, features of postmedieval date. The Assessment indicates that the proposed development could have a neutral to

major adverse impact of the of these features but that a phased programme of archaeological work secured as a condition of any planning permission would mitigate these impacts.

English Heritage and the Senior Conservation and Design Officer for the north area will provide comments on matters relating to impacts on the significance of the designated heritage assets, design issues, and whether the justification for enabling development scheme is adequately made. This consultation response is therefore confined to archaeological matters.

It is advised that together the Heritage Impact Assessment by Archaeology Wales and the Heritage Statement by Arrol and Snell Ltd provide a satisfactory level of information about the archaeological interest of the proposed development site, and likely impact of the proposed development on that interest, in relation to Paragraph 128 of the NPPF. The Heritage Impact Assessment concludes that the impact of the proposed enabling development on the setting of the Scheduled Monument of Castell Brogyntyn (National Heritage List ref. 1013488), in terms its effect on the view to the south-south-west of the monument, will be moderate. However, it recommends that the proposed planting for the enabling development would reduce this impact.

In terms of direct impacts on the archaeological interest of the proposed development site, and in line with Paragraph 141 of the NPPF, it is advised that a phased programme of archaeological work be made a condition of any planning permission for the proposed development. In line with the recommendations contained within the Heritage Impact Assessment, this should comprise an initial field evaluation of the land to the south of Brogyntyn Farm, consisting of a geophysical survey and targeted trial trenching. In addition, a pre-demolition Level 3/4 building survey should be undertake for the east wing of Hall which conforms to English Heritage's guidance on Understanding Historic Buildings: A guide to good recording practice (2006).

Thereafter, and subject to the results of the field evaluation, further mitigation may be required on the land to the south of Brogyntyn Farm, together with a watching brief during the demolition of the east wing of the Hall and the works to convert traditional farm buildings at the farm.

- 4.1.10 **Recreation** – Under Shropshire Council's current planning policy regulations, the Open Space Interim Planning Guidance adopted 11th January 2012, all development should provide 30sqm of public open space per bed space. The proposed development should therefore provide 5340 m<sup>2</sup> of useable public open space as part of the site design. The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

The current plan for the village green does not identify the amount of m<sup>2</sup> provided and should be checked against the requirement above. However, the design concept of a central area of public open space or 'village green' is in keeping with the development.



4.1.10 **Highways – No objection.** It is understood that the proposed development is to support the renovation of Brogyntyn Hall having regard to its condition and listed status. The proposed residential development therefore sits within the land holding and located at the south-western corner of the site. However whilst the current main access to Hall is located off the B4579 known as Oakhurst Road, the development involves the construction of a new vehicle access onto the B4580 which is subject to the national speed limit of 60 mph. This forms the principal access serving the site with a further access onto the unclassified road which leads from its junction with the B4580 northwards towards Pant-glas.

Whilst the principal access to the site is via the new junction onto the B4580 the development would be likely to lead to some traffic routing along the narrow unclassified road to the B4580 junction. It is unlikely that traffic would gravitate to or from the Pant-glas direction other than with a legitimate reason to do so. Nevertheless the highway authority consider that 2 passing places should be provided between the access onto the unclassified road and the B4580 junction. The highway authority are satisfied that these can be accommodated within the existing highway limits and do not affect the stone walling along the boundary of the property.

With regard to the proposed direct access onto the B4580, the application is supported with a Road Safety Audit, as requested by the highway authority, during pre-application discussions. There are no fundamental issues raised in the audit and the information demonstrates that the access position has been carefully considered to maximise visibility in both directions along the highway carriageway.

In addition to the above the junction is of a design that approaching drivers are able to view the access although advance junction signing would further highlight the presence of the junction.

The highway authority therefore raise no objection to the granting of consent subject to conditions being imposed to require passing places, construction management details, the new access being provided prior to commencement of the construction of the dwellings and new signage and lining.

4.1.11 **Rights of Way** – Restricted Byway 27A runs through the development site. The section which runs close to Brogyntyn Hall is subject to a public path diversion order which has yet to be confirmed. This is waiting on works that are required to be completed by the applicant. The western section of the restricted byway currently forms the access to Brogyntyn Farm from Whitwell Lane. Although it is noted that an alternative access to the development is proposed it is likely that the restricted byway will be used more frequently by motorised traffic which could conflict with the use by the public. The safety of the public is paramount and traffic calming measures should be considered or an alternative access route should be provided. see attached plan

4.1.12 **Ecology** – Further information on great crested newts, bats and trees must be provided.

In the absence of this additional information (detailed below) I recommend refusal

since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

A Phase 1 habitat map and assessment of the impact of the proposals on priority habitats and the Environmental Network is required.

### Bats

Greenscape Environmental carried out their surveys between May and August 2013. The roof void of Brogyntyn Hall contains a lesser horseshoe bat maternity roost. The roof voids of the stables contained a lesser horseshoe bat roost.

Soprano pipistrelle bats were recorded emerging from Building A, the Saw Mill at Home Farm. Building B, the workshop and stables at Home Farm, also contained lesser horseshoe bats. Bat droppings were found in the basement area connecting the saw mill with building B. Greenscape (2014) consider building B to contain a summer roost for lesser horseshoe bats and small maternity roosts for pipistrelle bats. Long-eared bats were recorded in small numbers in building B. Bat droppings suggestive of pipistrelle bats were found on the first floor of building C workshops. No evidence of bat use was recorded for buildings D – I, storage and agricultural buildings and a detached house.

The proposed works to the hall are to demolish the existing service east wing and remodel the north east corner of the hall. It is proposed to convert Home Farm and convert barns. A European protected species licence will be needed for the works to the hall and conversion of buildings A and B, the Saw Mill and workshop and stables at Home Farm.

Has not yet fully assessed the impact of the proposals on the bat roosts and the adequacy of the proposed mitigation. The Council will need to provide an EPS 3 tests matrix to confirm the proposals would not affect the favourable conservation status of lesser horseshoe and the other bat species present.

Trees which would be affected by the development have not been identified and assessed for potential bat roost habitat as described in The Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2<sup>nd</sup> Edition 2012).

It appears that the Council's tree service have not been consulted on the application. If there are trees and/or hedgerows in or adjacent to the proposed site a tree survey and an arboricultural impact assessment in accordance with British Standard 5837: 2012 – *Trees in relation to design, demolition and construction* will be required to assess the significance of the trees and/or hedgerows and the potential effects of them upon the development and of the development upon them.

### Great crested newts

Greenscape refer to previous great crested newt surveys in 2007 which have not been seen. These surveys are now very out of date and will need to be updated. The review provided in section 5.3.4 of the Greenscape report is inadequate as an update.

Any ponds within 500m of a major planning application (over 10 houses, or more

than 0.5 hectare) should be assessed in terms of broad suitability for Great Crested Newts by carrying out a Habitat Suitability Index (HSI). A map showing all relevant water bodies should be provided in the report.

If any pond is suitable then it may be necessary to carry out a presence/absence survey for Great Crested Newts which is made up of 4 survey visits between mid-March and mid-June with at least 2 visits between mid-April and mid-May. Three survey methods (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If Great Crested Newts are discovered on the site then it may be necessary to carry out a population size class estimate which involves an additional 2 visits in the specified time period.

The ecologist should make recommendations as to whether a European Protected Species Licence with respect to Great Crested Newts would be necessary and the need for a mitigation scheme and/or precautionary method statement.

The Great Crested Newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001) and should be submitted with any necessary mitigation scheme and method statement to the Local Planning Authority in support of the planning application.

#### Environmental network

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.

This proposed development site is within the Environmental Network and as such 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.

No Phase 1 map has been provided in the Greenscape report to show the location of existing priority habitats, such as Wood Pasture and Parkland, which is likely to be present. Without this cannot advise whether the residential development proposals protect this.

- 4.1.13 **Drainage – No objection.** The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

Additional soakaway tests should be carried out to confirm ground suitability as the test results appear inconclusive. TP1 shows a non-typical draining profile and the other two tests showed soakaways were not suitable.

Confirmation is required that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water

flooding of any area outside of the development site.

Although it has been demonstrated that the piped system has sufficient capacity to attenuate a 1 in 100 year storm plus 30%, highway gullies and household drainage systems are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. Confirmation is required how the collection systems will be able to convey the 100 year plus 30% storm to the piped network.

If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway

Information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility are required to ensure that the drainage system remains in good working order throughout its lifetime.

The site's topography lends itself well to the use of true SuDS. Opportunities for permeable paving, attenuation basins and filter strips exist within the development site which could be explored to make the drainage system more sustainable

The 'Management Train Approach' should be central to the surface water drainage strategy of the proposed site. The main objective is treatment and control of runoff as near to the source as possible protecting downstream habitats and further enhancing the amenity value of the site aiming to incrementally reduce pollution, flow rates and volumes of storm water discharging from the site. SuDS should link with the individuals plot structure, planting, public open space requirements and amenity areas, gaining multiple benefits from a limited area of land.

The applicant should consider employing measures to reduce surface water and consent is required from the service provider to connect into the foul main sewer.

**4.1.14 Public Protection – No objection.** Having considered the contaminated land report submitted with this application I am satisfied that no remediation is required on the site to prepare it for residential end use.

