



Date: Tuesday, 9 February 2021

Time: 2.00 pm

Venue: THIS IS A VIRTUAL MEETING - PLEASE USE THE LINK ON THE AGENDA TO LISTEN TO THE MEETING

Contact: Emily Marshall, Committee Officer
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NORTHERN PLANNING COMMITTEE

TO FOLLOW REPORT (S)

- 9 Land South Of Bridgewater Street, Ellesmere, Shropshire (20/04019/FUL) (Pages 1 - 46)**
Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works
Report to Follow

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Committee and Date

Northern Planning Committee

9th February 2021

Item

9

Public

Development Management Report

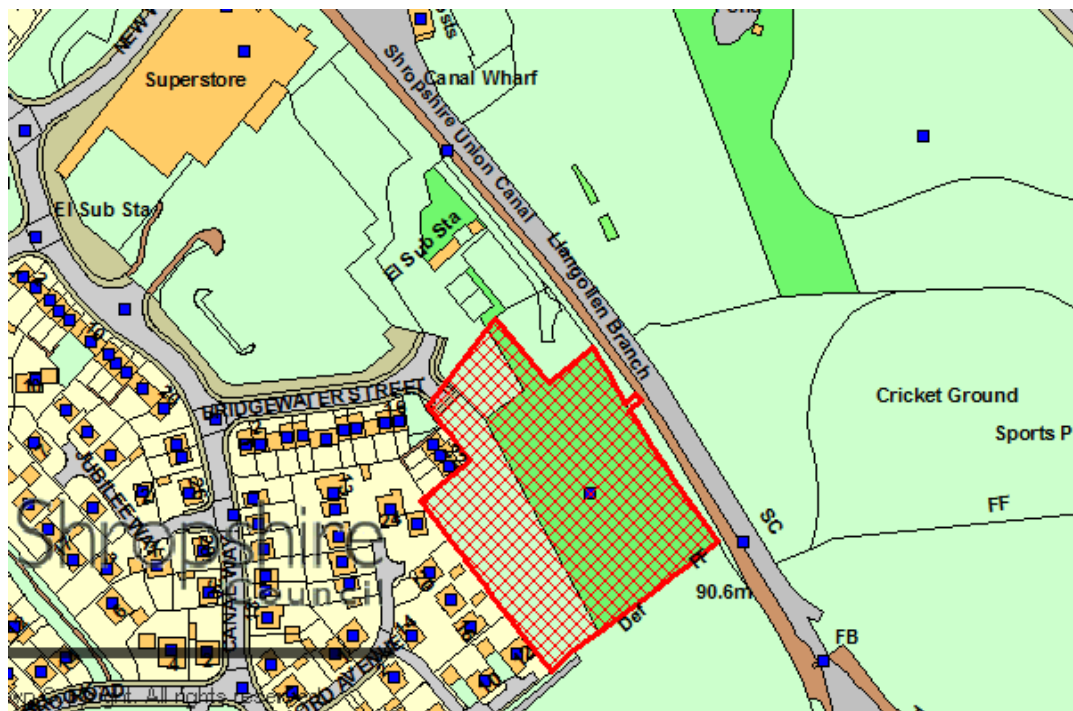
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 20/04019/FUL	<u>Parish:</u>	Ellesmere Urban
<u>Proposal:</u> Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works		
<u>Site Address:</u> Land South Of Bridgewater Street Ellesmere Shropshire		
<u>Applicant:</u> Cornovii Developments Ltd.		
<u>Case Officer:</u> Philip Mullineux	<u>email :</u> planning.northern@shropshire.gov.uk	

Grid Ref: 339968 - 334395



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Recommendation:- Approval subject to the conditions attached as appendix one and any modifications to these conditions as considered necessary by the Planning Services Manager and the signing of a Section 106 agreement in relation to affordable housing and open space provision as set out in the report.

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes erection of mixed residential development of 23 number dwellings, formation of vehicular and pedestrian access, amenity space and associated works on land south of Bridgewater Street, Ellesmere, Shropshire.
- 1.2 The application is accompanied by a site location plan, block plan, elevation and floor plans, proposed street scenes, landscape plan, drainage strategy, site layout plan, boundaries plan, transport statement, ecology assessment, tree survey, arboriculture impact assessment, noise assessment, flood risk assessment, heritage assessment, planning statement and design and access statement. Amended plans and further information on drainage matters were received during the application processing.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site forms part of the former 'Dairy Crest site' which was granted planning permission on the 27th June 2007 (planning reference N/06/1161/EU/906), for redevelopment and thus represents a 'brown field site' allocated in the local plan for residential development. The site is located in Ellesmere and lies 350 metres to the south of its centre. The site is fairly rectangular in shape and has an area of 0.78ha (1.90 acres]. and part of the site falls into flood zone 2 in accordance with the Environment Agency flood risk data maps. The site is vacant following the demolition of the previous buildings which stood on the site over a decade ago. Areas of hard standing can be seen on the site with some trees and shrubs.
- 2.2 To the north of the site is the Tesco store and its associated car park. To the east of the site is the Shropshire Union Canal. The canal falls within the Ellesmere Conservation Area within which is a two storey Grade II Listed dwelling. The Tetchill brook, which runs in a culvert adjacent to the southern boundary of the site. Further to the south is open countryside and beyond, the Ellesmere Yard of the Canal and River Trust which contains Grade II Listed buildings. To the west is existing residential dwellings which are generally two storey in height and comprise both wide and narrow fronted house types.
- 2.3 Boundary treatments are a mix of vegetation and brick walls. Part of the site is secured with construction hoardings. Beyond the site boundary to the north between the site and the Tesco store is an electricity substation.
- 2.4 Pedestrian and vehicle access to the site is currently taken from a constructed access road, Bridgewater Street, off Canal Way. The site is sustainably located in relation to essential services as offered by the town of Ellesmere
- 2.5 The application proposes to construct 23 dwellings comprising two storey houses and

bungalows. The proposal includes a 35% contribution towards affordable housing. The dwellings will be a mixture of house tenures, types and sizes in order to contribute to an existing housing need in Ellesmere. The dwellings will be sited along a spine road and two private drives, occupying a back of footpath position. There is an existing drainage culvert to the south of the site which requires a 10m easement. Dwellings are therefore set back behind the easement with only the private drive, parking and amenity areas within it. A new footpath link from the development on to the canal tow path will also be provided. The proposed dwellings have been designed to complement the existing area in terms of appearance. The dwelling types comprise mainly semi detached dwellings and will be constructed using brick with pitched roofs. Of the 23 proposed dwellings, eight will be bungalows, four of which will have 2 bedrooms, with the remaining having 1 bedroom. Of the fifteen remaining dwellings, three will have 2 bedrooms, eight are 3 bedrooms and four are proposed to have 4 bedrooms.

- 2.6 The proposal is not considered to fall into the remit of Environmental Impact Assessment Regulations and therefore no Environmental Statement is required in support of the application.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The application is a Council lead application and therefore in accordance with the Council's constitution this application has to be considered at Committee.

4.0 **Community Representations**

- 4.1 **Ellesmere Town Council** have responded indicating support for the application.

- 4.2 **Ellesmere Rural Parish Council** have responded indicating:

Councillors are pleased with the allocated amenity space alongside the canal, keeping development away from the canal itself, and approve of the layout design.
The Parish Council supports this application

4.3 **Consultee Comments**

- 4.4 **The Environment Agency** have commented as follows:

I refer to additional information received in support of the above application and, specifically, in reference to our outstanding objection to the proposed development. Having reviewed the submitted information we are in a position to remove our objection and would recommend the following comments and conditions be applied to any permission granted.

Flood Risk: As previously stated the site is located to the south west of Ellesmere on the Tetchill Brook and upstream the confluence with the Newnes Brook. This site is partially located in Flood Zone 3, which is the high risk zone and is defined for mapping purposes by the Agency's Flood Zone Map. In accordance with Table 1: Flood Zones (Reference ID: 7-065-201-20140306) within the National Planning Practice Guidance (NPPG) Flood Zone 3 is considered 'high probability' of fluvial flooding and comprises land assessed as having

a 1 in 100 year, or greater, annual probability of river flooding.

Sequential Test: The NPPF details the requirement for a risk-based ST in determining planning applications. See paragraphs 157-158 of the NPPF and the advice within the Flood Risk and Coastal Change Section of the government's NPPG.

The NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a ST. It states that *'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'*.

Further detail is provided in the NPPG; 'Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 taking into account the flood risk vulnerability of land uses and applying the Exception Test (ET) if required.

Flood Risk Assessment (FRA): In our previous response we requested greater detail in relation to use of the BWB model and, specifically, the 1 in 100 year plus climate change projected flood level. It was unclear how this level could potentially impact on 2 properties in the south west corner of the development.

The applicant has provided further clarification in an updated FRA. This FRA has confirmed that the assessment has utilised the node from the BWB hydraulic model from a recent local application and taken this node to suggest a 1 in 100 year plus climate change projected level of **87.21mAOD (the design flood level)**. We accept the modelling undertaken by BWB as the best available data for this location and so would concur that this is the most accurate estimation of projected flood levels and outlines for this development.

