



Date: Wednesday, 6 April 2022
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Venue: Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND
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CABINET

TO FOLLOW REPORT (S)

7 Consultation on a Draft Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements (Pages 1 - 32)

Lead Member – Councillor Ed Potter – Portfolio Holder for Economic Growth, Regeneration and Planning

Report of Mark Barrow, Executive Director of Place – TO FOLLOW

Tel: 01743 258916

8 Application by Tasley Parish Council for Tasley Parish to be considered as a Neighbourhood Area (Pages 33 - 46)

Lead Member – Councillor Ed Potter – Portfolio Holder for Economic Growth, Regeneration and Planning

Report of Mark Barrow, Executive Director of Place – TO FOLLOW

Tel: 01743 258916

9 Land at Shrewsbury Flaxmill (Road Frontage) Compulsory Purchase Order (Pages 47 - 218)

Lead Member – Councillor Ed Potter – Portfolio Holder for Economic Growth, Regeneration and Planning

Report of Mark Barrow, Executive Director of Place – TO FOLLOW

Tel: 01743 258916



<u>Committee and Date</u>
Cabinet
6 April 2022

<u>Item</u>
<u>Public</u>

Consultation on a Draft Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements

Responsible Officer Mark BARROW, Executive Director of Place

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1. Synopsis

- 1.1 A proposal to consult on a policy that will set out Shropshire Council's approach to the enforcement and determination of financial (civil) penalties in circumstances where persons engaged in letting agency work and property management business fail to comply with legislative requirements.

2. Executive Summary

- 2.1. The Council, in its capacity as the local weights and measures authority, has a statutory responsibility to regulate specific aspects of the letting agency and property management market through ensuring that tenants are only charged permitted fees, that letting agents, where necessary, are members of a redress scheme and a client money protection scheme and that letting agents' fees and charges are transparent and displayed/publicised appropriately.
- 2.2. The Tenant Fees Act 2019 ('the 2019 Act') was introduced to make renting fairer and more affordable for tenants by reducing the costs at the outset of a tenancy by introducing a ban on certain fees payable by the tenant and also creating a 'permitted payment' regime.
- 2.3. The 2019 Act also amended other legislation referred to as 'relevant letting agency legislation' requiring, where necessary, membership

of client money protection and redress schemes as well as provisions concerning the prominent display/publication of

information about such membership together with information about relevant fees.

- 2.4. Where evidence of infringements under the 2019 Act or 'relevant letting agency legislation' is identified, the Council may, in certain circumstances, consider issuing a financial penalty for a civil breach or, as an alternative to prosecution, in respect of a criminal offence. The level of the financial penalty varies depending on the actual infringement; however, it can be as much as £30,000 in certain circumstances.
- 2.5. Where the Council wishes to utilise financial penalties for breaches for any of these infringements, statutory guidance accompanying the legislative controls clearly states that the Council is expected to develop, document and publish a policy, which sets out how it will determine the appropriate level of any financial penalty.
- 2.6. In line with the statutory guidance, a draft policy setting out the Council's approach to enforcement and the determination of any financial penalty has been produced for consultation and is set out at Appendix A.

3. Recommendations

- 3.1. That Cabinet approves for consultation, with any necessary amendments, the draft Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements, as set out at Appendix A.
- 3.2. That Cabinet instructs the Head of Business and Consumer Protection to undertake a six-week period of consultation and to bring the draft Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements, together with all feedback received from the consultation, back to Cabinet for further consideration and final approval.