In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. The following condition is therefore proposed should this application be granted approval:

An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in

and other ultra-low emission vehicles."

Due to the large scale of the development I propose the following condition in respect of dust:

Prior to construction activities commencing a dust management plan shall be submitted to the local planning authority for approval in writing. Reason: to protect the amenity of the area and the health and wellbeing of nearby residents.

I recommend that the case officer considers the use of conditions to restrict construction times, prevent burning on the site during clearance and construction.

## 4.2 **Public Comments**

4.2.1 20 letters of representation have been received raising the following concerns:

- Brogyntyn Hall and Home Farm have been allowed to fall into disrepair
- Results in the demolition of 1 third of the listed building
- Will set a precedent for more development
- Results in the creation of a new village
- Proposal is in open countryside and registered historic parkland
- Development within conservation area
- Will affect rural area and be intrusive
- Will result in fragmentation of historic parkland and hall
- New housing should be on east side of Oswestry
- Designs and materials of new housing does not fit with local vernacular
- Loss of agricultural land
- Insufficient capacity in school
- Increase in traffic and congestion
- Access onto Racecourse Road is not safe due to traffic speeds, road dips and poor visibility
- Whitwell Lane is certainly not able to cope with construction traffic and this is the route to the nearest primary school
- Not served by public transport
- Impact on right of way
- Increase in noise especially during construction
- Impact on bats and birds
- Affect on private water supply and drainage systems
- Part of the site is at risk of flooding and soakaways could not be used

4.2.3 Support has also been received from representation letters noting:

- Development is the only way to stop further decay

4.2.3 Oswestry and District Civic Society provided the following comments:

1. The Oswestry and District Civic Society welcomes these proposals; notes that the application is fully supported by the documentation, and that there has been an evaluation of the conservation balance between the need to remove the hall from the at risk register and the development necessary to fund the works involved.

2. The Society appreciates the scale of the tasks facing the applicant.

3. Without wishing to detract at all from the support given to the proposals, the Society would wish a number of matters to be taken into account, as set out below.

#### A) Sustainability of the enabling development

4. The proposed enabling development of 50 dwellings; the conversion to 11 units, and the retention of the farm house and dairy cottage will together constitute a community of 63 dwellings in a location which would not normally be considered sustainable. The community will have no services of its own, nor easy access to any regular bus service. As a result it will be entirely dependent on motorized travel, principally the private car.

5. The policies of the core strategy and the NPPF have their roots in the Rio Declaration, and the UK Sustainable Development Strategy. The failure of society as a whole to respond adequately to the challenges set in these policies becomes clearer and more serious as time passes. Development being of an incremental nature, each development, however small, needs to respond. In many ways this is taken care of by Government Policy, particularly in terms of Building Regulations.

6. In this instance the enabling development is likely to be seen as a demonstration project. As well as being visually pleasing, there needs to be some overt recognition that where development is in a location which scores poorly in sustainability terms, features are included to redress the balance. The Society would suggest that a proportion of the dwellings should be built to, or approach, Passivhaus standards; and that dwellings should include electric vehicle charging facilities, which will attune to the major government support for the electric highway. There may be other ways in which the 'sustainability deficit' can be addressed. For example, see <http://www.nextgreencar.com/news/6170/Wales-launches-first-EV-car-club>. It is the principle which the Society wishes to emphasise.

#### B) Style of Development

7. The manner in which the development proposes to evoke an Estate Village is accepted as a reasonable means of addressing the visual quality of the enabling development. The Society would emphasise that this need not mean (as it appears to have been taken in the design) that all building must hark back to past styles. A village of this scale supporting an Estate would in most cases be an evolutionary development, with each building being to a high architectural style of its day. Therefore, the Society would consider that the inclusion of dwellings which came to the forefront of modern design would not be out of place, and could enhance the overall effect.

8. As regards the conversion of the farm buildings, the Society considers that since these were working buildings, it would enhance the character of the development if some of the units were designed specifically as live/work units. This would reflect into a greater diversity in character of the settlement.

### C) Traffic and Access

9. The access proposed to the B4580 will be onto a fast rural road. It is to be expected that the development would generate of the order of 500 vehicle trips a day, or 1000 movements; 100 during each peak hour, or up to 4 cars a minute, given the concentration of peak traffic. The junction will be busy at times when the main road is busy. Whilst the Society notes the road safety audit, it is advised by a chartered civil, highways and transportation engineer that more than the simple T junction and warning signs proposed is necessary - some road works to ensure that the presence of the junction is plain to main road traffic are necessary. It is suggested that the main carriageway should be widened to provide a right turn area within the centre, such that the presence of the junction would be visually emphasised by road markings.

### D) Heritage materials

10. The Society considers that the demolition and replacement of the East wing is an appropriate action, in the circumstances. However, the existing building contains large amounts of 16C brickwork. Care should be taken that these materials are not lost from the site.

## 5.0 THE MAIN ISSUES

- Policy & principle of enabling development
- Assessment of enabling development
- Proposed works to Brogyntyn Hall
- Proposed new housing layout, scale and design
- Proposed conversion of agricultural building
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & principle of enabling development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 is also relevant to this application and requires local authorities to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which it possesses when considering whether to grant planning permission for development which affects a listed building or its setting. The adopted development plan in relation to this application is the Shropshire Core Strategy and specifically policies CS5 "Countryside and Green Belt", CS6 "Sustainable Design and Development Principles", CS9 "Infrastructure Contributions", CS11 "Type and Affordability of Housing", CS17 "Environmental Networks" and CS18 "Sustainable Water Management". The National Planning Policy Framework (NPPF) is also relevant and is a material consideration that needs to be given weight in the determination of planning applications.



- 6.1.2 The Oswestry Borough Local Plan, the Shropshire Type and Affordability of Housing SPD and policies MD7a, 7b and MD13 within the recently submitted Site Allocations and Management of Development (SAMDev) DPD are also relevant to the determination of the application. However, unlike most housing applications at the current time the part of this application which proposes new housing is not affected by the 5 year land supply and it has been accepted by the applicant and officers that the development of housing on the proposed application site would be contrary to the saved policies in the Oswestry Borough Local Plan and the adopted policies in the Shropshire Core Strategy as the proposal is for housing development detached from the settlement boundary of Oswestry and clearly in an area of countryside.
- 6.1.3 The housing is one part of the wider application, which as noted above includes works to repair and bring the Grade II\* listed Brogyntyn Hall back into use as a single dwelling and also to convert the buildings at Home Farm to residential. Each element of the application is considered in detail in the report below. This section needs to establish whether the principle of the proposals are acceptable. Firstly the principle of returning the Hall to a single dwelling is promoted, the detail of the works and their impact are considered later, however all national and local policies support the principle of providing listed buildings with active uses.
- 6.1.4 Policy CS5 seeks to strictly control development in the countryside but does support some development where it supports the vitality and character of the countryside and improves sustainability of the rural community. One exception to the strict control over development is the conversion of rural buildings which take account of and make a positive contribution to the character of the buildings and the countryside. Open market residential conversion is not prevented but does need to relate to heritage assets and result in high standards of sustainability. The buildings at Home Farm are considered to be heritage assets as a good example of a model farm and also by their association with Brogyntyn Hall and the registered parkland.
- 6.1.5 As such the first two parts of the proposal are acceptable in principle and, subject to appropriate details can be supported against the current adopted policy. However, as noted above the proposal to erect 50 new dwellings within a parcel of land adjacent to Home Farm would be contrary to the Shropshire Core Strategy policies as it does not meet any of the exceptions for new housing in the countryside set within local policy. Policy MD13 of the SAMDev is the most relevant local policy to the proposal as this seeks to ensure that the impact on heritage assets is understood, that the social and economic benefits of a development are sufficient to clearly outweigh any adverse effects on the heritage asset and to encourage development which delivers positive benefits to heritage assets.
- 6.1.6 The impact on the heritage assets at the site, which include the Grade II\* Hall, the registered parkland, conservation area and other Grade II listed buildings within and around the estate, has been considered by the applicant and is commented on further later in the report. As too is the balance between the harm to the heritage assets and their setting and the benefits of the scheme. Paragraph 132 of the NPPF advises that substantial harm or loss of a grade II listed building, park or garden should be exceptional and substantial harm or loss of grade II\* should

be wholly exceptional. Paragraph 133 goes on to advise that where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 140 advises that local planning authorities should assess whether the benefits of a proposal for enabling development, which would conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