The FRA has also repeated the intention to set finished floor levels at no lower than 88.35mAOD which is acceptable as it is no lower than 600mm above the design flood level. We would reiterate that there should be no raising of ground levels in order to achieve these floor levels on ground lower than 87.21mAOD as this would reduce the capacity of the flood plain and have potential impacts on 3rd party properties. As stated previously were the applicant to raise ground levels on ground below 87.21mAOD suitable flood storage compensation must be found elsewhere, and this must be approved by the prior full planning permission.

The updated FRA has demonstrated with figure 3.1.1 that the built development itself is above the design flood level.

Condition: Finished floor levels shall be set no lower than 88.35mAOD unless otherwise agreed in writing by the LPA.

Reason: To protect the proposed dwellings from flood risk for the lifetime of the development.

Condition: There shall be no new structures (including gates, walls and fences) or raising of ground levels on land below 87.21m AOD, within the 1% plus climate change floodplain, or within 8metres of the top of bank of any Main River inside or along the boundary of the site, unless otherwise agreed in writing by the Local Planning Authority. **Reason:** To prevent any impact on flood flows and flood risk elsewhere.

Foul Drainage: We would have no objection to the connection of foul water to the mains

foul sewer, as proposed. The LPA must ensure that the existing public mains sewerage system has adequate capacity to accommodate this proposal, in consultation with the relevant Sewerage Utility Company.

Export & Import of wastes at site: Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

An earlier response indicated:

The previous hydraulic report has demonstrated that the south east section of the site is in the projected 1 in 100 year plus climate change (35%) extent.

However the FRA has not demonstrated whether they have fully exploited the hydraulic model to establish a flood level with which to set finished floor levels that are not at risk of flooding in a 1 in 100 year plus climate change event and that there are no impacts to third parties through a loss of flood storage. We would therefore request an updated FRA, which establishes this flood level, and assess the development in relation to it.

4.5 The Parks and Countryside Manager has responded indicating:

Based on 30sqm per bed space the plan attached shows a total of: 23 properties 50 bed spaces x 30sqm is 1500sqm POS required 1107sqm is being provided which leaves a loss of 393sqm of POS. Offsite contribution for this loss has been discussed with the developer.

4.6 West Mercia Police have responded indicating:

I comment on this proposal as Design Out Crime Officer for West Mercia Police. I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime, reduce the fear of crime and to promote community safety.

Therefore should this proposal gain planning approval the below advice should be considered by the developer.

The developer should aim to achieve the Police Crime Prevention initiative award of Secured By Design. Secured By Design 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 burglary offences to occur can be reduced by up to 87% if Secured By Design is achieved. There is a clear opportunity within this development to achieve the Secured by Design award. By doing so it can also address the requirements of the new Approved Document Q.

Approved Document Q applies to all new dwellings, including those resulting from a change in use of an existing building, such as commercial premises, warehouse and barns undergoing conversions into dwellings. It also applies to builds within Conservation Areas. Approved Document Q creates security requirements in relation to doors at the entrance to a building, including garage doors where there is a connecting inner door leading directly into the dwelling. Also included are ground floor, basement and other easily accessible windows; and any easily accessible roof-lights. The requirement is that the

product must be shown to have been manufactured to a design that has been tested to an acceptable security standard.

In recent times there has been a tendency to install thumb turn locks on front doors. This type of locking device should only be considered when the lock cannot be easily seen from the outside, any glazed panels are fitted with laminate glass to standard PAS24:2016 / STS 201 and a deflector is fitted to the inside of any letter box opening. Thumb turn locks should never be considered for rear doors if they are half glazed and the internal thumb turn can be easily seen from the outside. This will increase the potential for burglary and other offences to occur.

The principles and standards of the Secured By Design 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

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

- 4.7 **SC Affordable Housing** have responded indicating
The current proposals show an over provision of affordable dwellings on site. The provision of affordable bungalows is welcomed and we do have a need for larger adapted bungalows in this area. Would it be possible to merge the 2 x 2 bed bungalows into a single dwelling.
- 4.8 **SC Drainage** have responded indicating:
The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority.

Condition:

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

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

Comments and Informatives

The drainage strategy and FRA are acceptable however the follows comments need addressing:

1. Simulation calculations for the 3.33% AEP and 1% AEP plus 40% CC should be submitted for approval in a colour format.
2. The appropriate allowance for urban creep must be included in the design of the

drainage system over the lifetime of the proposed development. A plan should be provided showing the drained areas plus the added urban creep allowance. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare == Change allowance % of impermeable area

Less than 25 == 10

30 == 8

35 == 6

45 == 4

More than 50 == 2

Flats & apartments == 0

3. Although rainwater harvesting is to be encouraged, it cannot be taken into account when sizing an attenuation system as the storage facility may be full when a storm event occurs. Details of an overflow from the rainwater harvesting system to the soakaway/attenuation should be submitted for approval if that option is used.

4. Construction details of the permeable driveway attenuation and explanation of how the defuser will operate must be submitted for approval.

5. Ownership of the culvert at the point of connection should be confirmed and details submitted.

6. Where a highway is to be adopted and gullies will be the only means of removing surface water from the highway, footpaths and paved areas falling towards the carriageway, spacing calculations will be based on a storm intensity of 50mm/hr with flow width of 0.75m, and be in accordance with DMRB CD526 Spacing of Road Gullies (formerly HA102)

Gully spacing calculations must also be checked in vulnerable areas of the development for 1% AEP plus climate change 15 minute storm events. Storm water flows must be managed or attenuated on site, ensuring that terminal gullies remain 95% efficient with an increased flow width. The provision of a finished road level contoured plan showing the proposed management of any exceedance flows should be provided.

Vulnerable areas of the development are classed by Shropshire Council as areas where exceedance flows are likely to result in the flooding of property or contribute to flooding outside of the development site. For example, vulnerable areas may occur where a sag curve in the carriageway vertical alignment coincides with lower property threshold levels or where ground within the development slopes beyond the development boundary.

Shropshire Council's "Surface Water Management: Interim Guidance for Developers, paragraphs 7.10 to 7.12" requires that exceedance flows for events up to and including the 1% AEP plus CC should not result in the surface water flooding of more vulnerable areas (as defined above) within the development site or contribute to surface water flooding of any area outside of the development site.

A flood routing plan should be provided to show the exceedance flow path above the 1% AEP storm event 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.

4.9 **SC Archaeology** have responded indicating:
We have no comments to make on this application with respect to archaeological matters.

4.10 **The Canal and Rivers Trust** have responded indicating:
The impact on the character, appearance and heritage of the waterway corridor.

The site is located to the south-west of the Llangollen canal which is within the designated Ellesmere Conservation Area. The development is located to the north west of a group of Grade II* listed buildings at Ellesmere Yard, including Beech House. The site is also adjacent to the canal basin that contains a Grade II listed canal Wharf Building to the north.

The comments of the submitted Heritage Statement are acknowledged regarding the important historic significance of the canal in this stretch. The statement outlines that the proposal would not be harmful due to the site being glimpsed through the retained landscaping, not being prominent due to proposed material palette and elevated nature of the canal and as it represents a transitional area between the canal wharf and town.

Whilst the development is sited on brownfield land between the canal and existing housing development, it is considered that the heritage assessment has not been robustly assessed its impact on the setting of the cluster of listed buildings (grade II*) at the canal junction (Beech House and Ellesmere Yard) or from the towpath and from White Bridge (overlooking the development site). There is a concern that the views of the proposed development to and from the canal junction have not been fully considered and we would ask the LPA to satisfy itself that a satisfactory heritage assessment has been carried out in connection with this matter.

Design and Layout

In light of the historical significant context and unique character of the adjacent canal corridor, as outlined above, it is important to ensure that the design of the proposed development sympathetically preserves the setting of the canal.

It is strongly welcomed that the existing mature tree cover along the east boundary is to be retained in its entirety. The landscaping scheme annotates that existing trees and habitat are to be retained and we would request that the existing field hedge along the east boundary is retained as well. The retention of the established planting would provide screening and result in the glimpsed views of the residential development from the canal, which will help to protect the wharf setting. In addition, the provision of the landscaped amenity area and setting the development away from the canal helps to soften the visual impact upon the canal corridor.

We request that careful consideration is given to the treatment of the north and south boundaries of the site to soften the visual impact from these viewpoints. The southern boundary development lacks a landscape buffer which would result in the development being in clear view from adjacent raised bridges and viewpoint of listed Beech House. We would request additional landscaping to soften the visual impact and safeguard the historic canal corridor and rural setting of the meadow. The landscaping plan indicates the

planting of a native species hedge to south boundary, which would be welcomed.

The siting of parking in between dwellings is welcomed to reduce its visual impact. There is a concern however that the concentrated parking areas in the centre and adjacent to the south boundary would be visible to the surrounding area and would request appropriate screening to prevent views through to hard standing.

