



Committee and date

South Planning Committee

10 February 2015

## Development Management Report

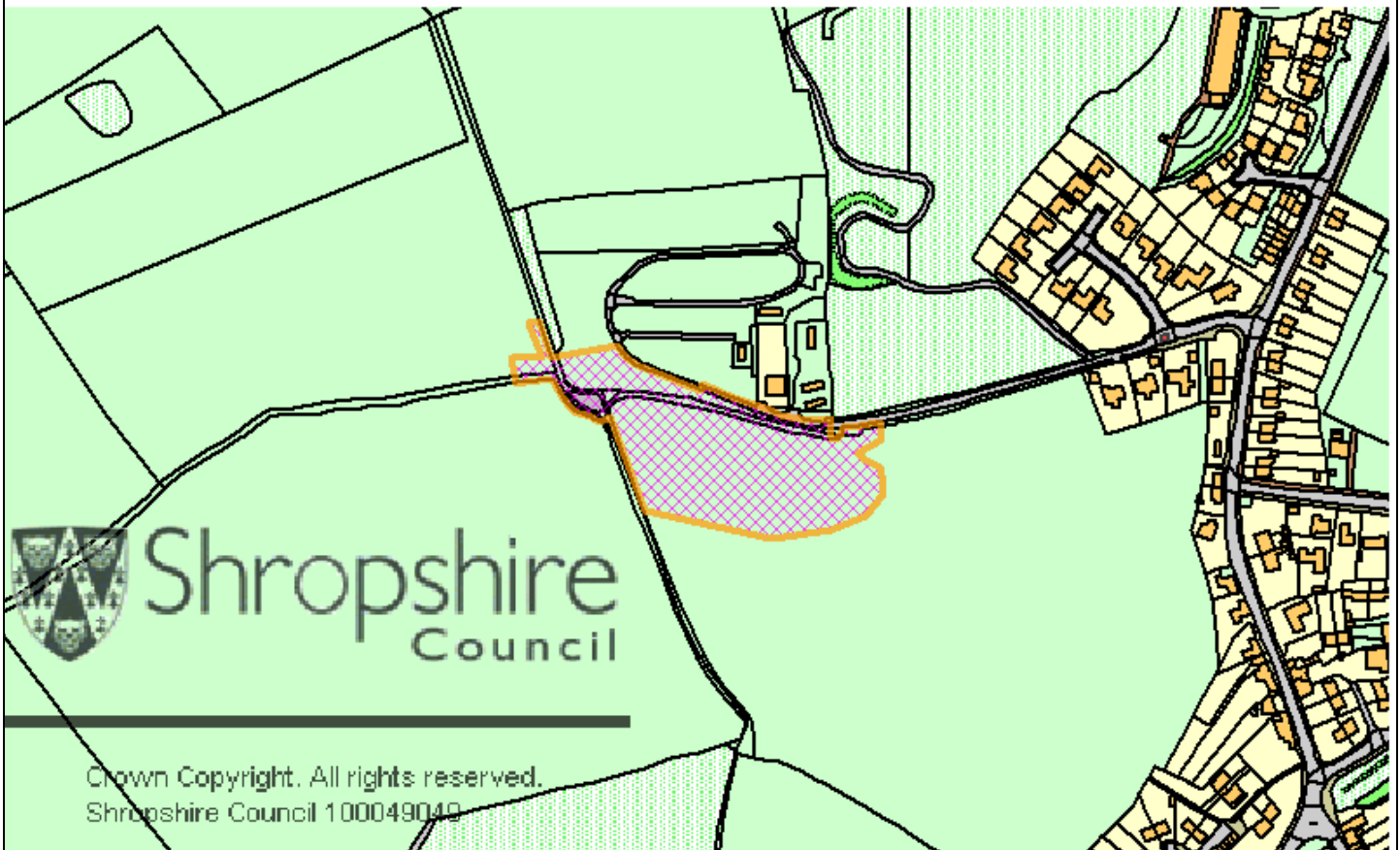
Responsible Officer: Tim Rogers

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### Summary of Application

|   |   |              |
|---|---|--------------|
| <b><u>Application Number:</u></b> 14/01754/FUL  | <b><u>Parish:</u></b>   | Much Wenlock |
| <b><u>Proposal:</u></b> Construction of an attenuation pond designed to attenuate 4500m <sup>3</sup> of water |   |              |
| <b><u>Site Address:</u></b> Sytche Lane Much Wenlock Shropshire   |   |              |
| <b><u>Applicant:</u></b> Shropshire Council   |   |              |
| <b><u>Case Officer:</u></b> Thomas Cannaby  | <b><u>email:</u></b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a> |              |

**Grid Ref:** 362156 - 300462



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

- 1.1 This current application, along with application 14/01573/FUL (also on this committee agenda) are part of an action plan following integrated urban drainage management plan assessment to understand and manage flood risk in Much Wenlock.
- 1.2 This application is for the construction of a 4500m<sup>3</sup> attenuation pond on the upstream reach of Sytche Brook, which runs through Much Wenlock and on to the Farley Brook downstream.
- 1.3 The open watercourse will be diverted along a short channel and the water discharged into a retained through-flow water channel in the pond. The pond will have lagoons that spur off the main channel at varying water depths and will have 1 in 3 side slopes up to the existing topography that will fill up when baseflows are exceeded. There will be an outlet control structure connected to a 600mm diameter pipe culvert which will discharge back to the existing open channel.

The pond extends approximately 180m by 80m at its widest point, with a low earth bund surrounding the pond with a width of approximately 4m.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The proposed attenuation pond will be situated to the north west of Much Wenlock town near Sytche Lane, on the upstream reach of Sytche Brook. The site to establish the pond is 0.74 hectares (area of earth works and construction).