- 6.1.7 This is the assessment which the authority needs to undertake to consider the proposed housing development as the housing has been put forward in the application as enabling development. The application is proposing new housing in the countryside as enabling development in that the money raised from the housing development will be used to undertake the works to the hall to bring it back into use. As such the application for new housing in this location is an exception to local policy which is permitted in national policy. Further guidance on enabling development is provided in the English Heritage policy statement which advises that the key for enabling development is that it “would secure the future of significant places and should not materially harm the heritage values of a place or its setting and must be necessary to resolve problems arising from the needs of the place not the circumstances of the owner”. The guidance advises that other subsidy should also be sought first; that the public benefit must outweigh the disbenefits; and that the development is the minimum necessary to secure the future of the place. It also suggests that any consent will need to be secured through a S106 agreement to secure the works to the hall at the earliest possible stage in the enabling development.
- 6.1.8 As such enabling development is development which would otherwise be unacceptable in planning terms and as such the proposed scheme needs to be fully justified and the Council need to be able to confidently confirm that the scale of the proposal is acceptable, that the benefits to the heritage asset outweigh the harm of the development and that there is no other reasonable alternative. The EH guidance advises that the need for major funds for securing the future of a listed building often arise because its condition has been allowed to deteriorate over a long period. This is accepted to a certain extent but deliberate neglect or damage should not be taken into account (para 130 of the NPPF). Objectors have commented that the property has been allowed to deteriorate, however the information submitted with the application notes the condition of the property when it was purchased by the current owner and the work which they have undertaken to limit any further deterioration. Although the current owner has not undertaken works to reverse the condition of the hall it could not be claimed that the current owner has deliberately allowed it to fall into a worst state of repair or damage the property. The Council Conservation Officer’s comments note the length of time which the applicants have been discussing the options for the Hall with the Council and that there has been deterioration of the building but that this is not entirely the making of the applicant.
- 6.1.9 The EH guidance also advises that sustaining heritage assets is a high priority and that statutory designation imposes a presumption in favour of their preservation. However, this does not automatically justify doing so through

enabling development if the disbenefits are out of proportion to the heritage and other public values of the asset. But members should also be mindful of the consequences of refusal, particularly where the place is rapidly deteriorating and there is no other likely source of the subsidy necessary to secure its future, and this issue is also a material consideration. The EH policy advises that it is not a decision to be taken lightly, enabling development is a planning tool which if, after full assessment of the options, disbenefits and impact, the balance of advantage clearly lies with approval then planning permission should be granted.

## 6.2 **Proposed works to Brogyntyn Hall**

- 6.2.1 Several supporting documents have been submitted with the application which provide historical and architectural background to the hall. The design and access statement (D&A) advises that the estate can be traced back to the 12<sup>th</sup> century with the earliest surviving part of the hall dating from the late 17<sup>th</sup> century. The main part of the hall dates from around 1735 but has been altered internally and externally. The north-east wing is older and the later house was built up to this wing. However there are changes in floor levels and the wing has been substantially altered, extended and details have been removed over time. The hall was then altered again around 1815 and the portico, large sash windows, octagonal music room and Roman cement were added to the exterior of the building. Further work and extensions were carried out to the hall in the 19<sup>th</sup> century and the D&A notes that most of the internal decoration and features date from 19<sup>th</sup> and 20<sup>th</sup> century.
- 6.2.2 The house was occupied by the Harlech family until after the Second World War and was used in the 1950's by the Post Office telephone service, later BT, as offices. The D&A comments on the work that was undertaken to the building to enable the office use, including the installation of equipment and wiring and an anti-bomb blast system of concrete and steel. BT ended their use of the hall in the 1980's and the current owner purchased the hall from the Harlech family in 2001. The hall has not been in active use since the 1980's, though some objectors have commented that the current owners have had people living in the hall.
- 6.2.3 An assessment of the condition of the hall has also been undertaken and submitted with the application. This assessment details the condition of each element of the hall and notes the problem areas and elements in need of repair, replacement and removal. Internally the application proposes converting the octagonal music room into a family kitchen, the creation of new openings to the new rear entrance, the provision of en-suite bathrooms, the creation of a new stair from first to second floor to provide two means of escape in the case of a fire, upgrading of plumbing and electrics throughout. The advice from English Heritage is detailed in section 4 but notes that there are minimal internal modifications to the south and west ranges and that the proposed works would not result in significant loss of fabric or visual intrusion.
- 6.2.4 However, the proposal also involves the demolition of the north-east wing, which the applicant suggests is the only part of the existing building which could be demolished without destroying the qualities of the hall as it is ancillary, subservient and contains no outstanding architectural features. They also consider it detracts from the south elevation and overshadows the courtyard. The demolition has been proposed as the agent, based on the marketing information, has advised that

the dwelling in its current state is too large and that this wing does not easily fit with the other parts of the house. However, the applicant has acknowledged that parts of this wing date from the late 17<sup>th</sup> century but has also noted that the features from this date have been stripped away and 19<sup>th</sup> and 20<sup>th</sup> century alterations have affected the quality of this wing. It is proposed to retain as much of the material from this wing as can be reused.

- 6.2.5 The application form notes that the listed building is 14,600 cubic metres in size and the area to be demolished is 4,975 cubic metres. This volume calculation includes the estate office and 6 agricultural sheds being considered as part of the conversion of Home Farm. The applicant has commented that the demolition is proposed to secure the long term sustainable future for the listed asset. The demolition of the wing would leave an area of the hall that would need to be “made good”. The proposal is to replace the removed wing with a new smaller section with floor levels at the same level as in the remainder of the hall and also to insert a lift into this new section and the internal fixtures of the Victorian billiard room, which are to be saved. In addition the proposal recommends the removal of the rear porch and an erection of a new rear entrance, which it is proposed will provide better access to the existing ground floor rooms, the erection of a new double garage, linked by a roof to the hall and the provision of a new central lead flat roof over the central area of the roof and reorganising of the rainwater system to divert water away from the sensitive areas of the building, repairs of other sections of the roof and rebuilding the chimney stacks. The works proposed will also enable the re-use of some saved materials including windows and to match the external appearance of the existing hall.
- 6.2.6 A building regulation statement has also been submitted in support of the application which considers the impact of building regulations requirements on the proposed works to the hall and the conversion following a discussion with a Council Building Control Officer. All the relevant parts of the buildings regulations have been considered, there is a need to provide fire escape but this can be through using the existing internal stairs and the new section of internal stair; new ventilation will be required in new bathrooms and the kitchen and the architect acknowledges that this would need to be sensitively routes so as to be concealed from view; as too will new or replaced plumbing, drainage or electrics; the new wing and porch will need to meet modern building regulations standards but can utilise existing materials and add secondary glazing if required; new liners can be provided within the re-building of the chimneys and any not required by the future occupants can be capped without impact. Overall the assessment suggests that Buildings Regulations requirements would not present any insurmountable problems to the works proposed and that the Council Building Control Officer will be involved in the process of the works alongside Conservation Officers.
- 6.2.7 English Heritage’s comment in relation to the demolition of the east wing note the loss of the Tudor and post Tudor elements but also the removal of the modern modifications and advise that the value of this range is limited both internally and externally but accept that this wing is the primary view from the current access to the Hall. Overall EH have advised that, on balance, the evidential, historic and aesthetic value of the listed building rests to a greater degree in the south range than in the east range. Though the impact of the proposals is therefore clearly harmful, it does not amount to substantial harm.

- 6.2.8 The Council Conservation Officer has commented that, whilst this is the earliest part of the house it is also the most compromised, that the demolition will alter the appearance of the hall from Oakhurst Road, but that the work has been justified and that the proposals will also help to mitigate the impact. Conditions are recommended by the Conservation Officer to ensure that the detail of this work is appropriate, record the parts of the building which is to be demolished or altered and that a S106 agreement is entered into to ensure the work is undertaken. Additionally the Council Archaeologist has recommended a pre-demolition building survey as the standing fabric of this part of the building is deemed to hold significant archaeological interest.
- 6.2.9 The Shropshire Parks and Gardens Trust (on behalf of the Garden History Society) have expressed their view that the Hall is in dire and urgent need of major intervention and support the proposal to return it to a single dwelling. The trust understand the rationale for the demotion proposal however also note that the removal of this wing leaves the view from the north-eastern approach off-centre with the setting and may increase the view of the ancillary buildings and proposed garages but that the proposed works would produce a balanced structure. However, they have also advised that the relationship between the building and the adjacent garden terraces will however be substantially altered and great care must be taken in the treatment of these areas, to rebalance this relationship and provide an appropriate setting for this aspect of the building.
- 6.2.10 The Oswestry and District Civic Society, as a local interest group, have also commented that the demolition and replacement of the East wing is an appropriate action, in the circumstances. However, the existing building contains large amounts of 16C brickwork and care should be taken that these materials are not lost from the site. However, on the other side of the balance the Georgian Group, who are a national charity dedicated to preserving Georgian buildings and gardens, have objected to the proposal to demolish the east wing and suggest that the arguments for demolition are weak, that the wing could be retained and re-used and that its demolition would make the property less attractive to buyers.
- 6.2.11 This view is in conflict with the views expressed by prospective purchasers during the marketing of the property, as detailed later in the report. The agent has also recently advised that they had corresponded with the Georgian Group, invited them to view the property and discussed the works with them. The application is not seeking to suggest that this wing has limited or no historic value and the applicant accepts that its loss will result in loss of historic fabric but they also advise that if a decision has to be made as to which section to lose then this is the most appropriate section to demolish given its history and the greater importance of the other parts. Furthermore retention of this wing would increase the cost of the restoration of the hall and the level of enabling development required to finance the restoration of the hall as commented on later in the report.
- 6.2.12 Overall, on balance, although the concerns of local objectors and the Georgian Group are noted, taking into account the advice from English Heritage and other consultees noted above, and the marketing exercise undertaken by the applicant, the proposed works to the hall, including the demolition of the east wing, are considered by officers to be acceptable and will bring the hall back into a condition

and size which can be used as a single dwelling. The details of the work will need to be controlled through condition and will also be considered in the listed building application which is being considered by the Council. However, officers advise that this element of the application should be supported and consent granted.