We request that the proposed landscaping scheme is secured via **condition** and retained thereafter. We also request that the LPA satisfies itself that retained trees will be safeguarded appropriately throughout the construction process and for tree protection measures to be submitted and agreed via **condition**. We would also request that no solid boundary treatments are erected in proximity to the canal, as indicated on the boundary treatment plan to safeguard the setting of the canal.

The Design and Access Statement refers to importance of the Canalside location and it is understood from the planning submission that the development has taken design cues from the nearby listed buildings. It is welcomed that the proposed dwellings address the canal positively and that additional interest has been added to elevations that face the canal, such as additional windows and architectural detail. The proposed design and materials are reflective of the local vernacular and we would ask for the LPA to secure the submission of material details in the event of planning permission being granted.

Details of the bin stores and their locations have not been submitted. Bin stores should be screened with natural materials and/or vegetation and not be sited in proximity to the canal, to preserve setting of the canal.

Proposed connection to canal towpath

The principle of the provision of an access to the towpath is welcomed. It would promote of the use of the canal towpath as a sustainable walking and cycling route to future occupants and the associated health and wellbeing benefits of this.

Consideration should be given to the design of the towpath access to ensure that users of this access do not present a risk to themselves or to those already on the towpath with regard to the canal, e.g. colliding with those already on the towpath due to poor visibility or through joining the towpath at speed.

We request the submission of the proposed design and material finish of the access arrangement to ensure it would preserve the canal setting and to understand how the access would interact with the retained landscaped buffer. The submission of details would ensure any impact on public safety and related canal character and infrastructure would be considered.

We request that the provision of design details for the access is secured via condition and include the following details.

- Across section of the access, including details of the step arrangement, in relation to the canal towpath
- Material finish
- Canalside elevations to demonstrate the relationship with retained landscape buffer

- Outline any stability works required in connection with the access and set out the future maintenance provisions for the access.

The access appears to be sited on land owned by the Trust and would require the agreement of the Trust, as outlined below.

Waterway protection during construction

The towpath side of the LLangollen Canal runs along the east boundary of the application site. Development in close proximity to the canal has the potential to result in adverse impacts on its infrastructure with regard to structural integrity and contamination. It is essential that structural integrity is not put at risk as part of any development proposal which could, in the worst case scenario, result in the failure of the canal.

The proposed dwellings would be set far enough away from the canal so as to not impact upon its structural integrity. However there is a risk that the canal could be exposed to wind-blown waste, dust or other contaminants from construction activities on site, and during the construction of a pedestrian access to the canal towpath.

Our records show previous abstraction and discharge at the former dairy site, and pipework in connection with this process may be present, which provides potential pathways for transfer of pollutants from the site to the canal during construction. In the event that these pipes are disturbed during construction works there could be a flood risk to the site and care would need to be taken to ensure no pollution of the canal occurs during the construction process. We advise this respective pipework is the responsibility of the landowner including pipework under the towpath. The Canal and River Trust is not responsible for flooding caused by Third Party supply pipes which have not been decommissioned properly.

The drainage strategy outlines that surface water would discharge to a culverted watercourse to the south of the site, which is connected to a Trust owned culvert to the east that runs under the canal. There is the potential that silting and blocking of this watercourse could result in the blockage or backing up of the culvert to the east, which could cause flooding and affect the stability of the canal infrastructure. As such, care needs to be taken to protect the watercourse from pollution and siltation during construction/connection of the new surface water drainage system to safeguard the Trust's culvert to the east.

We therefore request that the potential for contamination of the waterway during construction or potential impact to the canal infrastructure is addressed as part of a Construction Environment Management Plan (CEMP) for the site, that includes the following details:

- Details of canal protection measures (both physical measures and working practice) including protective fencing along the waterway during construction.
- Details of steps to be taken to prevent potential contamination of the waterway from wind blow, dust or accidental spillage into the waterway during construction of the housing development and pedestrian access to protect the canal corridor and its users from contamination.
- Details of existing drains/abstraction pipework being identified and protection during

construction

-Details of measures to safeguard against the siltation or blockage of the culvert to the south during construction and connection of the new surface water drainage system

These details would be required to be agreed prior to works commencing on site to ensure that appropriate measures can be put in place to safeguard the waterway. The Trust would be happy to assist the Council with the discharging of this condition.

Works affecting Trust land and in the proximity to the canal may need to comply with the 'Trust's Code of Practice' for works affecting the Canal and River Trust. The applicant should contact the Trust's Infrastructure Services team to discuss matters relating to the Code of Practice and to obtain any necessary consents.

We ask that the informative at the end of this letter is appended to the decision notice to address this matter.

Land Drainage

The application submission indicates that foul sewage would discharge to the mains sewer and that surface water is intended to discharge to a culvert that runs along the south boundary of the site at a restricted rate, via a SUDs system. In the event of planning permission being granted, we request that the foul and surface water drainage details are submitted for approval via condition.

Ecological Matters

The ecological value of the canal is recognised by The Shropshire Environmental Network (SEN) which identifies it as an Ecological Corridor. It is of special importance to Bats and Otters for foraging and commuting. The new lighting associated with the development has the potential to negatively impact foraging and commuting bats and other light sensitive protected species. In order to avoid impacting upon protected species and retain its special value as an Ecological Corridor, all artificial lighting should be directed away from the site boundary with the canal including the retained habitat between the canal and the new houses as shown on the landscape plan.

In line with the above, the Trust acknowledge the findings of the submitted Ecological Survey and Constraints Report and in accordance with sections 4.4.2-4.4.4, we request the following recommendations to be implemented and secured via condition:

- A sensitive lighting scheme should be employed to prevent unnecessary light spill onto the canal corridor.
- Recommendations regarding all future external lighting
- Avoid lighting of retained habitats

In line with the above recommendations, we would ask for an appropriate lighting strategy to be followed to ensure that all light spill is to be minimised wherever possible and directed away from the Llangollen Canal/ southern site boundary.

Comments as landowner

Part of the application site as shown on the submitted location plan, for the proposed

access to the towpath on the eastern boundary, would appear to be sited on land owned by the Trust. The red line of the site should be amended or the requisite notice should be served upon the Trust.

The applicant should be made aware that the creation of an access onto a canal towpath or any future use of land in the Trust's ownership will require the prior consent of the Canal & River Trust, which is likely to be in the form of a commercial agreement. This agreement will identify and agree future maintenance arrangements for the access. The applicant/developer is advised to contact the Trust's Estate Management Team on 0303 040 4040 or Jeff.Peake@canalrivertrust.org.uk in order to ensure that any necessary consents are obtained.

We ask that the informative at the end of this letter is appended to the decision notice in connection with this matter.

Informatives

Should planning permission be granted we request that the following informatives are appended to the decision notice:

(1) The applicant/developer is advised to contact Canal & River Trust Infrastructure Services Team on 01782 779909 or Susan Higton -Works Engineer at Susan.Higton@canalrivertrust.org.uk

or on 07484 901 304) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

(2) The applicant has signed and completed certificate B, however notice has not been served on the Trust. Based on the submitted details and the Trust's land ownership records, there may be a slight encroachment onto land within Trust ownership. Any use of land in within Trust ownership will require the prior consent of the Canal & River Trust. The applicant is advised to contact the Trust's Estate Management Team on 0303 040 4040 or email Jeff.Peake@canalrivertrust.org.uk directly to discuss this matter and to ensure that any necessary consents are obtained..

(3) The proposed development includes the creation of a new pedestrian access point onto the canal towpath. The applicant developer is advised to contact Trust's Estate Management Team on 0303 040 4040 or email Jeff.Peake@canalrivertrust.org.uk directly to discuss this matter and to ensure that any necessary consents are obtained.

4.11 **SC Ecology advice indicates:**

Recommendation:

Include the recommended conditions and informatives below on the decision notice.

I have completed a Habitat Regulation Assessment screening matrix which should be included on the site report.

Habitats

The site comprises broadleaved woodland, scattered and dense scrub, hard-standing and poor semi-improved grassland according to Crestwood Environmental. Subsequent to the first site visit the woodland and areas of the scrub habitat had been removed from the site. The site is considered to be of low to moderate ecological value and parts of the Shropshire Environmental Network run to the east of the site. The proposed development provides a landscaped buffer to the canal corridor which runs to the east of the site.

Bats

There are no potential bat roost features on the site and the bat activity surveys showed low levels of bat activity from common species. Crestwood recommend that lighting on the site is designed to protect the dark boundaries of the site and that bat roosting opportunities should be provided on the site. I have provided recommended conditions below.

Great Crested Newts

There are 6 ponds within 500m of the proposed development. 5 ponds are separated by significant barriers to dispersal. The closest pond, Birch Rd Pond, was surveyed for great crested newts and found to be negative in 2018. This pond is separated from the site by the canal and where the canal ends the site is separated by significant areas of built development. Crestwood Environmental state that the site has limited potential terrestrial value due to its separation from the pond and its small size and I am broadly satisfied with that approach though I would like to see some basic precautionary methods of working followed during the site clearance work and I have included a condition requiring submission of this below.