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. The preparation and publishing of the Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements ('the Policy') is not in itself a legal requirement; however, the statutory guidance listed below, which has been published by the Ministry of Housing, Communities & Local Government ('MHCLG')¹, makes it clear that the Council must have due regard to this guidance when considering enforcement action and whether to impose a financial penalty:
- Tenant Fees Act 2019: statutory guidance for enforcement authorities
 - Mandatory Client money protection: enforcement guidance for local authorities
- 4.2. This statutory guidance recommends certain factors that the Council should take into account when deciding on the level of financial penalty to impose and further requires that the Council develops, documents and publishes a policy on how it will determine the appropriate level of any financial penalty. The Council should also decide each matter on a case-by-case basis, in line with that policy.
- 4.3. The National Trading Standards Estate and Letting Agency Team (NTSELAT) is the Lead Enforcement Authority as arranged by the Secretary of State under section 24 of the 2019 Act. The NTSELAT is responsible for, amongst other duties, overseeing the enforcement of relevant letting agency legislation in England.
- 4.4. The NTSELAT has developed a best practice policy which it has made available to all Councils. The draft policy set out at Appendix A follows the provisions and processes set out in the NTSELAT policy.
- 4.5. Utilising the NTSELAT policy as the basis for the Council's policy means the Council can demonstrate that it has followed best practice and has had due regard to the requirements of the statutory guidance, whilst also ensuring enforcement action is considered and applied in a manner consistent with other councils across England.
- 4.6. The Council could impose financial penalties in relation to infringements of relevant letting agency legislation without a policy in place. However, by choosing to develop, document and publish a policy, this provides a framework for the Council to enable reasonable decisions to be made and to mitigate the reputational and financial risks that may result from any legal challenge.

¹ Now the Department for Levelling Up, Housing & Communities (DLUHC)

- 4.7. A failure to adopt a policy may also limit the ability of the Council to protect tenants from unscrupulous letting agents and property management businesses.
- 4.8. There is also a risk that having no policy in place will increase the likelihood of legal challenge to any financial penalty that is imposed and ultimately may lead to decisions to impose penalties being overturned on appeal at a First-tier Tribunal. Whilst the Tribunal is an informal body, it nevertheless has the power to confirm, vary or quash a decision made by the Council, including increasing or reducing the level of any financial penalty imposed by the Council.
- 4.9. The Government has made it clear that offenders must not derive any financial benefit from their offending and Tribunals have been briefed on what is expected of them in relation to the use of financial penalties. Whilst the Council's use of these powers remains untried and untested, there is growing evidence that other councils are successfully using the powers where it is appropriate to do so.
- 4.10. In the event that there is a legal challenge against the imposition of a financial penalty, the Policy will increase the likelihood that the Council will be able to successfully defend such a challenge. However, it is impossible to entirely eliminate the legal risks associated with the use of financial penalties; nevertheless, the Policy will assist the Council to mitigate the risks associated with any adverse outcome.
- 4.11. The Policy does not stand alone; it is intended to be read and considered alongside the Council's Better Regulation and Enforcement Policy, which was itself formally agreed by Council on 25 July 2018. The implementation of the Policy, together with the Council's Better Regulation and Enforcement Policy, will provide a framework that will better enable the Council to ensure the protections available to tenants, who can often be considered vulnerable due to their circumstances, are being met.
- 4.12. There is a risk that any substantial increase in the number of investigations into infringements of 'relevant letting agency requirements', where financial penalties are an option, is likely to give rise to a corresponding pressure on existing and limited staffing resources, including resources within Legal Services.
- 4.13. Whilst there are 'relevant letting agency requirements' that may result in a civil breach and a financial penalty being imposed based on the balance of probability standard of proof, where financial penalties are being considered as an alternative to prosecution, the Council will still have to be satisfied that if the case were to be prosecuted in the Magistrates' Court, there would be a realistic prospect of conviction, i.e., the standard of proof remains the same

as if the decision had been taken to institute legal proceedings. In such cases, the Council needs to demonstrate, beyond reasonable doubt, that the offence has been committed before imposing a financial penalty. For this purpose, officers involved in cases will consult the Crown Prosecution Service Code for Crown Prosecutors and liaise with Legal Services before any decision is made to impose a financial penalty.