6.2.13 Landscaping works are also proposed to repair existing landscaping features, restore and manage the parkland. A detailed scheme has been submitted with recommendations which will restore historic features such as the ha-ha, walkways, terrace, balustrades, woodland and remove scrub, self seeded trees and overgrowth. The principles of this work are considered to be appropriate and will enhance the overall setting of the listed building and the registered parkland. The architect has also put forward a proposal for an optional swimming pool to be created to increase the marketability of the property. The swimming pool would be provided in the basement level of the wing to be demolished, linked internally to the Hall and covered externally with a low level flat roof with a glazed section. However, this is only being put forward as an optional element which would need to be paid for by any future owners. In principle officers support this as an idea but would need further detail to fully understand the impact of this part of the development and as such recommend that this is controlled by condition.

### 6.3 **Assessment of enabling development**

6.3.1 In order to justify the principle of the proposed enabling development the applicant has submitted a justification statement and financial details of the costs entailed in the work proposed to the listed building and the value achievable from the housing development and the restored listed building. They have also submitted statements showing the marketing of the estate prior to submission and during consideration of the application. The financial information has not been made public as it is commercially sensitive, however it has been assessed by independent consultants on behalf of the Council.

6.3.2 The justification statement advises that the proposals intend to secure Brogyntyn Hall and remove it from the building at risk register. The statement summarises the process which has led to the conclusion that, in the opinion of the applicant's team, enabling development and demolition of part of the Hall is the only practical way of reversing the decline. It advises that the applicant has considered alternatives for the hall including subdivision into flats, conversion into a nursing home or hotel but that none of the alternatives would provide sufficient capital to secure the future of the Hall and would also require further work to the hall. The applicant considers that a single dwelling would be most sympathetic and provide the hall with the best possible future. The justification statement advises that the proposal for enabling development has been brought forward as a last resort after extensive discussions with English Heritage and Council Officers.

6.3.3 Although it is noted that the applicant has owned the property for a number of years now and that the applicant is a property developer the Council Conservation Officer has confirmed that the deterioration of the hall has not been through neglect. Works to repair major issues have been undertaken and the Council Conservation Officer has been involved with the property for a number of years. Furthermore the applicant has secured a higher level stewardship which has enabled new tree planting, removal of conifer trees and repairs to the estate wall but this fund can not be used on the hall itself and alternative funding is needed.

- 6.3.4 Brogyntyn Hall and the estate has been marketed for sale nationwide over the last 10 years with a more recent concentrated effort on marketing undertaken for the 6 months prior to submission of the application. Initially it was marketed from 2005 to 2007 in a range of national and local papers and on the internet, two offers were made at asking price but were subsequently withdrawn when the buyer took into account the work required to the Hall. The estate agent subsequently continued to discuss the property with potential buyers known to them and with buyers interested in similar properties. The more recent marketing has also been in local and national papers and magazines both in the form of standard adverts and editorials and also on the internet. The estate agent has advised that a number of expressions of interest had been received both nationally and internationally (Europe, Australia and Middle East) but no firm offers have been made and considers that this may be due to the location; poor links with London; that not all of the parkland is available; the proximity of a public footpath; the poor condition of the hall and the size of the hall.
- 6.3.5 As noted previously the financial costings, marketing and proposed development has been independently assessed by consultants on behalf of the Council and English Heritage to establish whether there is a conservation deficit and whether the proposed enabling development is the minimum necessary. Conservation deficit is defined in the EH guidance on enabling development as the difference between the cost of maintenance, major repair or conversion to the optimum viable use of a building and its resulting value to its owner or in the property market.
- 6.3.5 The conclusion of the independent assessment is that the property as a whole is in a dilapidated condition with the Hall being in a significantly poor state of repair with damage, dry rot and water ingress. However, the independent assessor has noted that similar properties have been sold even where substantial repair and restoration works were required but also accepts that of all grade I and II\* listed buildings only 4.1% are on the at risk register. The assessor has advised that the developers valuation of the income to be gained from the new housing and the conversion of home farm is reasonable; that the value of the estate has been set too high given the condition of the hall but also that the conservation deficit is greater than suggested by the applicant.
- 6.3.6 As such the independent assessment has concluded that, based on the assessors calculations, the proposed scale of the enabling development is more than the minimum necessary. However the assessor also acknowledges that small changes to some inputs may have disproportionate effect on value; that the developers profit is the minimum that a developer would require and that a small increase of 0.25% profit would remove the difference in the deficit. As such officers consider that it would be unreasonable to refuse consent on the basis that the development proposed is more than minimum necessary as this is a small difference between parties and subject to minor fluctuations in finances could result in different conclusions.
- 6.3.7 With regard to the marketing exercise undertaken the more recent marketing of the property was undertaken following pre-application advice from the Council and English Heritage. The previous exercise provided evidence of no interested



parties but was considered to be too old to rely on and an update was requested. This latest marketing exercise has also resulted in no firm offers and therefore no solution for the property. However, as noted in English Heritage's initial response a potential purchaser made themselves known to EH during the consideration of the application. The Council and EH sought to establish whether this purchaser could provide a reasonable alternative to the applicant's current proposal and also requested a further marketing update from the agent.

- 6.3.8 Following discussions with the potential purchaser officers can advise that this individual has a solution for the property which would not involve enabling development or demolition of the east wing. However the information from the individual on whether they are in a position to purchase the property and restore it to a satisfactory condition has not been forthcoming. Although officers have been seeking to gain this information we are not in a position to advise that this individual presents a reasonable alternative to the current proposal. It may be that this individual, or another potential purchaser, may come forward with sufficient evidence and an appropriate scheme in the future, however the Council also need to consider the potential impact of refusing consent on the basis of a possible alternative. Firstly the Council do not currently have any evidence that there is a reasonable alternative and as such would place itself at risk on appeal and furthermore a refusal would delay the restoration and repair of the listed building.
- 6.3.9 The advice of English Heritage is given in full under section 4 and although they initially raised an objection this was based on the above individual potentially presenting an alternative. However the updated comments advise that English Heritage no longer object to the proposal as submitted. The Council Conservation Officer's comments also confirm that there is no information to show that this potential purchaser could provide a viable alternative. Accordingly it is officers' advice that the principle of enabling development, and the scale of the development proposed, is acceptable and complies with paragraph 140 of the NPPF and the policies set within the English Heritage Enabling Development document. The granting of consent for these 50 dwellings, and the conversion of the buildings at Home Farm, will not set a precedent for more development due to the special circumstances under which the application is being considered, any further development would have to go through the same justification and assessment of need and, given the current proposal intends to meet the needs of the Hall any future development would not be supported.
- 6.3.10 Should consent be granted for enabling development it is essential that the benefits which are the justification for the development are gained and this is controlled through a S106 agreement. Ideally the Hall should be repaired before the housing is developed, however the EH guidance accepts that this is not always financially possible and as such recommends a phasing agreement setting out the phasing of the work to be done to the hall with the phasing of the enabling development to ensure that the work to the hall is always one step ahead of the housing and so that the first phase secures the structure of the hall. The application has been submitted with phasing information in the form of a plan of the housing and costings of the works to the Hall. However, officers advise that this will need more detailed work as part of the S106 as the works to the hall can be divided into smaller portions to ensure that the works are on-going alongside the erection of the new dwellings.

#### 6.4 **Proposed conversion of agricultural building**

- 6.4.1 Home Farm lies to the west of Brogyntyn Hall, within the estate wall, accessed off Whitewell Lane which is accessed off the B4580. It is made up of a range of farm buildings that are varying in size and shape but overall form an E shape with the long range against the track leading from Whitewell Lane to the Hall. The buildings date from mid 19<sup>th</sup> century and are considered to be a good example of a model farm. The farmhouse is sat to the side of the farm buildings. There are also other buildings around the farm unit including the Sawmill, Estate Office and Dairy Cottage.
- 6.4.2 The application proposes to convert the farm buildings and Sawmill. The proposed conversion of the farm buildings will provide 1 two bed unit, 3 three bed units and 6 four bed units. The proposal will involve some alterations to the existing building, however it seeks to retain the majority of the existing structures and utilise existing openings. The building benefits from a good amount of existing openings and as such the new openings are limited in number and mainly roof lights. Internally to create 10 units new internal walls and partitions are to be provided. The comments of the Conservation Officer raise some concerns about the conversion, the evidence to support some of the alterations and the loss of machinery and equipment from within the buildings. These concerns, as detailed under section 4 of the report, have been brought to the attention of the applicant.
- 6.4.3 The existing farm house will remain as one 4 bed dwelling with some alterations to 2 rooms. The Conservation Officer has requested additional information to support this work. Dairy Cottage will be retained as one 4 bed dwelling with its existing stable building being converted to garaging and the Conservation Officer has also raised concerns about some of the work proposed to this dwelling. The former Sawmill is to be converted to a single three bed dwelling and the Conservation Officer has requested retention of the existing machinery.
- 6.4.4 It is noted, as detailed above, that the proposal includes the demolition of the modern agricultural buildings which is promoted and will enhance the setting of the farm buildings. The existing estate office is also proposed to be demolished and replaced with a new dwelling. The Conservation Officer has raised concerns about this proposal and has advised that there is currently insufficient justification for the demolition of this building and that it could be retained and reused.
- 6.4.5 As part of the conversion the land immediately surrounding the buildings will also need to be subdivided into gardens for the conversion properties. This is being proposed in a variety of ways with some units having covered space under existing structures and some having space on the opposite side of the existing track. However, as the proposal is to serve the conversion and farmhouse from the new estate road to be created as part of the enabling development the use of this track will be limited to the properties which it will serve. Parking is proposed both in the courtyard and also within garaging at a rate which is considered to be proportionate to the scale of the units being created. Furthermore, the access to these units from the new estate road will change the approach to the buildings whereby the farmhouse is the first building to be seen with the conversion sitting behind this and the new housing and a new avenue of trees leading up to the conversion. The details of the landscaping and means of enclosure will need to

be controlled by condition.