Reptiles

The site has limited potential to support reptiles according to Crestwood Environmental. Crestwood recommend basic precautionary methods of working to control any remaining risk and I would like to see that combined with the condition relating to great crested newts above.

Badger

The site has potential to support badger setts and some areas of the site were difficult to inspect. A pre-commencement inspection for badgers and basic reasonable avoidance measures will be necessary and this is covered by the reasonable avoidance measures method statement condition above.

Nesting Wild Birds

The site has potential to support nesting wild birds. Vegetation removal should occur outside of the bird nesting season, and a scheme of artificial nest boxes should be provided. The detailed landscaping scheme for the site should include a range of berry producing species and cover providing species.

Habitat Regulation Assessment

There are three European Designated Sites within 3km of the proposed development:

- Whitemere – Midland Meres and Mosses Ramsar phase 1 (and SSSI)
- Cole Mere – Midland Meres and Mosses Ramsar phase 2 (and SSSI)
- Clarepool Moss - Midland Meres and Mosses Ramsar phase 1 and West Midland Mosses SAC (and SSSI)

The application site is separated from all European Sites by at least 1km and the

Shropshire Union Canal. Waste water on the site will be dealt with via mains sewage connection and there are no other potential effect pathways by which the proposed development is likely to impact upon the European Designated Sites.

I have completed a Habitat Regulation Assessment Screening Matrix and this matrix needs to be included in the officer's site report and on the case file.

Conditions and Informatives

I recommend that the following conditions and informatives should be on the decision notice:

1. Ecological Mitigation Strategy and Method Statement

Prior to the commencement of development a Reasonable Avoidance Measures Method Statement with respect to reptiles, great crested newts and badgers shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of reptiles, great crested newts and badgers

2. Bat box condition

Prior to first occupation / use of the building[s], the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

A minimum of 8 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site prior to first use of the development. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 175 of the NPPF

3. Bird box condition

Prior to first occupation / use of the building[s], the makes, models and locations of bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for

swifts (swift bricks or boxes), sparrows (32mm hole, terrace design), starlings (42mm hole, starling specific), house martins (house martin nesting cups), swallows (swallow nesting cups) and small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development.

The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

4. Landscaping Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the

Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements [e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots];
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Access layout and visibility splay in line with Highways requirements in order to demonstrate their compatibility with the retention of existing trees and hedges, or measures to replant or translocate hedges behind the visibility splay if required;
- d) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- e) Native species used are to be of local provenance (Shropshire or surrounding counties);
- f) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- g) Implementation timetables.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

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

5. Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

Great crested newts informative

Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

Nesting birds informative

The active nests of all wild birds are protected under the Wildlife and Countryside Act

1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings or other suitable nesting habitat should be carried out outside of the bird nesting season which runs from March to August inclusive.

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 or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and 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 / No clearance works can take place with 5m of an active nest.

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

Badgers informative

Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

4.12 **SC Regulatory Services** have responded indicating:

Regulatory Services has no objection to this development and therefore the following must be included as conditions if planning permission is granted:

Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency

guidance – Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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

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

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

An earlier response indicated:

A report by Thomas Consulting (for Shropshire Council); T18864/18/01, Phase 2, Site Investigation and Assessment; Land at Ellesmere Wharf, Ellesmere; Version 4, 28th February 2019 has been submitted in support of this application for 23 residential dwellings. Regulatory Services has identified the proposed development site as potentially contaminated land due to historic uses both on-site and off-site.

Thomas Consulting were appointed by Shropshire Council to carry out a second phase of site investigation for a parcel of land located at Ellesmere Wharf, Ellesmere (hereafter to referred to as 'the site') to provide indicative information on the ground conditions with respect to potential risks associated with contamination and ground gas. The site has been subject to previous assessment by Thomas Consulting, details of which are presented in the following reports:

□ Phase 1 Preliminary Risk Assessment – Land at Ellesmere Wharf, Ellesmere (Document Ref:P3552/10, dated May 2010). Site Investigation Report – Land at Ellesmere Wharf (Document Reference: T18864/18/01, dated September 2018).

Regulatory Services requests that copies of these two reports are made available, as they need to be read in conjunction with the 2019 report.

Notwithstanding the above, Regulatory Services has the following initial comments:

Underlying made ground and natural deposits may represent a potential source of ground

gas generation and no monitoring or assessment of ground gas appears to have been undertaken despite the requirement.

Section 9 (Risk Assessment: Buildings) mentions a risk to buildings include explosion of explosive gas but only the risks to concrete, services and flora from soil contamination are discussed. Risks from other gases such as VOC's and carbon dioxide also potentially exist.

Accordingly, Regulatory Services considers that monitoring for ground gas need to be undertaken having regard to CIRIA C665 - Assessing risks posed by hazardous ground gases to buildings.

It is reported that seven trial pits and two trenches (4.2.1) were excavated and their location illustrated in Appendix D. Only the locations of window sampling (WS1 to WS3) and trial pits (1 to 4) are shown on the plan in Appendix D.

Regulatory Services is assuming that as these additional trial pits were excavated following site clearance works and they have provided coverage of the area near to the boundary with the former gasworks, as a significant source of potential contamination is associated with this former use and it is noted from the development layout, that residential gardens (Plots 1 to 4, and 7) immediately back on to the former gasworks site.

Wales & West Utility undertook a voluntary scheme of investigation and remediation of their site adjoining this development site in 2012/13. Grossly contaminated spoils were identified (black staining, tar residues and complex ferrocyanides (also known as 'spent oxide') were removed from

some areas and a geotextile marker membrane placed with a 200mm layer of 6F2 as a capping layer. The spent oxide floor and gasholder 2 were just off the northern boundary of this development site. The Wales & West Utilities site was remediated to a standard for commercial open storage only. PCB contamination has been identified (potentially associated with a buried electrical cable) which is particularly significant in respect of risks to groundwater and further assessment is required (8.1.9). On receipt of additional information, Regulatory Services needs to be consulted again, as other 'Amenity' factors will also need to be considered, however from a land contamination perspective, we are likely to recommend that the following are included as Conditions if planning permission is granted:

Contaminated land

- a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance – Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be

undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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

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

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

4.13 SC Conservation Manager has responded indicating:

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS6 Sustainable Design and Development and CS17 Environmental Networks, MD2 sustainable Design, MD13 Historic Environment; and with national policies and guidance, National Planning Policy Framework (NPPF) published February 2019; the National Planning Practice Guidance (NPPG); the National Design Guide published October 2019; and Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

RECOMMENDATION:

We do not have an objection to the principle of the development of this land, however, we are concerned with the character and appearance of the proposed dwellings will be compromised by certain elements of the design.

We still maintain our concerns regarding the aesthetic detailing to the eaves and verges (particularly the eaves and window head relationship and lack of roof overhang) and lack of context applied to this. These details are being compromised by the thermal performance criteria which is being applied to this project. Several meetings have been held to discuss this matter and options have been discussed at length and suggested compromises proposed, although agreement has yet to be reached with the Applicant. At present, it is considered that good design is falling secondary to thermal performance, and as head, eaves and verge detailing of the project has yet to be satisfactorily resolved in this respect, it is therefore advised that a pre-commencement condition should be included to ensure that satisfactory outcome can be achieved.

Concerns with regard to window hierarchy and other design comments made previously have mostly been addressed.

We do not consider that this development will cause harm to the designated heritage assets (listed buildings identified) and we have considered the desirability of preserving the buildings and their setting. However, we would suggest that less than substantial harm will be caused to the character and appearance of the Ellesmere Conservation Area. This harm is stated as being at the lower end of less than substantial harm and relates to the

development design detailing. As currently proposed, it is considered that the detailing to be inappropriate and visually incongruous with the character and appearance of the Conservation Area, where many buildings are noted within the Conservation Area Appraisal to be characterised by “... *wide projecting roofs verges and eaves, sometimes with decorated barge boards. Early C19 buildings exhibiting delicacy and refinement in their detailing.*” (Ellesmere CA Appraisal, 2006). The advised condition will ensure that the identified harm to the Conservation Area can be mitigated, such that a is removed altogether.

We would remind decision takers that in making the planning balance required by paragraphs 196 of the NPPF, where public benefits are weighed against harm caused, great weight should be given to the assets conservation (paragraph 193 and 194) on the application of Section 72 (1) of the P(LB&CA) Act 1990 for the desirability of preserving or enhancing of the character or appearance of the conservation area.

Suggested conditions:

CC1 (samples required), Landscaping and boundary treatments, JJ7, JJ9, JJ20.

An earlier response indicated:

Background:

The site is adjacent to the Ellesmere Conservation Area on its immediate eastern side. On this particular stretch of the canal there are a cluster of Canal related designated heritage assets of Grade II and Grade II* (the majority being Grade II*) listed status. The Canal itself is considered to be a non-designated heritage asset, as defined in Annex 2 of the NPPF, due to its age, cultural and social history, architectural and historic interest. No preapplication advice has been given by the HE Team regarding this proposal.