- 4.14. Together with human rights considerations, an Equality, Health and Social Inclusion Impact Assessment (EHSIA) is currently being undertaken. It is anticipated that the outcome will demonstrate an increased positive impact on health, equality, and social inclusion, and no unjustified adverse impact on human rights. The conclusions from these considerations and the formal assessment will be brought before Cabinet, together with the feedback from the consultation, and the outcome of these will inform the final content of the Policy.
- 4.15. The consultation will be made available on the Council's website and will be open to the public and all stakeholders to put forward their comments. Any key stakeholders will be contacted directly and signposted to the consultation details on the Council's website.

5. Financial Implications

- 5.1. The costs associated with the investigation of any criminal matter can be significant, particularly where the matter is contested in the courts. The introduction of financial penalties will, to some extent, reduce the financial burden on the Council insofar as it relates to undertaking legal action in the criminal courts. However, where a civil penalty is imposed, the recipient has the right of appeal to a First-tier Tribunal and any unfavourable outcome may adversely affect the Council's income.
- 5.2. Proceeds of any financial penalty imposed under the 2019 Act or the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 can be retained by the Council to meet the costs incurred in, or associated with, carrying out any of its enforcement functions under the Act/Regulations or otherwise in relation to the private rented sector. Any proceeds of a financial penalty recovered which are not applied in this way must be paid to the Secretary of State/into the Consolidated Fund.
- 5.3. Proceeds of any financial penalty imposed under the Consumer Rights Act 2015 or the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 can be retained by the Council for the purposes of any of its functions.

- 5.4. The fact that proceeds of financial penalties can be retained by the Council will not result in those services that can use these powers becoming self-financing. There are reputational and financial risks associated with funding the relevant statutory services from financial penalties as the penalties are an enforcement, not income generating, tool and consequently must be used in a reasonable and proportionate manner, in line with the principles of good regulation, to secure compliance and long-standing behaviour change.
- 5.5. Furthermore, non-payment of a financial penalty becomes a civil debt and must be pursued through the Council's debt recovery process, which, in itself, incurs additional costs both in terms of officer time and financial payments.

6. Climate Change Appraisal

- 6.1. It is acknowledged that the Policy is expected to have a 'no effect' outcome on the climate change impacts listed below:
- energy and fuel consumption (buildings and/or travel)
 - renewable energy generation;
 - carbon offsetting or mitigation; and
 - climate change adaptation.
- 6.2. There are no other anticipated environmental impacts associated with the recommendations in this report.

7. Background

- 7.1. The legal framework underpinning the private rented sector aims to build a fair and robust sector that protects tenants, supports landlords and empowers councils. The Government wants a fair private rental market where services are paid for by the person that contracts them; this is what the 2019 Act helps to achieve.
- 7.2. Shropshire has a wide range of good letting agents and property management businesses who take their legal and social responsibilities seriously. However, there are also a number of rogue, criminal and irresponsible agents and businesses who operate poor practices and/or knowingly flout their legal obligations. These practices and behaviours increase financial detriment and impact on the health and wellbeing of the most vulnerable in our communities, as well as creating an unfair trading environment that undermines the operation of legitimate and law-abiding businesses.
- 7.3. The Council, as the Local Weights and Measures Authority, has a statutory duty to enforce specified provisions under the 2019 Act, which was introduced to restrict the charges and fees that landlords

and estate agents may impose on tenants by introducing a 'permitted payment' only regime.

- 7.4. In addition to the 2019 Act, other legislative controls referred to as 'relevant lettings agency legislation' also exist, which provide powers to the Council to protect tenants. These are listed in paragraphs 7.5 to 7.7 below.
- 7.5. Under the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, letting agents and property managers who hold client money must belong to a government approved Client Money Protection scheme ('CMP scheme') and comply with transparency requirements concerning the displaying and providing of copies of their membership certificates.
- 7.6. Under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, a person who engages in lettings agency or property management work must be a member of an approved 'redress scheme'. A redress scheme is a scheme which provides for complaints against members of the scheme to be investigated and determined by an independent person.
- 7.7. Under the Consumer Rights Act 2015, letting agents must publish:
- a list of relevant fees they charge landlords and tenants; and
 - together with the list of fees, details of both the CMP scheme and the redress scheme they belong to.