- 6.4.6 Overall it is officers opinion that the conversion, which is being proposed as part of the enabling development, is acceptable in principle when considered against adopted policies on its own merits. However, at the time of writing the report there are outstanding matters raised by the Council Conservation Officer which require further information, assessment or amendments to the details. Officers advise that none of the work requested by the Conservation Officer would alter the recommendation for approval of the conversion of these buildings and would not alter the number of units being created. As such it is officers recommendation that the work requested is dealt with prior to a decision being issued but after a committee resolution and as such request that delegated powers be given to officers to approve the scheme on satisfactory negotiation of these matters.
- 6.4.7 The comments of the civic society are noted, however there is not requirement in policy for conversion to include live-work units and it is officers experience that this form of property is often more difficult to sell and would limit the income from the development. Officers also consider that as part of the overall enabling development scheme it is appropriate to support the conversion of the buildings so as to ensure they do not detract from the setting of the new development and that the conversion also provides a small element of the financial support for the hall.
- 6.5 **Proposed new housing layout, scale and design**
- 6.5.1 If it is accepted that, in principle, that enabling development is required for Brogyntyn Hall and that it is accepted that the proposed level of enabling development is the minimum necessary then it is also appropriate to consider the layout, scale and design of what is being proposed. Full details have been provided and as such it is possible to fully understand the impact on the setting of the heritage assets, including the parkland, and overall whether the layout, scale and design would be acceptable when considered against adopted policies relating to housing design, acknowledging that this proposal is contrary to the general housing location policies.
- 6.5.2 Alternative sites were considered by the applicant, prior to submission of the current application, and in discussion with the Council and English Heritage. Other sites within the applicant's ownership both within the estate and elsewhere in Oswestry and the wider area were considered and as too were sites not within the applicant's ownership. All other sites within the parkland were discounted as having greater impact on the Hall. The land closer to the town, within the parkland, which is in separate ownership has considered to be better in sustainability terms but would also have had an impact on the parkland and the current owner was seeking a higher value than could have been paid without needing more enabling development. This is the same for other land not within the applicant's ownership both close to the site and closer to town. The applicant, although a commercial business, does not have large land holdings, most of the land they have an interest in is not within their ownership but that they have a option agreement for. As with land outside their ownership this land would be sold to them at market value and as such would increase the level of enabling development required to make the development viable.
- 6.5.3 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.

- 6.5.4 The application proposes 50 dwellings on a parcel of land, currently in agricultural use, west of Home Farm, north of an existing watercourse and east of the B4580 with a new access off the B4580. The proposal is to provide a new estate road off the access, crossing the watercourse into the site. The estate road will then pass through the housing site to the side of the existing buildings at Home Farm with a second estate road leading off this main road looping around an area proposed as a new village green and other private drives serving small groups of dwellings. The layout of the proposed housing provides the dwellings facing towards the estate road with two houses creating an entrance gateway to the site. The layout shows 42 detached houses and 8 semi detached houses all within private garden areas, driveways and parking areas.
- 6.5.5 Officers consider that, in principle, the layout proposed is appropriate and will create an attractive development, the proposal for a village green provides an area of open space and the layout also shows new landscaping and planting, including an avenue of trees along the new estate road, an avenue of trees from the back of Home Farm towards the semi detached houses and a line of trees on the edge of the village green. The existing tree belt along the B4580 and the stone wall will be retained, except where the new access is to be provided. Within the design and access statement the architect accepts that, by virtue of the number of units, the development will be perceived as a new village and as such has laid out the site as such. The civic society have commented that the manner in which the development proposes to evoke an Estate Village is accepted as a reasonable means of addressing the visual quality of the enabling development. The layout also respects the ground levels of the site which slopes down from the lane on the western side of the site to the stream on the east and as such proposes to develop the lower part of the site.
- 6.5.6 The houses have all been designed for the site, there are seven, 3 bed, bungalows of three different designs, 21 two storey, three bed, houses of 7 different designs, 16 two storey, 4 bed, houses of 5 different designs, 5 two storey, 5 bed, houses of 4 different designs and one, 5 bed, three storey house. The design and access statement notes that poor quality design and building would not make the development attractive to buyers but that overly elaborate designs would reduce funds available for the main hall. The designs of the house types are all within the themes of “estate gothic” and “classical” with pitched roofs, casement and sash windows, mullions, prominent chimneys and traditional materials.
- 6.5.7 However, it is accepted that design is a subjective matter and the objectors opinion that the designs are not appropriate is reasonable. However this is not a view which is shared by officers or statutory consultees. The Oswestry and District Civic Society have suggested some modern housing and that some of the dwellings should be built to Passivhaus standard and fitted with electric charging vehicle facilities. It is acknowledged that this would improve the environmental

sustainability of the proposed development and the electric charging facilities is being recommended as an informative, however the lack of Passivhaus standard or charging facilities is not a reason to refuse the application as it is not an overriding policy requirement.

- 6.5.8 Within the information submitted and the plans the boundary proposals are also detailed. Predominately the boundaries will be hedges and rubble stone walls and the applicant has acknowledged that conditions will be required to ensure that any new or replacement boundary treatments are appropriate. It is also considered necessary to remove permitted development rights from the dwellings to ensure that any extensions or alterations to the houses are sympathetic to the location of the development. The Conservation Officer has recommended conditions.
- 6.5.9 In addition to considering the principle of the layout and the principle of enabling development It is also necessary to assess the potential impact on the heritage. The application has been supported by a Heritage Impact Assessment which notes the presence of Castell Brogyntyn, two other large enclosures near the site and ridge and furrow earthworks within the development site. These need to be considered as well as the impact on Brogyntyn Hall, Home Farm and the other heritage assets around the estate and wider area. The assessment has acknowledged that there is the potential for the development to adversely affect the view from Castell Brogyntyn but that it does not directly affect the setting, views of the feature or the principal views from the castle and that the view can be further restricted by additional landscaping.
- 6.5.10 The assessment has concluded that the development will have a neutral impact on the setting of the II\* Hall and no impact on the other listed buildings but will impact on the parkland and Home Farm, which is not listed. However, the report does note the impact of the conversion of the farm buildings to residential. The most significant impact will be that of the new development on the parkland which the assessment considers is a nationally important historic, archaeological and aesthetic resource and advises that the impact will be major and irreversible but also less than 10 hectares within a 230 hectare parkland which has seen previous developments within its grounds. The report advises of the reasons for discounting other sites within the parkland as having greater impact on the setting of either the Hall of Castell Brogyntyn and as such that the proposed location for the housing development is the least damaging location with the greatest opportunities for mitigating the harm through landscaping and layout.
- 6.5.11 The applicant has also acknowledged the landscape impact of the proposed development as new housing in the countryside and in the registered park. A Landscape and Visual Impact Assessment (LVIA) has been undertaken and submitted with the application. This assessment notes that the site for the housing sits in a shallow valley and as such is secluded and that there are very few visual receptors who will be directly affected by the development. The assessment advises that the site lies within the National character area of "Oswestry Uplands" and the Shropshire area of "Principal Settled Farmlands" and is made up of mixed farming, hamlets and small villages. However, the report also advises that the registered parkland is clearly identifiable from the settled farmland.