Background to Recommendation:

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS6 Sustainable Design and Development and CS17 Environmental Networks, MD2 sustainable Design, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published February 2019 and Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Section 16 of the National Planning Policy Framework refers to Conserving and Enhancing the Historic Environment and in determining applications, the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses, consistent with their conservation, and the desirability of new development making a positive contribution to local character and distinctiveness together with providing enhancement to the heritage assets. We would refer to Paragraphs 192, 193 -197 and 200 of the NPPF. Paragraph 196 states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that affect (directly or indirectly) non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset. This is similarly noted in MD13 of the local plan

Paragraph 189 of the NPPF requires applicants to describe the significance of the heritage assets themselves and the contribution made by their setting. A Heritage Impact Assessment has been submitted with this application but is quite light on its assessment of significance of the designated and non-designated heritage assets and their collective

significance and their contribution to the significance of the designated conservation area, especially this part. The report suggests that the "...inclusion of a traditional palette of colours and materials in the new housing will avoid undue prominence and avoid visually competitive elements in this overall scene..." Whilst we would not disagree with this statement we would comment to say that there is nothing traditional about the proposed materials indicated on the submitted drawings. We would also suggest that the use of more simple traditional design detailing would also be a benefit to the submitted dwelling types. It should be noted that there is some detailing supplied to certain elements of the dwellings, it confuses details where it would be more appropriate to keep them simple and traditional. We would also suggest that the assessment of the Grade II* designated heritage assets on the Birch Road site plus the other Grade II designated heritage assets and non-designated heritage assets has not been sufficiently undertaken, in our opinion, and is not proportionate to the Grade II* status buildings to fulfil the requirement of paragraph 189 in this regard, especially.

It is noted from the DAS that during an initial consultation with the planning department that *"...the layout the advice was to loosen the arrangement close to the site entrance where too many car spaces dominate the street scene. The placement of the dwellings was considered to be broadly acceptable and it was suggested that the canal frontage would require careful consideration. The use of bungalows, with reduced separation distances between rear elevations, was considered acceptable and it was welcomed that they faced the canal to provide some activity along that side of the site."* However, there is only one dwelling which faces the canal – Plot 7 which is a tall two storey four bedroom dwelling. Would also wish to note that Plots 1-2, 7 and 16-17 are tall and we consider they should be reduced in height so that the corbel course provided the header to the first floor windows and there is less depth above the windows in the clad sections.

Moving to the design of the proposed dwellings. As alluded to above there is some concern regarding the proposed detailing as it is slightly confused, using both brick corbelling and an eaves board – a more traditional detail would have been to use brick corbelling with an extended eaves roof detail and a very small eaves board, purely there to affix rwgs to. This is seen in the designs for this site and should be amended. Overall the designs are quite monolithic in form throughout.

It is appreciated that the window locations tie into the floor layout of the dwellings, however, there are some elevations which face either the access road (frontage) or canal (frontage) which we consider should have a more considered elevation pattern, however, this mostly relates to plots 1-2, 7 and 16. We would also note that on some dwellings there is a particularly odd looking window design which has what only can be described as a fanlight over, this is not considered to be an appropriate design feature for this development.

Plots 10-15 – there is concern regarding the gable and how this impacts on the windows below it ie they do not have any headers and should not have both. We would suggest that the gable is removed and if the elevation requires some breaking up (which is likely) we would suggest that a slightly larger gabled porch could replace the full gable which would allow the corbel to run through to the porch, thus providing a head to the windows (if drawn as per the windows on the rear elevations ie no gap above).

Boundary to Plot 16 should match those of the adjacent plot to the existing development ie a stock proof fence and hedge planting which should continue the length of the southern boundary.

RECOMMENDATION:

We do not have an objection to the principle of the development of this land, however,

more information and amendment is required prior to any decision being issued.

As noted above we do not consider that there has been sufficient assessment of the designated heritage assets to come to the conclusion that there will be no harm to their significance. Therefore, we would suggest that further more proportionate assessment work is carried out in line with the requirements of the NPPF paragraphs 189, 193, 194, 196, 197, 200 and MD13 to enable an informed decision to be made.

Whilst some reference is made to how the design has been influenced it is not clear where this has come from and how it has been applied to fall in line with paragraph 192 and 200 of the NPPF. We would expect this to be clearly articulated as part of the clear and convincing justification required in para 192, including the materials proposed (notably the cladding).

We would remind decision takers that in making the planning balance required by paragraphs 196 of the NPPF, where public benefits are weighed against harm caused, great weight should be given to the assets conservation (paragraph 193 and 194) on the application of Section 66 (1) of the P(LB&CA) Act 1990 and also the application of Section 72 (1) of the P(LB&CA) Act 1990 for the desirability of preserving or enhancing of the character or appearance of the conservation area.

4.14 Highways Manager has responded to the application indicating:

There are no fundamental highway issues with the above mentioned planning application. I recommend the following Conditions be imposed.

Prior to any dwelling being first occupied the development estate road and footways shall be laid out in accordance with the approved drawings and constructed and drained in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate means of vehicular and pedestrian access to the dwellings.

Prior to the commencement of development a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority; the CMP shall be implemented fully in accordance with the approved details for the duration of the construction period.

Reason: In the interests of highway/pedestrian safety and local amenity.

4.15 SC Trees have responded indicating:

No objection to the proposed development, conditions are recommended.

There are a number of trees on this site. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur. The AIA has been prepared in accordance with BS 5837 (2012) and includes an assessment and categorisation of the tree based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate. The AIA has identified 30 trees and 4 sections of hedgerow on the site, sited on a soft landscape area between the site and the towpath of the Ellesmere branch of the Shropshire Union canal. No trees are proposed for removal to facilitate this development and the AIA has demonstrated that the retained trees can be protected to the required standard. A link path between the proposed development and the towpath is to

be formed through the area of trees and will encroach into the RPAs of some trees. To prevent damage to the tree the AIA proposes that the path will be formed using a 'no dig' CCS construction method. This is an acceptable method and is suitable in this application. Two trees are in proximity to dwellings on the south east corner of the site. The AIA has assessed the long term implications of the proximity of these trees on the future residential amenity of the property and has concluded that because of their size, position and orientation to the property, they are unlikely to significantly impact on the reasonable enjoyment of the properties in the long term. No objection are raised to the application providing all measures in the AIA and associated Arboricultural Method Statement and Tree Protection Plan are implemented. The following condition is recommended:

In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the last building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan and arboricultural method statement forming part of the planning application have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development

4.16 Public Comments

4.17 No record of any responses to this application from members of the public.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and landscape impact.
- Biodiversity
- Drainage
- Highways and transportation
- Historic environment
- Land contamination and residential amenity
- Section 106/Community Infrastructure Levy.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

6.1.2 The National Planning Policy Framework, (NPPF), has at its heart a 'presumption in favour of sustainable development.

6.1.3 In respect of the three objectives to sustainable development in the NPPF, the delivery of housing is a contributor to economic growth. The proposals will fulfil a social role by delivering a mix of affordable and open market housing to meet current and future needs with a range of tenures. There are environmental issues that are affected by the proposals, however, which weigh against the sustainability credentials of the scheme, although some mitigation is proposed that will redress the balance.

6.1.4 The Economic Role

The proposed development would be likely to deliver some economic benefits. These include:

- new homes bonus
- council tax receipts
- local expenditure by new residents
- construction jobs and supplies
- maintenance jobs for the public open space (POS).

While these are not especially significant in themselves and are to be expected with any major development, they have to be taken into account when considering whether the development represents sustainable development as defined in the NPPF.

6.1.5 The Social Role

Paragraph 8b of the NPPF states that the planning system should support communities in relation to health, social and well-being.

The development will deliver the following social benefits:

- residential development
- social housing
- recreational areas and equipped play areas that provide opportunities for new

- residents to interact with one another
 - a network of footpaths and cycle ways that link the development to the surrounding area and town
 - contributions towards upgrading local schools
 - adequate highway access.
- 6.1.6 The development proposal under consideration will provide 23 residential units which will form part of a larger residential development on a former brown field site adjacent to the sustainable settlement of Ellesmere. Provision for affordable housing in excess of the recognised local plan guidance is provided for.
- 6.1.7 The provision of public open space is required by policy. Detail in support of the application indicates open space provision to which the Council's Parks and Countryside Management raises no objections to the proposed open space provision as indicated. In relation to the 23 properties 50 bed spaces x 30sqm is 1500sqm public open space is required. 1107sqm is being provided which leaves a loss of 393sqm and in accordance with the response from the Council's Parks and Countryside Manager this is considered acceptable along with a financial contribution towards upgrade of existing public open space with the vicinity. Considering the location for the proposed development this is considered acceptable.
- 6.1.8 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.
- 6.1.9 In consideration of detail as set out on the landscape plan submitted in support of the application and the location for the proposed development, landscaping detail with conditions attached to any approval notice subsequently issued with regards to landscape detail and boundary treatments is considered acceptable.
- 6.1.10 The open space will be managed and maintained and the exact details of management and financial contributions will be subject to a Section 106 obligation.
- 6.1.11 Development of this scale potentially could have an impact upon the availability of local schools to absorb the potential number of school-age children resident on the development. This impact will be captured through the Community Infrastructure Levy. (CIL).
- 6.1.12 The social benefits likely to flow from the development carry a degree of weight, mainly in relation to the increased level of affordable housing which is in accordance with the minimum requirement set out in the development plan and the contributions towards local educational establishments. The public open space is more limited in value by virtue of how it is to be provided and its layout.
- The Environmental Role**
- 6.1.13 The proposed development concerns a brown field site allocated for housing and as such its redevelopment for Housing is a strong material consideration. Having regard to the environmental role of sustainable development, consideration is given here to the development's: (i) design, layout and scale and (ii) impact on landscape. The report covers ecological and habitat issues in more detail later on.