- 2.2 Sytche Brook runs in an easterly direction and is an open channel watercourse through the proposed site. Sytche Brook then continues as a steep open channel adjacent to Sytche Lane with a few short culverts (allowing access to properties). It then enters a 400m long pipe culvert under Sheinton Street (A4169) and Station Street. There are some short open channel reaches before it passes through an arch culvert under an old railway embankment. It continues to be open channel until it discharges into the "town culvert" near St Milburga's Priory.
- 2.3 The site is cultivated farmland fields with hedgeline nearby. There are no heritage assets or conservation areas in the local vicinity. There are a few houses on Sytche Lane approximately 75m to the east and a caravan park in the adjacent fields to the north. There are 2 public rights of way footpaths which run adjacent to the site which will need to be temporarily diverted during construction.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 This application is referred to committee for determination in line with the Council's adopted scheme of delegation as Shropshire Council is the applicant.

#### 4.0 Community Representations

##### - Consultee Comments

Much Wenlock Town Council – supports application

Shropshire Council is asked to acknowledge the following key issues:

- ☐ The size of the attenuation areas compared to national guidance (1 in 30 risk as opposed to 1 in 100+Climate change).
- ☐ The risks when either area overtops or fails. What are the Exceedance routes? Will the risks be more or less than currently?
- ☐ Will the attenuation areas relieve the pressure on the escape area at The Pound? How can this be made safer?
- ☐ What can be done about the undersized culvert and the nuisance associated with the work undertaken in the 2000s?  
The risks of attenuation in a rapid response catchment. Reservoirs are a
- ☐ problem because of dam failure these areas are mostly below ground level
- ☐ with only limited banks.  
How will the attenuation areas be maintained? Who will be responsible?  
These attenuation areas are the first option in the Integrated Urban Drainage Management Plan(IUDMP). It is estimated they only reduce risk by 41%.  
What will the council say about reducing the risk further?

Shropshire Council:

Drainage – the FRA and the attenuation pond designed to attenuate 4500m<sup>3</sup> of water are acceptable.