- 6.5.12 Five viewpoints were assessed with the clearest views of the site being from higher ground to the west of the site. The houses on Wellfield Lane were noted to be the most sensitive receptors and that clear views were possible from the footpath that runs through the site. However other views were restricted due to distance, topography, landscaping and that views from the road were experienced at speed. The assessment advises that there will be substantial change with major adverse impact but that mitigation planting will help to blend the development into the landscape and reduce the adverse impact over time. Overall the report concludes that the proposal is for a sensitive, low density, scheme but acknowledges the sensitivity of the parkland setting and that the major impact of the development would be on a limited number of receptors.
- 6.5.13 English Heritage's advice is given in full under section 4 and notes that this site is the "least worst option", that the impact on the grade II\* Hall is neutral but that the impact on the registered park and garden and the conservation area is substantial and that the development would result in substantial harm to the significance of the registered park and garden. This is acknowledged by officers, and also by the applicant, however it is a case of balancing this harm against the benefit, as proposed enabling development and as the "least worst option" officers advise that this harm is acknowledged but that greater harm would result from development on other sites.
- 6.5.14 The Council Conservation Officer notes the lengthy discussions prior to submission of the application regarding the siting of the enabling development and agrees with English Heritage's conclusion that the proposed site is the least harmful. However, members should acknowledge, as advised by the Conservation Officer that this does not mean that there is no harm, officers accept that the development of this site for housing will result in harm. The Council Archaeologist has also advised that given the historic connection of the site that there may be archaeological interest in the land proposed for the enabling development and as such recommends a condition be imposed on any consent granted.
- 6.5.15 The Shropshire Parks and Gardens Trust advise that, in their opinion, the proposed hamlet is well designed and situated and does not appear out of scale. The consultant that assessed the enabling development on behalf of the Council advised that, in their view, the new build development would result in loss of open countryside but that the visual impact would be limited due to the existing topography and woodland and does not impinge on the setting of the hall.
- 6.5.16 This is a matter of planning balance. The harm is clear and significant and will result in dwellings in the countryside, the registered parkland and conservation area which will be visible from sensitive receptors. However the proposed site is the least harmful, the layout, scale and design of the dwellings is considered to be of a high quality and will result in a sensitive, low density, development creating the appearance of a new small hamlet and the need for the restoration and repair of the grade II\* listed building of Brogyntyn Hall also needs to be factored into the balance. In conclusion it is officers opinion that, on balance, the proposed housing scheme complies with paragraphs 55 and 140 of the NPPF and the EH policy and should therefore be supported and consent granted, subject to a section 106 agreement to ensure that the enabling development is tied to the

works to the Hall.

## 6.6 **Impact on residential amenity**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The closest properties to any of the proposed works are the existing occupied properties within the estate itself, which include the farmhouse at Home Farm, however this property is within the ownership of the applicant and also forms part of the development proposals. The impact on the amenities of the proposed dwellings is a material consideration and will be considered below. The four properties either side of the access track to Home Farm on Whitewell Lane are the closest houses that are not within the applicant's ownership. There is a terrace of three houses before the track and one property just beyond. All four of these properties are beyond the distance to which would be affected by any overlooking or loss of light from the new housing or the conversion given the proposed layout of the new development. The main concern of these properties and the other dwellings along Whitewell Lane and Pantglas is the potential for increased traffic and this matter is considered later in the report. None of the existing dwellings would be adversely affected by lights from traffic entering or leaving the site and as such the only impact is the potential for increases in traffic.

6.6.2 With regard to the impact on the existing farmhouse and the amenities of the future residents of the development officers can confirm that the layout of the site and the conversion scheme have both been designed so that there is a minimum of 21 metres between facing windows. Although there may be a reduced distance between a window and a blank elevation this distance gap would ensure that there is not an unacceptable loss of privacy or light. It would not benefit the applicants to develop a site which is not pleasant and in which the future residents would be comfortable as the properties would not sell and the applicants would therefore be out of pocket in paying for the work to the Hall. The main impact will be the change in the amenities of the existing farmhouse. Currently this property is relatively isolated and enjoys a great deal of privacy and an outlook over farm buildings and farm land which are both in low agricultural use. The proposed development would change this character and outlook significantly. However, the right to a view is not a material planning reason and although this is acknowledged to be a harm resulting from the development officers consider that this harm could not be considered to outweigh the overall need for the enabling development to support the work required to the Hall.

6.6.3 The works proposed to the Hall itself would not have any impact on any other residential property other than the Hall and the lodge on the access to the Hall. The lodge is a substantial distance from the Hall and is therefore not affected in terms of light or privacy, again this is matter of traffic movements which in this case would be reduced from the level of movements associated with the previous office use of the Hall. As such it is officers opinion that none of the three elements of the proposed development would result in any unacceptable adverse impact on amenities of existing or future residents and therefore complies with this element of the adopted local policies noted above.

## 6.7 **Highways, access, parking and rights of way**

6.7.1 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. Objectors have noted the potential for increased traffic; the potential for use of Whitewell Lane and Pantglas; that the site is not served by public transport and that, in their opinion, the access onto Racecourse Road would not be safe due to traffic speeds, the road levels and lack of visibility.

- 6.7.2 As noted above a new access is proposed off the B4580. The access is proposed to serve the new houses and the conversion and alterations proposed at Home Farm. It has been designed with a stone wall and metal gates to reflect the character of the existing estate wall. The gates are to be set back to provide visibility from the new access with the radius of the access provided by the stone wall. In support of the proposed access the applicant has submitted a Road Safety Audit which notes that the B4580 is not lit, has a footway on one side and verge on the opposite side and is subject to the national speed limit at the location of the proposed access. The consultant advises that, at the time of their inspection, the speed limit was observed and that there is no accident data within 100m of the proposed access.
- 6.7.3 The audit identifies potential issues of the proposed access and makes recommendations. The issues identified including the width of the access which needs to ensure that two vehicles can pass within the access so as to reduce the impact on the highway; the potential for the boundary trees along the B4580 reducing visibility and therefore requiring cutting back; the existing wall reducing visibility and as such needing to be set back behind the visibility splays; the impact on existing pedestrian footway which will be broken by the access and the need for warning signs of the new access. These latter two issues will need careful consideration. The pedestrian footway break will need to be mitigated by dropped kerbs and tactile paving and sufficient forward visibility for pedestrians and any warning signs need to be appropriate for the historically sensitive, countryside, location of the site. All of the recommendations of the audit have been taken on board by the applicant and provided within the scheme, except for the warning signs which will need to be controlled by condition to ensure that the signage is appropriate.
- 6.7.4 In considering the impact on the heritage assets of the listed buildings within and around the site and also the parkland the submitted Heritage Impact Assessment considers that the proposed access would have a negligible impact and also that the potential traffic, post construction, would be at worst minor adverse.
- 6.7.5 With regard to highway safety and traffic movements the Council Highway Officer has raised no objection noting that the access position has been carefully considered to maximise visibility in both directions along the highway carriageway and that the junction is of a design that approaching drivers are able to view the access. However, the Highway Officer has recommended advance junction signing would further highlight the presence of the junction and that two passing places should be provided on Whitewell Lane to mitigate the impact of potential

additional traffic on this road.

## 6.8 **Ecology and trees**

6.8.1 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.

6.8.2 The report advises that no evidence was found of Great Crested Newts or badgers. However there is evidence of a range of bat species, including a maternity roost in the roof of the Hall and bats using the stables and home farm buildings. The report advises that the proposed demolition of the east wing is unlikely to affect bat species but that the repair of the main roof and the conversion of the home farm buildings will disturb the maternity roost and bat population and as such a method statement and European Protected Species Licence will be required and access for the bats will need to be retained. Consideration of nesting birds is also required but would not be a significant impact.

6.8.3 Within the ecology report the consultant makes recommendations for timing of work, enhancements, mitigation and lighting. The Council Ecologist has requested additional information and the agent has confirmed that this information is being provided and will be available for consideration by the Ecologist before the committee meeting. Members will be updated on this issue at the meeting.

## 6.9 **Drainage**

6.9.1 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 has been submitted with a Flood Risk Assessment and percolation test results as the site is over 1 hectare and therefore should be submitted with a FRA.

6.9.2 The FRA notes that the site lies within flood zone 1 and as such is the zone at the lowest probability of flooding, it also notes that there is no historic evidence of flooding on the site including from the existing watercourse which flows in a northerly direction along the eastern boundary of the site. The FRA acknowledges that this watercourse has the potential to flood in the 1 in 30 and 1 in 200 year rainfall event, however this is due to a restriction in the watercourse in the north-eastern corner of the proposed site for the housing and the report recommends further assessment and potential mitigation and a buffer around the watercourse for flood protection and maintenance purposes.

6.9.3 Surface water drainage is also dealt with in the FRA and recommends that soakaways would be appropriate in the western part of the site but due to the watercourse would not be appropriate in the eastern part. As such the report recommends discharge to the watercourse with control measures to ensure that the run-off rate is restricted. The report also advises of other surface water reduction methods that could be used including permeable surfaces, discharge to

open spaces, swales or basins.

- 6.9.4 Concern has been raised by local residents that the development will affect private water supply and drainage systems and that part of the site is at risk of flooding and soakaways could not be used. This second concern has been acknowledged by the applicant in the FRA. The first concern has not been quantified by the objectors, it is not clear where the private water supplies and drainage systems referred to are located, if they are within the application site then they are within the land owned by the applicant and therefore there will already be a private agreement between the land owner and the property using the water supply/drainage system. However, this is a private matter and not one which is a material consideration. If a private water supply or drainage system is affected by a development then is it incumbent on the developer to provide an alternative.
- 6.9.5 The Council Drainage Engineer has considered the submitted information and advised that additional soakaway tests should be carried out and further information submitted to show that the proposed surface water drainage scheme complies with the Council guidance but that this can be done after consent is issued through the use of a condition. Foul drainage connection is proposed to e to the existing mains drainage system and consent will be required from the service provider, however no objections or concerns have been raised regarding connection or capacity. As such officers consider that an appropriate drainage system can be designed for the site which would not result in increased flooding either on the site or off-site and therefore can be designed to comply with policy CS18.
- 6.10 **Other matters**
- 6.10.1 Affordable Housing – The application is not liable for affordable housing. This is a decision which is within the control of the local authority to make and
- 6.10.2 CIL – The applicant has provided evidence of information given to them before the application was submitted that advised that CL would not be relevant. However, this was informal advice given before an in-depth assessment of the CIL Regulations had been undertaken. Whether something is CIL liable is not a matter for the authority, however the Council do have the powers to offer relief from CIL in certain situations. The development of new housing and conversion of existing buildings to housing are all CIL liable and can only be granted relief if it is appropriate in light of community priorities, the circumstances of the case and if requiring payment would have an unacceptable impact on the economic viability of the development.
- 6.10.3 The agent has applied for exceptional circumstances relief and this matter is being negotiated with the relevant officers of the Council. The agent has put forward the case that the CIL charge would make the development unviable and would not provide the financial income required to repair and restore the listed building. The CIL charge for the proposed development would require further development to pay for it and this would potentially increase the scale of the development required to a significant level. However, the key issue, if viability could be proven, would remain whether the development proposed delivers a community priority. This is a matter which is a material consideration in the application however, it does not need to hold up a decision on the current proposal. Should it be determined that

the development can not be granted relief then it may be necessary for the applicant to reconsider the proposals for the site, however it does not affect whether the current application is appropriate in planning terms or not. If relief is granted then the proposed scheme can be developed.