8. Additional Information

- 8.1. Trading Standards Officers, based in the Business and Consumer Protection Service, are already authorised to enforce the 2019 Act and 'relevant letting agency legislation'.
- 8.2. The 2019 Act and 'relevant letting agency legislation' is considered alongside other legislation that gives the Council the power to protect tenants and tackle poor practice by landlords and letting agents. This includes the Housing Act 2004; the Enterprise and Regulatory Reform Act 2013; the Consumer Rights Act 2015 and the Housing and Planning Act 2016.
- 8.3. The 2019 Act applies to Assured Shorthold Tenancies, student accommodation and to lodgers or tenants in houses of multiple occupation (HMO). In addition, the 2019 Act applies to housing associations and local authorities, i.e. including the Council, where

they are letting an assured shorthold tenancy in the private rented sector.

- 8.4. The 2019 Act does not apply to long leases or shared ownership leases where the tenant's total share is 100%; specific definitions apply in relation to these types of leases.
- 8.5. The Council, as the local housing authority, together with Shropshire Towns and Rural Housing (STARH), who act on the Council's behalf, are not 'relevant persons' under the 2019 Act. They can continue to make payments in connection with a tenancy when acting on behalf of a tenant or guaranteeing their rent.
- 8.6. Certain charities, usually a registered Homeshare organisation, that help facilitate home sharing arrangements in the private rented sector, which have a social benefit, are also excluded from the requirements of the 2019 Act.

9. Conclusions

- 9.1. In order to ensure that the Council can utilise financial penalties as an effective enforcement tool and to promote compliance with the Tenant Fees Act 2019 and the 'relevant letting agency legislation', it is best practice and in line with statutory guidance for the Council to develop and publish a policy determining how it will administer financial penalties for breaches of relevant letting agency requirements.
- 9.2. A draft policy for the enforcement and determination of financial penalties for breaches of relevant letting agency requirements has now been produced and is ready for formal consultation. Cabinet members are being asked to agree to and approve the consultation process for the draft policy.

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

Shropshire Council's Better Regulation and Enforcement Policy (approved by Council, July 2018)

Statutory guidance published by the Ministry of Housing, Communities and Local Government (now Department for Levelling Up, Housing and Communities):

Cabinet - 6 April 2022 – Policy for the enforcement and determination of financial penalties for breaches of relevant letting agency requirements.

- Tenants Fees Act 2019: statutory guidance for enforcement authorities (first published May 2019)
- Mandatory client money protection: enforcement guidance for local authorities (first published May 2019)

Cabinet Member (Portfolio Holder)

CLlr Ed Potter, Portfolio Holder for Economic Growth, Regeneration & Planning

Local Member

The report has county wide application

Appendices

Appendix A – Draft Policy for the enforcement and determination of financial penalties for breaches of relevant letting agency requirements

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Shropshire Council

Policy for the enforcement and determination of financial penalties for breaches of relevant letting agency requirements

CONSULTATION VERSION

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1.0 Introduction

- 1.1 Shropshire Council ('the Council') is committed to ensuring that any person operating as a letting agent or who is involved in property management complies with the legal requirements imposed upon them to ensure both an equitable and level marketplace and that the protections afforded to individuals are adhered to.
- 1.2 The Council has the power to authorise officers to act against non-compliant businesses in order to protect consumers and we recognise that often individuals seeking accommodation can be in a vulnerable position.
- 1.3 The legal framework governing letting agents and those involved in property management provides the Council with the opportunity to issue financial penalties (civil penalties) as an alternative to undertaking criminal prosecutions for breaches and requires the Council to publish a policy on how it will determine the level of any penalty.
- 1.3 The Council has developed this policy on determining the level of financial penalties and the appropriateness of prosecution (as an alternative to imposing financial penalties) under the relevant letting agency legislation.