Ecology – No objection subject to conditions.

Archaeology - recommend that an archaeological inspection be made a condition for the proposed development.

Conservation – no comments to make on application.

Rights of Way - Footpaths 20 and 19 are affected by the proposal and, as noted, these public footpaths will have to be temporarily diverted during construction.

##### - Public Comments

Much Wenlock Civic Society:

- ☐ Strongly supports effective measures to reduce the long established flooding risks in Much Wenlock.  
Local concerns over the precise operation of the attenuation ponds.  
Ponds will alleviate flooding of existing properties, not eliminate flood risks arising from approval of any additional development.

☐

Much Wenlock Community Flood Action Group – Supports application

- ☐ MWFLAG supports measures to reduce the risk of flooding in the town. We consider it is especially important that slowing measures to reduce the peak flows in the inadequate infrastructure of the town are implemented. These attenuation areas are a first step in the right direction because if operated and maintained properly they will provide some relief for two areas of the town that are especially vulnerable.
- ☐ While supporting the development of the attenuation areas the capacity has not been designed to nationally recommended levels.  
Attenuation within rapid response catchments does not work effectively if it fails or is overtopped. These basins are largely below ground level so the risk of catastrophic bank failure is limited. The overtopping issue is still

- ☒ present but flows should be less than currently because of the water storage in the basin.

There is concern about the exceedance route for the Stretton Road attenuation basin which threatens the historic core of the town. Water from this attenuation area will be directed down Victoria Road where it will join

- ☒ water escaping from the Pound and run down the High Street and Back Lane.

there is concern that actions within Much Wenlock must not increase the risk

- ☒ to people living downstream in Farley. Measures to increase capacity in the town must not increase flows downstream putting properties in Farley at risk. Provided these attenuation areas are taken further by the other IUDMP proposals, we support the applications

- ☒

### 3 Comments in support:

- ☒ Supports application, consideration should be given to minimise disruption to area during construction and not restrict access.

- ☒ Proposal will add significantly to flood protection of vulnerable properties on that side of town. Maintenance by Shropshire council is reassuring.

- ☒ The proposal will add significantly to flood protection of vulnerable properties on that side of town. That it will be maintained by SC is reassuring.

- ☒ Attenuation areas first step in making Much Wenlock more resilient to flooding.

- ☒ Self draining, with continuous flow, not stagnant pools

- ☒ Alleviate the current situation for some smaller flood events, but not a solution for all events.

Providing these attenuation areas are equipped with suitable monitoring and overtopping measurement devices, the people of Much Wenlock will be able to collect sufficient data to support a future development program to bring

- ☒ these pools in line with what is needed to deal with the stated nationally recommended levels.

Consideration on the plans is not shown for excessive exceedance The levels seem to indicate that a secondary area may be flooded in extreme circumstances. Whilst this is good (ie another area gets flooded before the town) the plans show no indication of any measurement device pre-leading the areas input point. At this point an extreme exceedance measurement device is need to indicate excessive failure of the system (should it occur).

## 5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Much Wenlock town centre is naturally prone to surface water flooding due to steep rural catchments and subsequent ponding in urban areas. The catchment is fast acting (short time-to-peak) and is prone to flooding particularly when soil saturation is high. Changes to land use are a contributing factor to the flooding issues in the town such as the draining of natural wetlands, changes to farming practices, urbanisation, quarrying and the historic industrial past of the area.