- 6.10.4 Open space – As a new housing development proposal it is also necessary for the application to provide open space in accordance with the Open Space Interim Planning Guidance. The Council Recreation Team has advised on the size of open space required to meet the policy. Following this consultation the agent has submitted an additional plan which confirms the site area of the proposed village green in the centre of the housing proposed. The area of open space provided by the village green is 6100m<sup>2</sup> and as such provides more than the calculated 5340m<sup>2</sup> required under the above planning guidance. As such the proposed village green is considered to be sufficient open space for the proposed housing and the Council Recreation Team have also commented that the design concept of a central area of public open space or 'village green' is in keeping with the development.
- 6.10.5 Rights of way – as confirmed by the Council Rights of Way Officer restricted Byway 27A runs through the development site. However, since the time of the Officer comments detailed above the agent has confirmed that the diversion order has been completed and this right of way has been diverted. It is accepted that it is still close to the Hall but is no longer running between the Hall and stables. The potential for conflict between traffic and users of the right of way on the track from Whitewell Lane to Home Farm is noted as too is the concern of the Rights of Way Officer that traffic is likely to increase. This is accepted by officers, at present the farm is not intensively used and as such neither is the track and any development will increase traffic on the track. However the proposed new vehicular access off the B4580 will be the main access to the conversion and the new houses and is likely to be the access used by visitors and delivery vehicles. As such the traffic using the right of way is likely to be limited to residents only and appropriate signage or additional traffic calming can be provided to mitigate this impact. Overall it is not considered that increase in traffic on the right of way is a substantial harm which would outweigh the benefits of the development.
- 6.10.6 Contamination – A contaminated land report has been submitted with the application which advises that ground investigation works undertaken have shown no evidence of contamination, no risk to human health and that standard foundations can be used. The report has been considered by the Council Public Protection Officer who has confirmed that no remediation is required on the site to prepare it for residential end use. The Public Protection Officer has required charging points for electric vehicles and this can be added as an informative and the recommendations regarding the control of dust, construction times and burning can be controlled by condition.
- 6.10.7 Loss of agricultural land – objectors have raised concerns about the loss of agricultural land and the agent has noted within their submission that the land is grade 3 agricultural. The development of the housing will result in the loss of a small parcel of agricultural land, however it is not considered to be a significant loss and its location within the registered parkland also limits the potential for intensive use and removal of field boundaries. As such the loss of the agricultural

land is acknowledged as a harm but not one which officers advise should be given significant weight in the overall planning balance.

- 6.10.8 Impact on services – objectors have also raised concern about the lack of capacity in the local schools, limited services and facilities on this edge of Oswestry and that housing should be built on the opposite side of the town. All of these concerns are noted, however, this application is not being proposed as a general housing scheme for Oswestry, other housing is being proposed which will meet the general needs of the town, provide additional infrastructure and be located within or on the edge of the town. The proposed siting of the housing is for a specific reason as detailed earlier in this report.

## **7.0 CONCLUSION**

- 7.1 It is acknowledged that the proposal to erect 50 new dwellings on the proposed site would be contrary to the adopted local plan and as such is a departure from adopted policy. However, the proposed housing is to provide the finances for the restoration and repair of the grade II\* listed building, Brogyntyn Hall, which is identified as a building at risk on the English Heritage register. As such it is being proposed as enabling development and as such there is a balance to be struck between the harm and the benefits.
- 7.2 The harm is clear and significant and will result in dwellings in the countryside, the registered parkland and conservation area which will be visible from sensitive receptors. However the proposed site is the least harmful, the layout, scale and design of the dwellings is considered to be of a high quality and will result in a sensitive, low density, development creating the appearance of a new small hamlet and the need for the restoration and repair of the grade II\* listed building of Brogyntyn Hall also needs to be factored into the balance.
- 7.3 Furthermore it is accepted that the demolition of the west wing will result in the loss of historic fabric and context to a grade II\* listed building but that the works proposed to the hall are considered to be reasonable and appropriate to bring the building back into use and to reduce the size of the property and are considered to be necessary as part of the restoration of the hall and its removal off the building at risk register.
- 7.4 The works proposed to convert the buildings at Home Farm are acceptable in principle but further information and amendments are required. Overall no element of the scheme would result in an unacceptable impact on the amenities of existing residents, the proposed new access, subject to additional signage will be safe and appropriate and the development will not result in a severe impact on highway safety or capacity. In principle the site is capable of being drained, is being provided with an appropriate level of open space and the development will not affected the diverted right of way.
- 7.5 In conclusion, subject to the applicants entering into a section 106 agreement to secure the restoration and repair of the listed building, it is acknowledged that there is substantial harm from the proposed development but that the development would secure the future conservation of a heritage asset, that there is no reasonable alternative, and that the benefit of securing this asset outweighs the disbenefits of the proposed development and is therefore considered sufficient

grounds to set aside the local adopted policies. The proposed scheme is considered to comply with paragraphs 55 and 140 of the National Planning Policy Framework and the English Heritage policy statement on Enabling Development and the Conservation of Significant Places.

## **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 three months after the grounds to make the claim first arose.

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

### **8.2 Human Rights**

Article 8 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

Central Government Guidance:

National Planning Policy Framework

English Heritage policy on Enabling Development and the Conservation of Significant Places

Core Strategy and Saved Policies:

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

## 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 Vince Hunt
Appendices APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. No works shall be carried out other than in accordance with the approved plans as detailed below. This consent does not indicate approval for associated or enabling works not included in the approved plans, which may be necessary to carry out the scheme. Details of any further works shall be submitted to the Local Planning Authority and approved in writing prior to those works being carried out.

Reason: To ensure the satisfactory preservation of the Listed Building.

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

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

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

4. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
  - Means of enclosure
  - Hard surfacing materials
  - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
  - Detailed drawings of the proposed new bridge structure and materials
  - Planting plans
  - Written specifications (including cultivation and other operations associated with plant and grass establishment)
  - Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
  - Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

5. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased



programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

#### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT – BROGYNTYN HALL**

8. Prior to the works hereby permitted, a photographic survey of the interior/exterior of the building shall be carried out, using 35mm monochrome and colour films. The photographs will be individually labelled, cross-referenced on a sketch plan of the structure and presented in an A4 format together with the negatives or a CD of the images. Two sets of the photographic record should be provided to the Local Planning Authority for their own records and distribution to the National Monuments Record.

Reason: To record the historic fabric of the listed building prior to development.

9. Before the relevant parts of the work are commenced, a sample panel of the proposed rendering, at least one metre square, and including any ornamentation, quoins, mouldings, string courses, etc as shall be required to match existing features. The sample panel should also demonstrate the method of application, mix and colour, and the panel should be approved in writing by the Local Planning Authority prior to the rendering works being carried out on the Listed Building. Development shall be carried out in accordance with the agreed details unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the Listed Building.

10. Repairs to stonework shall be carried out by cutting out and piecing-in or rebuilding with replacement natural stone which shall be geologically compatible with the original work and shall match it in size, shape, colour and surface finish. Stone for repairs and new work shall be of proven durability and weather resistance and free from any defects, which would adversely affect its performance and appearance. Samples of stone for use in repairs and new work shall be made available to and approved in writing by the Local Planning Authority before any works commence.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

11. Pointing or repointing of stonework shall be kept to the minimum structurally necessary and areas to be pointed shall be agreed on site with the Local Planning Authority prior to the commencement of the work. The maximum of sound original pointing is to be retained. Mortar for pointing shall be a lime mortar which matches the existing in colour, texture and surface finish unless otherwise agreed by the Local Planning Authority. An unobtrusive sample of pointing shall be carried out and approved in writing by the Local Planning Authority before commencement of the works. Cutting out old mortar with a mechanical disc/angle grinder is not acceptable.

Reason: To ensure the satisfactory preservation of the Listed Building.

12. No pointing or re-pointing of existing or proposed masonry shall commence until the Local Planning Authority has approved the following items in writing:
  - a drawing showing the proposed area(s) of repointing
  - the mortar mix
  - the method of removing existing mortar, please note that old mortar shall not be removed using any mechanical tool or angle grinder.
  - an inconspicuous pointing sample provided on site following approval of the above items

Reason: To safeguard the historic interest and character of the Listed Building and ensure an appropriate external appearance.