Under this policy, "relevant letting agency legislation" means:

1. The Tenant Fees Act 2019,
2. An order under Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013¹; and
3. Regulations under Sections 133 – 135 of the Housing and Planning Act 2016²;
4. Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to dwelling houses in England.

2.0 Sanctions available under the relevant letting agency legislation

- 2.1 The Tenant Fees Act 2019 ('TFA 2019') provides that enforcement authorities may impose financial penalties of up to £30,000 depending on the breach as follows:
- a. In respect of a first breach of s1 & s2, or a breach of Schedule 2 of the TFA 2019, a financial penalty not exceeding £5,000.
 - b. Under s12 of the TFA 2019 a second or subsequent breach of S.1 or S.2 within 5 years of the previous breach provides for a financial penalty not exceeding £30,000.00 and there is alternative power to prosecute in the Magistrates Court where an unlimited fine may be imposed.
- 2.2 In respect of a failure by any person engaged in Letting Agency or Property Management work who fails to hold membership of a Redress Scheme as required by Article 3 of The Redress Schemes for Lettings Agency Work and Property Management Work (requirement to belong to a Scheme etc.) England) Order 2014

¹ Pertaining to The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

² Pertaining to The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

(in respect of Lettings Agency work) or Article 5 (in respect of property management work) to a financial penalty not exceeding £5,000. (Note that it is not sufficient to simply register for redress – the correct category of membership must be obtained depending on the work carried out.)

2.3 In respect of the Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019:

- a. a failure by a property agent, who holds client money, to belong to an approved or designated Client Money Protection (“CMP”) Scheme as required by Regulation 3, a financial penalty not exceeding £30,000 or
- b. a failure to display a certificate of membership; or publish a copy of that certificate on the relevant website (where one exists); or produce a copy of the certificate free of charge to any person reasonably requiring it as required; or notify any client in writing within 14 days of a change in the details of a underwriter to the CMP scheme or that the membership of the CMP scheme has been revoked, as required by Regulation 4, a financial penalty not exceeding £5,000.

2.4 In respect of a failure of Letting Agents to publicise their fees including information pertaining to their membership of a redress and/or CMP scheme as required by Section 83 of the Consumer Rights Act 2015, a financial penalty not exceeding £5,000.

2.5 In determining what is the most appropriate and effective sanction in any case (with action ranging from advice or written warnings through to more formal actions including prosecution or financial penalties), the Council will have due regard to the [Shropshire Council Better Regulation and Enforcement Policy](#) in addition to this policy.

3.0 Statutory Guidance

3.1 The Ministry of Housing, Communities & Local Government (“MHCLG”) has published guidance for enforcement authorities in respect of the Tenant Fees Act 2019 - [“Tenant Fees Act 2019: Statutory Guidance for enforcement authorities”](#) and in respect of Client Money Protection Requirements – [“Mandatory Client money protection for property agents – enforcement guidance for local authorities”](#)

3.2 This is statutory guidance to which the Council must have regard to when considering imposing a financial penalty. This statutory guidance recommends certain factors that the Council should take into account when deciding on the level of financial penalty to impose and further recommends that the Council develops and documents its own policy on determining the appropriate level of financial penalty in a particular case.

3.3 The Council has utilised the approach taken by the Lead Enforcement Authority (LEA) for relevant letting agency legislation on how it will determine financial penalties. By utilising this mechanism in line with the LEA, the Council will ensure a consistent and fair approach.