- 6.1.2 An Integrated Urban Drainage Management Plan (IUDMP)<sup>1</sup> for the town of Much Wenlock was undertaken by Shropshire Council to understand the flood mechanisms and the effects of flooding. An Action Plan for managing flood risk in the long term was agreed by the key stakeholders (Shropshire Council, Severn Trent Water and Environment Agency). A preferred option has been taken forward by Shropshire Council to construct an attenuation pond on the upstream reach of Sytche brook.
- 6.1.3 Policy CS18 of the Shropshire Council Core Strategy aims to promote sustainable water management, both in existing development and for new proposals. The proposed attenuation pond would seek to mitigate flood events and to alleviate the impacts of flooding on the town in a sustainable manner, and as such would comply with the objectives of policy CS18.
- 6.1.4 The site is identified in the Much Wenlock Town Plan as being an allocated area for an attenuation pond in line with policy RF5 of that document, with any other form of development prohibited on this land. As this application would be for the provision of the attenuation pond for which the land is reserved, the application is considered to be in compliance with the policies set out in the Much Wenlock Town Plan.
- 6.1.5 Some third party comments and the Town Council have questioned why the attenuation pond is designed for a 30year return period and not a 100 year return period. It is understood that as part of the design process, pond sizes for the 100 year return period event were also calculated and were found to be considerably larger. The flood outlines were not found to change significantly between the 30 year and 100 year design events, therefore large additional spend for the construction of larger ponds would not provide a significantly larger benefit. This is further compounded by the level of flood risk from other sources. The 30 year return period proposed was therefore considered to be the optimum solution for cost and benefit.
- 6.1.6 Should a flooding event greater than the 30 year annual return period occur over the catchment, then the application documents state that the exceedance route of flows in the vicinity has been considered. There is a bund overflow notch with reinforcement at a level of 173.5mAOD. The additional water will overflow this notch and continue down the proposed concrete overflow channel which is positioned at ground level above the 600mm diameter culvert. The exceedance route is then similar to what occurs at present when the Sytche Brook Proposed Attenuation Pond existing channel capacity is exceeded, based on anecdotal evidence taken from the report produced by Telford & Wrekin Council in September 2009 and the 200 year surface water flooding map. The exceedance flow spills out of Sytche Brook open channel and goes overland down Sytche Lane and ponds at the bottom where it meets Sheinton Street (A4169). The capacity of the 400m culvert under Sheinton Street is very limited (pipe diameter is 360mm) so exceedance flow goes overland towards Much Wenlock town (to the south) and the Station Street area (to the east). It should be noted that, even during an event such as this, the pond would bring benefit since it will have filled up and stored flood water, reducing the peak flows downstream.
- 6.1.7 The Town Council has queried if the proposed development would improve the

pressure on the escape area at The Pound. The Council's drainage officers have commented that attenuation pond would reduce the likelihood of floodwater escaping at The Pound. The maximum allowable discharge from the pond has been calculated taking the capacity of the channel and culvert at The Pound into account. The proposed scheme involves no physical works at The Pound.

- 6.1.8 The Scheme is designed to relieve 'pressure' on the drainage systems, including the culvert installed in the early 2000s, which serve the town. By temporarily storing water upstream and reducing flows within the town culvert, the drainage systems in the town will have a better chance of coping since they will be able to discharge more freely.
- 6.1.9 The stability of the slopes being constructed as part the proposed Sytche Brook pond formed part of the detailed design. A reinforced concrete 'spillway' forms part of the design so the structure will overtop in a controlled manner during an extreme event and a layer of geotextile reinforced grass is to be installed at the dry side of the slope to prevent erosion. Part of the ongoing maintenance of the site will include regular inspection to ensure that the structure is functioning as it is designed.
- 6.1.10 Not all of the flood water stored by the attenuation pond will be above natural ground level. Indeed, the volume that can be stored above natural ground level (i.e. that which is 'held back by the dam') is such that the structure will not be classed as a large raised reservoir.
- 6.1.11 Shropshire Council will be responsible for the ongoing maintenance of the proposed structure.
- 6.1.12 This planning application is for the Sytche Lane attenuation pond only. Shropshire Council, as Lead Local Flood Authority, will be continuing to work to further reduce flood risk in Much Wenlock.
- 6.2 Siting, scale and design of structure
- 6.2.1 In terms of visual impact the proposed attenuation pond would be for the majority of the time not in use, with only a small flow occurring through the channel during normal operation, the pond would be filled only during flood events, and drain rapidly after such events end. Therefore the visual impact would be limited to the low earth bund surrounding the pond. This would be grassed over and is not considered to have a significant impact on the visual amenity of the site or its surroundings. Additional boundary hedgerows are proposed to further enclose the site and reduce access and visibility to the proposed works.
- 6.3 Other issues
- 6.3.1 The application has been subject to ecological surveys, which have discovered the potential for protected species to be impacted by the proposals to a limited degree. The Council's ecologist has not objected to this development, subject to conditions to ensure that protected species and their habitats are safeguarded during the construction process and the operation of the attenuation pond.