6.1.14 Development refers to construction of 23 dwellings, detail in support of the application indicates that eight will be bungalows, four of which will have 2 bedrooms, with the remaining four having _ 1 bedroom each. The fifteen remaining dwellings, which are to be two-storey will include three with 2 bedrooms, eight with 3 bedrooms and four with 4 bedrooms. Six of the dwellings will be classed as affordable dwellings, this is beyond what is required in accordance with Council policy on affordable housing provision. In consideration of amended plans received, (Initial concerns raised with regards to some design detail by SC Conservation, scale, design and layout is considered acceptable.

6.1.15 The site does not form part of any landscape designation, however the site is adjacent to the Ellesmere Conservation Area on it's immediate eastern side and impacts on this in principle are acceptable.

6.1.16 As such the principle of development on site is recognised and accepted and detail and material considerations in relationship to the application is discussed in more detail below.

Siting, scale, design and landscape impact.

6.2

6.2.1 Section 12: Achieving well-designed places of the NPPF advocates optimising the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks. The NPPF seeks to improve and enhance places where people live. This national policy is reinforced and expressed locally in Core Strategy Policy CS6 and SAMDev Policy MD2.

6.2.2 The application is made in 'full' and it is considered siting scale and design in relation to the proposal which is mainly for semi-detached dwellings, this is acceptable as discussed above. Public highway connection to the site is considered acceptable and it is noted the SC Highways Manager raises no objections to the proposal subject to a condition attached to any approval notice subsequently issued that estate roads and footpaths are installed in accordance with the approved plans.

Landscape

6.2.3 The application site is an allocated site for residential development in the Local Plan and the site is classed as a .brown field site, and therefore a strong material consideration on which basis to support the principle of development on site.

6.2.4 Policy CS6 sets out sustainable design and development criteria intended to influence the form of new development so that it respects and enhances local distinctiveness. Bullet point 4 of CS6 requires new development to protect, restore, conserve and enhance the natural, built and historic environment. It should also be appropriate in scale, density, pattern and design taking into account the local context and character and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies.

6.2.5 Policy MD2 requires all development to provide adequate open space, set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). For residential developments, the number of future occupiers will be based on a standard of one person per bedroom. For developments of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation. This should be provided as a single recreational area, rather than a number of small pockets spread throughout the

development site, in order to improve the overall quality and usability of the provision.

- 6.2.6 The application proposes open space alongside the eastern boundary of the site, the other side of which is located the Ellesmere Canal. There are a number of mature trees in this area and its provision as open space in relation to the development is considered acceptable. It is noted that the SC Parks and Countryside Manager raises no objections indicating that based on 30sqm per bed space the plan shows a total of: 23 properties 50 bed spaces x 30sqm is 1500sqm POS required 1107sqm is being provided which leaves a loss of 393sqm of POS. Off site contribution for this loss has been discussed with the developer. With consideration to the location and nearby open space and recreational facilities this is on balance considered acceptable and if Members are mindful to approve the application it is recommended that a Section 106 agreement refers to the open space provision and a financial contribution in lieu of the under provision.

- 6.2.7 As such in relation to scale, design and landscape and visual impact, development on site in principle is considered acceptable and in accordance with key Policies CS1, CS3, CS5, CS6, CS9, CS11 and CS17 of the Shropshire Core Strategy, Policies MD1, MD2, M3, MD7a, M12, MD13 and S8 of the SAMDev and the overall aims and objectives of the NPPF.

Biodiversity

- 6.3 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. It also places great weight on conserving and enhancing the natural environment. Core Strategy Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. Policy MD12 of the SAMDev, amongst other matters, encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.
- 6.3.1
- 6.3.2 The site all be it in a previous industrial use in accordance with agricultural land classification is consists of grade 3 land and has become overgrown with broadleaved woodland, scattered and dense scrub and poor semi-improved grassland present. The immediate surrounds of the site comprise residential development with agricultural land present predominantly to the south of the site.
- 6.3.3 SC Planning Ecology raises no objections to the proposed development recommending conditions with regards to ecological mitigation, bat and bird boxes, landscaping plan and lighting plan are attached to any approval notice subsequently issued. This is considered acceptable. A habitat regulations assessment is attached as appendix 2 to this report.
- 6.3.4 It is noted that the Council's Tree Manager also raises no objections to the proposal indicating that there are a number of trees on this site. An arboricultural impact assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur. The AIA has been prepared in accordance with BS 5837 (2012) and includes an assessment and categorisation of the tree based on their current and potential

public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. It is considered that the categories allocated to the trees is appropriate. and the Tree Manager recommends a condition to be attached to any approval notice in order to protect these trees during construction on site.

- 6.3.5 On biodiversity issues the proposed development with landscape mitigation as discussed above is considered acceptable and in accordance with key policies CS5 and CS17 of the Shropshire Core Strategy, MD12 of the SAMDev and the overall aims and objectives of the NPPF in relation to biodiversity and ecological issues.

Drainage

- 6.4 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. A flood risk and drainage assessment has been submitted with the application. This identifies that the proposed development falls within recognised flood zone area in accordance with the Environment Agency, (EA), flood risk data maps. (Mainly Zones 2 and 3 - higher risks) and thus a sequential test is required. The objective of the sequential test in the NPPF and the associated Technical Guidance is to direct new development to the least flood-prone areas: This scheme meets this objective and passes the sequential test.
- 6.4.1
- 6.4.2 The Environment Agency have responded to the application indicating no objections and that they acknowledge the applicants in accordance with an updated flood risk assessment in support of the application have undertaken modelling using the best available data for this location and therefore concur that this is the most accurate estimation of projected flood levels and outlines for this development.
- 6.4.3 The FRA has also repeated the intention to set finished floor levels at no lower than 88.35mAOD which is acceptable as it is no lower than 600mm above the design flood level. The EA have reiterated that there should be no raising of ground levels in order to achieve these floor levels on ground lower than 87.21mAOD as this would reduce the capacity of the flood plain and have potential impacts on 3rd party properties. Where the applicant to raise ground levels on ground below 87.21mAOD suitable flood storage compensation must be found elsewhere, and this would need to be approved by the prior full planning permission. The EA in their final response recommend conditions be attached to any approval notice issued with regards to finished floor levels and no development on land below 87.21m AOD, within the 1% plus climate change floodplain, or within 8metres of the top of bank of the main waterway. It is recommended that these conditions are attached to any approval notice subsequently issued.
- 6.4.4 The Council's Drainage Manager raises no objections subject to a condition in respect of surface and foul water drainage being attached to any approval notice issued. It is recommended that such a condition is attached to any approval notice in order to ensure a sustainable drainage system is installed in relation to the development and this concurs with advice received from the EA.
- 6.4.5 With consideration to the above-mentioned, flood and drainage matters are considered satisfactory and in accordance with policies CS6 and CS18 of the Shropshire Core

Strategy and the NPPF.

Highway access and transportation.

6.5

6.5.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

6.5.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic 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 reduced.

6.5.3 The applicants have submitted in support of their application a transport statement and this indicates access in to the site will be obtained from Bridgewater Street and that the development site is in a sustainable location, would not have a detrimental impact upon either the operation or safety of the local highway network, provides an appropriate quantum of car parking, and can be safely serviced.

6.5.4 SC Highways Manager has responded to the application with no objections recommending conditions with regards to a construction management plan and construction of the estate roads and footpaths are attached to any approval notice subsequently issued.

6.5.5 On transportation and highway matters the application is considered acceptable. As such the development on transportation issues considered to be in accordance with local plan policies CS1, CS3, CS6, CS8, MD2, MD3 and S8 and the overall aims and objectives of the NPPF in relation to sustainable transportation.

Historic environment.

6.6

6.6.1 A heritage impact assessment has been submitted in support of the application and this concludes stating it is considered that this proposal will incur some change within the setting of Ellesmere Conservation Area but it does not constitute harm which would render it unacceptable in terms of the National Planning Policy Framework. It has been designed in a form and location which is discreet in the landscape yet is a worthy addition to Shropshire’s stock of new housing. It is a sustainable proposal which ensures continued investment in the town supporting its historic buildings as they evolve in the 21st century.

6.6.2 In considering the proposal due regard to the following local policies need to be considered. Policy CS6 Sustainable Design and Development and CS17 Environmental Networks, MD2 sustainable Design, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published February 2019 and Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.6.3 The site is adjacent to the Ellesmere Conservation Area on it’s immediate eastern side. On this particular stretch of the canal there are a cluster of Canal related designated heritage assets of Grade II and Grade II* (the majority being Grade II*) listed status. The Canal itself is considered to be a non-designated heritage asset, as defined in Annex 2

of the NPPF, due to its age, cultural and social history, architectural and historic interest.