4.0 Determining the level of the financial penalty

- 4.1 In accordance with the provisions of the TFA & CMP statutory guidance, the following factors should be considered by the Council when determining the level of penalty to impose for a breach of relevant letting agency legislation:
- a. Severity of the breach
 - b. Punishment of the landlord or agent
 - c. Aggravating and mitigating factors
 - d. Fairness and proportionality
- 4.2 Each of these factors are explained in more detail in the statutory guidance which should be referred to for each penalty considered. For ease, the same considerations will be applied in cases of redress membership and breaches of S.83 Consumer Rights Act 2015.
- 4.3 Although the Council has wide discretion in determining the appropriate level of financial penalty in any particular case, regard has been given to the statutory guidance when making this policy.
- 4.4 The appendices which follow provide the processes for assessment and levels of financial penalty that the Council will look to impose. It follows the model developed by the LEA, which is considered to be a fair, relevant and reasonable model to follow as the documents upon which it was based were widely consulted on with various stakeholders.
- 4.5 Appendix 1 of this policy contains the process that the Council will use in order to determine the level of financial penalty under the above-mentioned legislation in so far as they relate to letting agents. It provides the considerations for determining the culpability and harm category which will be used alongside other factors to increase and/or decrease the scale of any financial penalty. All stages subsequent to the issue of a Notice of Intent are subject to statutory time limits and the suspension of the process should an appeal be made to the First Tier Tribunal.
- 4.6 Appendices 2 and 3 of this policy provides clarity over who will be considered 'vulnerable' for the purposes of this policy and the types of other offences/convictions that are relevant when considering/determining a financial penalty.
- 4.7 Appendices 4-9 of this policy provide the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:
- Appendix 4 - First breach in respect of a Prohibited Payment
 - Appendix 5 - Second & subsequent breach in respect of a Prohibited Payment
 - Appendix 6 - Breach of Publication of Fees requirements
 - Appendix 7 - Breach in respect of membership of a Redress Scheme
 - Appendix 8 - Breach in respect of membership of a Client Money Protection Scheme

- Appendix 9 - Breach of transparency requirements of membership of a Client Money Protection Scheme

CONSULTATION VERSION

Appendix 1 – The Council’s process for determining the level of penalty to set

STEP ONE – Determining the category

The Council will determine the ‘breach category’ using only the culpability and category of harm factors below. Where a breach does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment. Other discretionary factors may also be applied in order to reflect consistency and may consider decisions in other UK jurisdictions where they contain some relevant and persuasive content.

Culpability

Very high: Where the Landlord or Agent intentionally breached, or flagrantly disregarded, the law or has/had a high public profile³ and knew their actions were unlawful

High: Actual foresight of, or wilful blindness to, risk of a breach but risk nevertheless taken

Medium: Breach committed through act or omission which a person exercising reasonable care would not commit

Low: Breach committed with little fault, for example, because:

- significant efforts were made to address the risk although they were inadequate on the relevant occasion
- there was no warning/circumstance indicating a risk
- failings were minor and occurred as an isolated incident

Harm

The following factors relate to both actual harm and risk of harm. Dealing with a risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does.

Category 1 – High Likelihood of Harm

- Serious adverse effect(s) on individual(s) and/or having a widespread impact due to the nature and/or scale of the Landlord’s or Agent’s business
- High risk of an adverse effect on individual(s) – including where persons are vulnerable⁴

Category 2 – Medium Likelihood of Harm

- Adverse effect on individual(s) (not amounting to Category 1)
- Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect.
- Tenants and/or legitimate landlords or agents substantially undermined by the conduct.
- The Council’s work as a regulator is inhibited
- Tenant or prospective tenant misled

Category 3- Low Likelihood of Harm

- Low risk of an adverse effect on actual or prospective tenants.

³ Which may include any significant role in a trade or business representative organisation

⁴ A wide definition of vulnerability will be used. See Appendix 2 for a non-exhaustive list.

- Public misled but little or no risk of actual adverse effect on individual(s)

We will define harm widely and victims may suffer financial loss, damage to health or psychological distress (especially vulnerable cases). There are graduations of harm within all of these categories.

The nature of harm will depend on personal characteristics and circumstances of the victim and the assessment of harm will be an effective and important way of taking into consideration the impact of a particular breach on the victim.