13. External brickwork must not be treated with a waterproofing solution or mechanically cleaned including pressure washing and sandblasting.

Reason: To safeguard the architectural and historic interests and character of the Listed Building.

14. Prior to the commencement of the works a timber-by-timber inspection of the structural frame, its components and joints shall be undertaken. This inspection shall inform a fully detailed scheme of repairs which shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The scheme shall include:
  - A method statement, having regard to the structural integrity of the frame
  - Plans, sections and elevations at a scale of not less than 1:50 showing full details of the components to be repaired or replaced,
  - A complete specification for replacement timbers,

- The proposed methods of repair , and
- The type of surface treatments or decorative finishes to be applied.

Reason: To ensure the satisfactory preservation of the Listed Building.

15. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

16. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

17. Before the relevant parts of the work are commenced, details of roofing materials, including ridge materials and detailing, together with the method of ventilating the roof voids and the method of fixing these items, shall be submitted and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed.

Reason: To ensure satisfactory preservation of the listed building.

18. Details of the roof construction details including details of eaves, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

19. Unless otherwise agreed in writing by the Local Planning Authority, the historic roof structure will be retained and repaired. A method detailing the extent of the repairs and any replacement timbers shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

20. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

21. Details of the proposed external decorative finishes and colour scheme shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

22. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed, moved or replaced in the building shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing. Such features shall be recorded by photographs and/or scale drawings and the sections and profiles accurately taken and recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the Listed Building.

23. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected during the approved works.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

24. All replacement and repaired sections of features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall match exactly the originals in detail and profile. Sample sections of both the original and replacement profiles shall be made available to the Local Planning Authority and approved in writing before this aspect of the work commences.

Reason: To ensure the satisfactory preservation of the Listed Building.

25. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed and stored pending reinstatement shall be agreed in writing by the Local Planning Authority prior to works commencing. These features shall be recorded in photographs and/or scale drawings, and their sections and profiles accurately recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the Listed Building.

26. All new partitions and other elements of construction shall be scribed around historic and architectural features including cornices, picture rails, chair rails, skirtings, panelling, door and window linings and shall not cut through such features.

Reason: To ensure the satisfactory preservation of the Listed Building.

27. All routes for mechanical and electrical services and drainage shall be arranged to be visually unobtrusive and cause the minimum disturbance to historic fabric. Details shall be submitted to and approved in writing by the Local Planning Authority. These shall include types, sizes and positions of soil and vent pipes, waste pipes, rainwater pipes, boiler flues and ventilation terminals, meter boxes, exterior cabling etc and interior fittings such as radiators, electrical socket outlets and switchplates. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

28. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT – HOME FARM CONVERSION**

29. A schedule of work to each Heritage Asset, on Home Farm site shall be submitted to and approved in writing by the Local Planning Authority prior to any works to them commencing. No work shall be carried out other than in accordance with the approved schedule, including details, plan, method and materials, as necessary, eg thermal upgrading of building, ceiling repair/renewal etc. All existing original features shall be retained in situ unless it is specifically shown removed.

Reason: To safeguard the architectural and historic interest and character of the Listed Building.

30. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

31. Details of exterior soil and vent pipes, waste pipes, rainwater goods, boiler flues and ventilation terminals, meter boxes, exterior cabling and electrical fittings shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

32. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

33. Unless otherwise agreed in writing by the Local Planning Authority, the historic roof structure will be retained and repaired. A method detailing the extent of the repairs and any replacement timbers shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

34. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

35. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

36. No pointing or re-pointing of existing or proposed masonry shall commence until the Local Planning Authority has approved the following items in writing:
- a drawing showing the proposed area(s) of repointing
  - the mortar mix
  - the method of removing existing mortar, please note that old mortar shall not be removed using any mechanical tool or angle grinder.
  - an inconspicuous pointing sample provided on site following approval of the above items

Reason: To safeguard the historic interest and character of the heritage asset and ensure an appropriate external appearance.

37. Details of the brick bond and type shall be first agreed in writing by the Local Planning Authority. Following this approval, a freestanding sample panel of brickwork of approximately 1m square shall be provided on site and the mortar mix, colour, texture and joint finish shall be approved in writing by the Local Planning Authority before the commencement of works.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

38. The external brickwork shall be repaired by cutting in or using replacement bricks to match the existing. Bedding and repointing (which shall be kept to the very minimum

structurally necessary) should be in a lime mortar to include the mix and joint finish to a specification to be approved in writing by the Local Planning Authority.

Reason: To safeguard the architectural and historic interests and character of the heritage asset.

39. External brickwork must not be treated with a waterproofing solution or mechanically cleaned including pressure washing and sandblasting.

Reason: To safeguard the architectural and historic interests and character of the heritage asset.

40. Before the relevant parts of the work are commenced, a sample panel of the proposed rendering, at least one metre square, and including any ornamentation, quoins, mouldings, string courses, etc as shall be required to match existing features. The sample panel should also demonstrate the method of application, mix and colour, and the panel should be approved in writing by the Local Planning Authority prior to the rendering works being carried out on the Listed Building. Development shall be carried out in accordance with the agreed details unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the heritage asset.

41. Repairs to stonework shall be carried out by cutting out and piecing-in or rebuilding with replacement natural stone which shall be geologically compatible with the original work and shall match it in size, shape, colour and surface finish. Stone for repairs and new work shall be of proven durability and weather resistance and free from any defects, which would adversely affect its performance and appearance. Samples of stone for use in repairs and new work shall be made available to and approved in writing by the Local Planning Authority before any works commence.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

42. Pointing or repointing of stonework shall be kept to the minimum structurally necessary and areas to be pointed shall be agreed on site with the Local Planning Authority prior to the commencement of the work. The maximum of sound original pointing is to be retained. Mortar for pointing shall be a lime mortar which matches the existing in colour, texture and surface finish unless otherwise agreed by the Local Planning Authority. An unobtrusive sample of pointing shall be carried out and approved in writing by the Local Planning Authority before commencement of the works. Cutting out old mortar with a mechanical disc/angle grinder is not acceptable.

Reason: To ensure the satisfactory preservation of the heritage asset.

43. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

44. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected during the approved works.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.

45. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed, moved or replaced in the building shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing. Such features shall be recorded by photographs and/or scale drawings and the sections and profiles accurately taken and recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the heritage asset.

46. All replacement and repaired sections of features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall match exactly the originals in detail and profile. Sample sections of both the original and replacement profiles shall be made available to the Local Planning Authority and approved in writing before this aspect of the work commences.

Reason: To ensure the satisfactory preservation of the heritage asset.

47. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed and stored pending reinstatement shall be agreed in writing by the Local Planning Authority prior to works commencing. These features shall be recorded in photographs and/or scale drawings, and their sections and profiles accurately recorded and lodged with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of the heritage asset.

48. All new partitions and other elements of construction shall be scribed around historic and architectural features including cornices, picture rails, chair rails, skirtings, panelling, door and window linings and shall not cut through such features.

Reason: To ensure the satisfactory preservation of the heritage asset.

49. Details of the proposed external decorative finishes and colour scheme shall be submitted to and approved in writing by the Local Planning Authority before commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the heritage asset.



**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT – NEW BUILD HOUSING**

50. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

51. Details of the brick bond and type shall be first agreed in writing by the Local Planning Authority. Following this approval, a freestanding sample panel of brickwork of approximately 1m square shall be provided on site and the mortar mix, colour, texture and joint finish shall be approved in writing by the Local Planning Authority before the commencement of works.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

52. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

53. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

54. Details of the roof construction details including details of eaves, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

55. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

56. None of the decorative ironwork authorised by this consent shall commence until the following information is submitted to and approved in writing by the Local Planning Authority:
- Fully detailed and dimensioned drawings, together with samples of scrolls, spearheads finials, and any other details
  - Details of the method of attachment of the decorative ironwork
  - Details of the proposed high-performance corrosion-inhibiting priming system
  - The colour scheme for the ironwork

Reason: To safeguard the architectural and historic interest and character of the registered parkland.

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

57. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. 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 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.

58. Prior to commencement of work on the indicative swimming pool full engineering details, plans, cross sections and proposed materials and finishes shall be submitted for approval by the Local Planning Authority and the work shall thereafter be carried out strictly in accordance with the approved details.

Reason: To ensure that the proposed swimming pool is appropriate in association with the listed building.

59. The garages hereby approved shall not be used for any purpose other than those incidental to the enjoyment of the plot to which they have been built but not including use as living accommodation and not for the accommodation of commercial vehicles, and shall not be used for any repair work otherwise than routine maintenance on the cars normally accommodation therein.

Reason: To safeguard the residential character of the neighbourhood and to ensure the provision of adequate off-street parking accommodation to avoid congestion of adjoining streets by parked vehicles.

60. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken at any of the new dwellings erected or created through the conversion of existing buildings without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- erection of a porch
- hard surfacing
- container for the storage of oil
- satellite antenna
- fences, gates or walls
- any windows or dormer windows
- any micro generation system requiring external works

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.