- 6.6.4 The Council's Conservation Manager in response to amended plans received has indicated that they do not have an objection to the principle of the development, but do have concerns in respect of the character and appearance of the proposed dwellings which will be compromised by certain elements of the proposed design. Concerns in particular relate to the eaves and verges (particularly the eaves and window head relationship and lack of roof overhang) and lack of context applied to this. It appears these details are being compromised by the thermal performance criteria which is being applied to this project. The response indicates that the development will not cause harm to the designated heritage assets (listed buildings identified) and that the desirability of preserving the buildings and their setting is satisfactory. However, the SC Conservation Manager considers that less than substantial harm will be caused to the character and appearance of the Ellesmere Conservation Area. This harm is stated as being at the lower end of less than substantial harm and relates to the development design detailing. As proposed, SC Conservation consider that the detailing is inappropriate and visually incongruous with the character and appearance of the Conservation Area, where many buildings are noted within the Conservation Area Appraisal to be characterised by *“... wide projecting roofs verges and eaves, sometimes with decorated barge boards. Early C19 buildings exhibiting delicacy and refinement in their detailing.”* (Ellesmere CA Appraisal, 2006).
- 6.6.5 The National Planning Policy Framework (NPPF) is a material consideration in the determination of planning applications. This advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance' (para 193).
- 6.6.6 Paragraph 190 indicates that, 'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal'.
- 6.6.7 Paragraph 196 of the NPPF indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.
- 6.6.8 Paragraph 194 indicates any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 6.6.9 Clearly the SC Conservation Manager raises concerns in respect of the application in that less than substantial harm will be caused to the character and appearance of the Ellesmere Conservation Area. This harm is stated as being at the lower end of less than substantial harm and relates to the development design detailing. The application site is classed as a brownfield site and its re-development will be at a considerable cost to the developer, to which the applicants have submitted detail in relation to abnormal and costs

for the site of £355,400 Further detail indicates that Shropshire Council have spent £237,300 on re-mediating the site. The total cost of re-mediating the Brownfield site therefore is £592,700.

6.6.10 The applicants consider that the aesthetic changes presented by the Conservation Team will result in either:

- Increase build costs which could lead to the development becoming financially unviable, or
- Delivery of less thermally efficient homes which do not achieve the minimum 20% improvement on thermal efficiency over current part L regulations that Cornovii Developments must achieve on all projects

6.6.11 On balance it is considered that the concerns as raised by the SC Conservation Manager are less than significant being rated in the lower end. Clearly the site is not located within the Conservation Area, but alongside it and the response from SC Conservation indicates no detrimental impacts on the setting of listed buildings. Concerns raised refer to detailing in relation to the proposed development, (the eaves and verges and window head relationship and lack of roof overhang and lack of context applied). It is considered that this matter can be adequately controlled by the attachment of appropriately worded conditions to any approval notice subsequently issued, as harm it is considered will be less than substantial and the costs to the applicants with regards to brownfield site remediation are considered a material consideration in relation to any potential slight detrimental impacts in relation to the setting of the Conservation Area to which previous development on site it is considered would of had more serious harm to the setting of the Conservation Area.

6.6.12 Overall whilst the concerns as raised by the SC Conservation Manager in relation to setting are noted, it is considered that in this instance there are material considerations as discussed that outweigh any potential harm that may be caused and that overall with appropriate conditions attached to any approval notice issued, on this matter, that overall the proposed development in relation to impacts on the historic environment are considered acceptable and broadly in accordance with the NPPF and the local policy framework as a whole, and therefore acceptable in relation to Section 72 (1) of the P(LB&CA) Act 1990 and the desirability of preserving and enhancing the character and appearance of the Conservation Area.

Land contamination and residential amenity.

6.7

6.7.1 The application is accompanied by a land contamination assessment, (site is classed as a brown field site), and its conclusions and recommendations are considered acceptable.

6.7.2 The Council's Regulatory Services Manager in response to the application has indicated no objections subject to a condition in relation to site investigation and land contamination and risk management is attached to any approval notice subsequently issued.

6.7.3 In relation to residential amenity and privacy on balance the proposal is considered acceptable. The costs in relation to land remediation as referred to in the preceding section of this report are noted.

In relation to land contamination and remedies along with residential amenity and privacy

- 6.7.4 matters the application is considered acceptable and in accordance with Policies CS6, MD2 and MD3 and the NPPF in relation to these matters.

Section 106/Community Infrastructure Levy.

- 6.8 Policy CS9 and CS11 of the Core Strategy seeks to secure provision of affordable housing either on the development site or, where appropriate, as an off-site financial contribution.
- 6.8.1 The applicant has agreed to the provision of affordable housing provision in excess of the required policy provision for this site, (6 dwellings), and as such the affordable housing provision is considered acceptable. This will be delivered through a Section 106 planning obligation. which will also make provision for the landscape contribution and management.

- 6.8.2 Appropriate delivery and funding of infrastructure associated with this development will be via CIL contributions and will be supplemented by on site delivery directly by the developer(s). It is considered that the contributions considered appropriate and necessary in relation to local infrastructure such as educational requirements are in line with the provisions of policies CS9 and CS11

CONCLUSIONS

- 7.0 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.1

- 7.2 The relevant local plan policies are set out below and the proposed scheme has been assessed against them. Other material planning considerations have also been considered in the assessment of the merits of the case. The proposed development forms part of the recognised development boundary for residential development within Ellesmere.

- 7.3 It is considered that development as proposed offers an acceptable range of dwellings and public open space along with a financial contribution towards improvements to existing open space/recreational facilities that is considered acceptable with consideration to the location and existing nearby open space provision.

- 7.4 Issues in relation to flooding drainage with the attachment of conditions to any approval notice issued are considered satisfactory, as are matters in relation to ecology and residential amenity and land contamination. A habitat regulations assessment is attached as appendix 2 to this report.

- 7.5 Residential design and scale along with landscape and visual impact is considered to be adequately addressed, with mitigation as proposed and this matter also subject to condition in order to ensure satisfactory consideration to landscape mitigation and integration into the surrounding environment. Historic matters have also been considered as part of the application processing and on balance with consideration to the material considerations as discussed in this report overall there are no concerns raised of significance on this latter issue.

- 7.6 Public highway access and impacts also considered acceptable.

7.7 It is noted that neither Ellesmere Town Council or Ellesmere Rural Council have raised no objections to the proposed development. Matters raised by the Canal and Rivers Trust have been taken into consideration with regards to the recommendation to the application.

7.8 It is considered that overall the proposal accords with the overall aims and provisions of the NPPF and as a whole the relevant Shropshire LDF policies CS1, CS3, CS6, CS8, CS9, CS11, CS17, CS18, MD1, MD2, MD3, MD8, MD12, MD13 and S8. As such the recommendation is one of approval subject to a S106 legal agreement in relation to affordable housing provision and open space provision and management and the conditions as set out in Appendix 1 and any amendments to these conditions as considered necessary by the Planning Services Manager.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 **Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of

‘relevant considerations’ that need to be weighed in Planning Committee members’ minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach
 CS3 - The Market Towns and Other Key Centres
 CS6 - Sustainable Design and Development Principles
 CS9 - Infrastructure Contributions
 CS11 - Type and Affordability of housing
 CS14 - Managed Release of Employment Land
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 MD1 - Scale and Distribution of Development
 MD2 - Sustainable Design
 MD3 - Managing Housing Development
 MD8 - Infrastructure Provision
 MD12 - Natural Environment
 MD13 - Historic Environment
 Settlement: S8 - Ellesmere
 National Planning Policy Framework
 SPD Type and Affordability of Housing
 SPD Developer Contributions
 SPD Sustainable Design Part 1

RELEVANT PLANNING HISTORY:

20/04019/FUL Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works PDE
 NS/07/01569/FUL Proposed erection of 3no sculptures along canal side CONAPP 3rd October 2007

18/01224/ADV Erect and display a freestanding notice board GRANT 23rd May 2018
 20/04019/FUL Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works PDE
 NS/03/00640/ADV Erection of advertisement/information board to serve canal users CONAPP 6th August 2003
 NS/93/00217/FULC CANAL HOUSE WHARF ROAD ELLESMERE
 ERECTION OF SINGLE STOREY EXTENSION TO
 DWELLINGHOUSE AND ERECTION OF PRIVATE TRIPLE
 GARAGE WITH ROOM OVER CONAPP 18th May 1993

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Ann Hartley
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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

4. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

5. Prior to the commencement of development a Reasonable Avoidance Measures Method Statement with respect to reptiles, great crested newts and badgers shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of reptiles, great crested newts and badgers

6. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance - Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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

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

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

7. Prior to the commencement of development a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority; the CMP shall be implemented fully in accordance with the approved details for the duration of the construction period.