In some cases no actual harm may have resulted and the Council will be concerned with assessing the severity of the misconduct; it will consider the likelihood of harm occurring and the gravity of the harm that could have resulted.

Community harm

Some breaches cause harm to the community at large (instead of or as well as to an individual victim) and may include economic loss, harm to public health, or interference with the administration of justice.

STEP TWO - Starting point and category range

Having determined the category that the breach falls into, the Council will refer to the following starting points to reach an appropriate level of financial penalty within the category range. The Council will then consider further adjustment within the category range for aggravating and mitigating features.

Obtaining financial information

The statutory guidance advises that the Council can use its powers to, as far as possible, make an assessment of a Landlord or Agent's assets and any income (not just rental or fee income) they receive when determining an appropriate penalty. The Council will use such lawful means as are at its disposal to identify where assets might be found.

In setting a financial penalty, the Council may conclude that the Landlord or Agent is able to pay any financial penalty imposed unless the Council has obtained, or the Landlord or Agent has supplied, any financial information to the contrary. The subject of a Final Notice, or a Notice of Intent where the subject does not challenge it, will be expected to disclose to the Council such data relevant to his/her financial position to facilitate an assessment of what that person can reasonably afford to pay. Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the person's means from evidence it has received, or obtained through its own enquiries, and from all the circumstances of the case which may include the inference that the person can pay any financial penalty.

Starting points and ranges

The tables in Appendices 4-9 below give the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:

- Appendix 4 First breach in respect of a Prohibited Payment
- Appendix 5 Second & subsequent breach in respect of a Prohibited Payment
- Appendix 6 Breach of Publication of Fees requirements
- Appendix 7 Breach in respect of membership of a Redress Scheme

- Appendix 8 Breach in respect of membership of a Client Money Protection Scheme
- Appendix 9 Breach of transparency requirements of membership of a Client Money Protection Scheme (Regulation 4).

Context

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent. The Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. In particular, relevant recent convictions⁵ are likely to result in a substantial upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range, which will not exceed the statutory maximum permitted in any case.

Factors increasing seriousness

Aggravating factors:

- Previous breaches of the TFA 2019 or relevant letting agency legislation
- Previous convictions, having regard to:
 - the nature of the offence to which the conviction relates and its relevance to the current breach; and,
 - the time that has elapsed since the conviction.

Other aggravating factors may include:

- Motivated by financial gain
- Deliberate concealment of illegal nature of activity
- Established evidence of wider / community impact
- Obstruction of the investigation
- Record of poor compliance
- Refusal of advice or training or to become a member of an Accreditation scheme

Factors reducing seriousness or reflecting personal mitigation

- No previous or no relevant/recent breaches
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of relationship with tenants
- Self-reporting, co-operation and acceptance of responsibility
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence

STEP THREE - General principles to consider in setting a penalty

The Council will finalise the appropriate level of penalty so that it reflects the seriousness of the offence and the Council must take into account the financial circumstances of the

⁵ See Appendix 3 for a list of relevant convictions

Landlord or Agent if representations are made by the Landlord or Agent following the issue of a Notice of Intent.

The level of financial penalty should reflect the extent to which the conduct fell below the required standard. The financial penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the breach; it should not be cheaper to breach than to take the appropriate precautions and a fundamental principle involved is that there should be no financial gain to the perpetrator from the commission of the breaches.

If issuing a financial penalty for more than one breach, or where the offender has already been issued with a financial penalty, the Council will consider whether the total penalties are just and proportionate to the offending behaviour and will have regard to the factors in STEP EIGHT below.

STEP FOUR- Issue Notice of Intent

In respect of prohibited payments, publication of fees, etc., and client money protection membership and transparency requirements, the Council will issue a Notice of Intent before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the breach. In respect of redress membership, the notice of intent must be served within 6 months of the date on which the enforcement authority is first satisfied of the failure to comply with Article 3 or Article 5. If the breach is ongoing the 6-month deadline continues until the breach ceases. A Notice of Intent can be served spontaneously.