The proposed development site is located adjacent to Sytche Lane, Much Wenlock (HER PRN 21044) a possible post medieval routeway connecting the Shrewsbury

Road to the Buildwas Road in an elevated location above the medieval town of Much Wenlock. The site may therefore have some archaeological potential. The Council's archaeologist has recommended an archaeological inspection of the site be made a condition of any development occurring.

## 7.0 CONCLUSION

7.1 The proposed attenuation pond would be fulfilling the allocation of the land as such as set out in the Much Wenlock Neighbourhood Plan, and would be part of the delivery of the action plan resulting from the Integrated Urban Drainage Management Plan which aims to reduce flooding and mitigate the impacts of flood events in the area. As such the development complies with Core Strategy policy CS18. The visual impact of the development would be limited and impacts on protected species can be satisfactorily addressed via condition.

7.2 For the reason above it is recommended the Committee approve the application, subject to conditions as set out below.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

### 8.2 Human Rights

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

First Protocol Article 1 requires that the desires of landowners must be balanced



against the impact on residents.

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

### 8.3 Equalities

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

### 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

National Planning Policies:  
National Planning Policy Framework  
National Planning Practice Guidance

Shropshire Core Strategy:  
CS6 Sustainable Design and Development Principles  
CS17 Environmental Networks  
CS18 Sustainable Water Management

Supplementary Planning Guidance:  
Much Wenlock Neighbourhood Plan.

## 11. Additional Information

View details online:

<http://planningpa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N44Y91TDJEO00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Design and Access Statement

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Turner

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. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The external materials and their colour shall be as shown on the deposited plan and as specified in the submitted documents, no alterations shall be made to these materials or colour without the express consent in writing of the Local Planning Authority.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

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

4. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development to which this consent applies. A detailed badger survey must be carried out in the period May to mid-September prior to the commencement of works by an experienced ecologist and a report submitted to and approved by the Local Planning Authority, including any necessary mitigation.

Reason: To ensure the protection of badgers

5. No development approved by this permission shall commence until a scheme to allow access to any archaeologist nominated by the Local Planning Authority to observe the excavations and record items of interest, has been submitted to and approved in writing by the Local Planning Authority.

Reason: The area is of archaeological potential and it is importance that any archaeological features and finds are properly recorded.

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

6. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the sytche Attenuation Pond survey dated by Robert Mileto 4th September 2014 review.

Reason: To ensure the protection of great crested newts, a European protected species and reptiles

7. All existing trees, shrubs and hedgerows within and bordering the site, except as specifically referenced in the approved documents, shall be protected, retained and maintained to the satisfaction of the local planning authority for the duration of any development works and for 5 years thereafter.

Reason: To safeguard the visual amenities of the area.

### **Informatives**

1. Policies material to the determination of this application:

National Planning Policies:  
NPPF, NPPG

Shropshire Core Strategy:  
CS6, CS17, CS18

Supplementary Planning Guidance:  
Much Wenlock Neighbourhood Plan.

2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
3. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

4. Trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
5. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

6. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

7. The applicant is reminded that confirmation of a Diversion Order for the public right of way may be required prior to development being commenced. The commencement of development prior to such confirmation may lead to legal complications and/or possible infringement of existing public rights and thus conflict with other legislation.

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