Reason: In the interests of highway/pedestrian safety and local amenity

8. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local

Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements [e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots];
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Access layout and visibility splay in line with Highways requirements in order to demonstrate their compatibility with the retention of existing trees and hedges, or measures to replant or translocate hedges behind the visibility splay if required;
- d) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- e) Native species used are to be of local provenance (Shropshire or surrounding counties);
- f) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- g) Implementation timetables.

The plan shall be carried out as approved. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.

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

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

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

10. 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.

11. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be 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. All doors and windows shall be carried out in complete accordance with the agreed 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

12. Prior to first occupation / use of the building[s], the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority.

The following boxes shall be erected on the site:

A minimum of 8 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site prior to first use of the development. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 175 of the NPPF

13. Prior to first occupation / use of the building[s], the makes, models and locations of bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for

swifts (swift bricks or boxes), sparrows (32mm hole, terrace design), starlings (42mm hole, starling specific), house martins (house martin nesting cups), swallows (swallow nesting cups) and small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development.

The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

14. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

15. Prior to any dwelling being first occupied the development estate road and footways shall be laid out in accordance with the approved drawings and constructed and drained in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate means of vehicular and pedestrian access to the dwellings.

16. Notwithstanding the approved plans prior to the occupation of any dwelling on site, details will be submitted to the Local Planning Authority and approved in writing with regards to boundary treatments. Dwellings rear boundaries will be of hedgerow construction.

Reason: In order to ensure landscape and biodiversity mitigation in consideration of the surrounding area.

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

17. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the last building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority.

Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree

Protection Plan and arboricultural method statement forming part of the planning application have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable.

All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

Reason: To safeguard the amenities of the local area and to protect the natural features that

contribute towards this and that are important to the appearance of the development

18. Finished floor levels shall be set no lower than 88.35mAOD.

Reason: To protect the proposed dwellings from flood risk for the lifetime of the development.

19. There shall be no new structures (including gates, walls and fences) or raising of ground levels on land below 87.21m AOD, within the 1% plus climate change floodplain, or within 8metres of the top of bank of any Main River inside or along the boundary of the site.

Reason: To prevent any impact on flood flows and flood risk elsewhere.

Informatives

1. (1) The applicant/developer is advised to contact Canal & River Trust Infrastructure Services Team on 01782 779909 or Susan Higon -Works Engineer at Susan.Higon@canalrivertrust.org.uk or on 07484 901 304) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

(2) The applicant has signed and completed certificate B, however notice has not been served on the Trust. Based on the submitted details and the Trust's land ownership records, there may be a slight encroachment onto land within Trust ownership. Any use of land in within Trust ownership will require the prior consent of the Canal & River Trust. The applicant is advised to contact the Trust's Estate Management Team on 0303 040 4040 or email Jeff.Peake@canalrivertrust.org.uk directly to discuss this matter and to ensure that any necessary consents are obtained..

(3) The proposed development includes the creation of a new pedestrian access point onto the canal towpath. The applicant developer is advised to contact Trust's Estate Management Team on 0303 040 4040 or email Jeff.Peake@canalrivertrust.org.uk directly to discuss this matter and to ensure that any necessary consents are obtained.

2. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

3. Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings or other suitable nesting habitat should be carried out outside of the bird nesting season which runs from March to August inclusive.

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 or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and 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 / No clearance works can take place with 5m of an active nest.

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

Appendix 2 – Habitat Regulations Assessment.

Habitat Regulation Assessment

HRA Screening Matrix completed by: Fran Lancaster

Table 1: Details of project or plan

Name of plan or project	20/04019/FUL Land south of Bridgewater Street, Ellesmere Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works
Name and description of Natura 2000 site	<p>There are three European Designated Sites within 3km of the proposed development:</p> <p>Whitemere – Midland Meres and Mosses Ramsar phase 1 Cole Mere – Midland Meres and Mosses Ramsar phase 2 Clarepool Moss - Midland Meres and Mosses Ramsar phase 1 and West Midland Mosses SAC</p> <p>The Midland Meres and Mosses Ramsar is described as a 'Diverse series of lowland open water and peatland sites supporting habitats such as meres with associated fringing habitats, reed swamp, fen, carr and damp pasture. Peat accumulation has resulted in nutrient poor peat bogs (mosses) forming in some sites on the fringes of the meres or completely infilling basins. These habitats support a wide range of nationally important flora and fauna.'</p> <p>White Mere is included in the designation for its open water and carr habitats with the species <i>Carex elongata</i> and <i>Eleocharis acicularis</i>.</p> <p>Cole Mere is included in the designation for its open water, wet pasture and carr habitats with the species <i>Carex elongata</i>.</p> <p>Clarepool Moss is included in the Ramsar Designation for its open water and basin mire habitats with the invertebrate species dotted footman.</p> <p>Clarepool Moss is also part of the West Midlands Mosses SAC which is described as being '(184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs. West Midlands Mosses contains three notable pools, one at Clarepool Moss and two at Abbots Moss, that are examples of dystrophic lakes and ponds in the lowlands of England and Wales, where this Regulation 18 Pre-Submission Draft Shropshire Local Plan 2016-2038 : HRA August 2020 151 habitat type is rare. The pool at Clarepool Moss is unusual as a dystrophic type on account of its</p>

	relatively base-rich character, which is reflected in the presence of a diverse fauna and flora. The West Midland Mosses SAC sites also display excellent examples of spatial transitions from very acidic communities to base-rich vegetation and from open water to terrestrial habitats, as well as temporal transitions from base-rich vegetation to rain-fed bog vegetation.'
Description of the plan or project	20/04019/FUL Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No Foul sewage on the site is being disposed of to mains sewer. The proposal is for a small number of caravans over 1km from the nearest European Site and separated from those sites by significant areas of farmed land and natural/semi-natural habitats and also by the Shropshire Union canal. There is no likely impact from significantly increased recreation on these sites as a result of such a small scale proposal. Significant areas of natural habitat and green space are proposed to be provided on the site. No potential effect pathway has been identified by which the proposed development might impact upon the European Designated Site.
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	Not applicable – where no potential effect pathway has been identified an in-combination effects test is not required.

HRA Screening Statement:

Foul sewage on the site is being disposed of to mains sewer. The proposal is for a small number of caravans over 1km from the nearest European Site and separated from those sites by significant areas of farmed land and natural/semi-natural habitats and also by the Shropshire Union canal. There is no likely impact from significantly increased recreation on these sites as a result of such a small scale proposal. Significant areas of natural habitat and green space are proposed to be provided on the site.

No potential effect pathways are identified by which the proposed development has the potential to impact upon the European Designated Sites.

Test 1: The Significance test

There is no likely significant effect upon any European Designated Site resulting from the proposed development reference 20/04019/FUL at Land south of Bridgewater Street, Ellesmere Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works.

Appropriate Assessment Statement (If required):

Not required

Test 2: The Integrity test

There is no likely effect upon the integrity of any European Designated Site resulting from the proposed development reference 20/04019/FUL at Land south of Bridgewater Street, Ellesmere Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works.

Conclusions

There is no likely significant effect and no likely significant effect upon any European Designated Site resulting from the proposed development reference 20/04019/FUL at Land south of Bridgewater Street, Ellesmere Erection of mixed residential development of 23No dwellings, formation of vehicular and pedestrian access, amenity space and associated works.

Guidance on completing the HRA Screening Matrix**The Habitat Regulation Assessment process**

Any plan or project with the potential to impact upon a European Designated Site (SAC, SPA or Ramsar) must legally be assessed under the Habitat Regulation Assessment (HRA) process. The HRA screening process essentially considers two tests:

Test 1 The significance test

Is the proposed plan or project either likely to have a significant effect on a European Designated Site either alone or in-combination?

If the answer to test 1 'significance' is 'yes' or 'unknown' then an Appropriate Assessment must be undertaken by the Local Planning Authority (known as the Competent Authority).

Test 2 The integrity test

In light of the conclusions of the Appropriate Assessment the Competent Authority may agree to the plan or project only having ascertained that it will not adversely effect the integrity of the European Site.

Appropriate Assessment

If during consideration of the 'Significance' test a likely significant effect is identified or a potential effect pathway between the proposal and the European Site is identified then further consideration is required. This further consideration is known as an Appropriate Assessment.

The scale and scope of an Appropriate Assessment varies significantly depending upon the type of plan or project being assessed. The Competent Authority may need to seek additional information from planning applicants to allow an Appropriate Assessment of planning applications to be undertaken.

When undertaking an Appropriate Assessment the Local Planning Authority must formally consult Natural England and must have regard to the representations of Natural England in making its decision. (In the presence of a Natural England objection on HRA grounds a planning permission cannot legally be granted until NE's objection has been addressed and formally withdrawn).

Habitat Regulation Assessment Conclusions

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority is a whole to:

1. Fully engage with the Habitats Regulation Assessment process;
2. To have regard to the response of Natural England;
3. To determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision;
4. To record the HRA decision in the planning officer's site report and to discuss the application and record the discussion and its outcome in the minutes of any committee meeting at which the planning application is discussed.