While there are slight variations in the statutory requirements according to which breach is being addressed, a Notice of Intent will contain the amount of the proposed penalty, the reason for imposing the penalty and information about the right to make representations concerning the penalty. In respect of the TFA 2019, the date of service is also required on the Notice of Intent.

STEP FIVE – Consideration of representations and review of financial penalty where appropriate

The Council should review the penalty and, if necessary, adjust the initial amount reached at STEP FOUR, and represented in the Notice of Intent, to ensure that it fulfils the general principles set out below.

Any quantifiable economic benefit(s) derived from the breach, including through avoided costs or operating savings, should normally be added to the total financial penalty arrived at in step two, providing it doesn't increase the penalty over the prescribed maximum. Where this is not readily available, the Council may draw on information available from enforcing authorities and others about the general costs of operating within the law. Whether the penalty will have the effect of putting the offender out of business will be relevant but in some serious cases this might be an acceptable outcome.

STEP SIX – Reductions

The Council will consider any factors which indicate that a reduction in the penalty is appropriate and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):

- The impact of the financial penalty on the Landlord or Agent's ability to comply with the law or make restitution where appropriate
- The impact of the financial penalty on employment of staff, service users, customers and the local economy.

The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender accepted liability
- The circumstances in which they admitted liability
- The degree of co-operation with the investigation

The maximum level of reduction in a penalty for an admission of liability will be one-third. In some circumstances there will be a reduced or no level of discount. This may occur, for example, where the evidence of the breach is overwhelming or there is a pattern of breaching conduct.

Any reduction should not result in a penalty which is less than the amount of gain from the commission of the breach itself.

STEP SEVEN - Additional actions

In all cases the Council must consider whether to take additional action. These may include further enforcement action itself or reference to other organisations where appropriate.

STEP EIGHT – Totality of breaching conduct

Where more than one financial penalty has been considered, the Council should consider the following guidance from the Sentencing Council's definitive guideline on 'Offences Taken into Consideration and Totality', which appears to the Council to be an appropriate reference and guide.

As the total financial penalty is inevitably cumulative the Council should determine the financial penalty for each individual breach based on the seriousness of the breach and taking into account the circumstances of the case including the financial circumstances of the Landlord or Agent so far as they are known, or appear, to the Council.

The Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the Council should consider how to reach a just and proportionate total financial penalty. There are a number of ways in which this can be achieved.

For example:

Where a Landlord or Agent is to be penalised for two or more breaches or where there are multiple breaches of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious breach a

financial penalty, which reflects the totality of the conduct where this can be achieved within the maximum penalty for that breach. No separate penalty should be imposed for the other breaches. Where a Landlord or Agent is to be penalised for two or more breaches that arose out of different incidents, it will often be appropriate to impose separate financial penalties for each breach. The Council should add up the financial penalties for each breach and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be imposed.

Where separate financial penalties are imposed, the Council must take care to ensure that there is no double-counting.

STEP NINE – Recording the decision

The officer making a decision about a financial penalty will record their decision giving reasons for coming to the amount of financial penalty that will be imposed.

CONSULTATION VERSION

Appendix 2 – Non exhaustive list of vulnerable people

- Young adults and children
- Persons vulnerable by virtue of age
- Persons vulnerable by virtue of disability or sensory impairment
- People on a low income
- Persons with a drug or alcohol addiction
- Victims of domestic abuse
- Children in care or otherwise vulnerable by virtue of age
- People with complex health conditions
- People exploited where English is not their first language
- Victims of Trafficking or sexual exploitation
- Refugees
- Asylum seekers
- People at risk of harassment or eviction
- People at risk of homelessness.

CONSULTATION VERSION

Appendix 3 – Non exhaustive list of relevant offences / breaches

Housing law or landlord and tenant related

Offences under:

- The Public Health Acts of 1936 and 1961
- The Building Act 1984
- The Environmental Protection Act 1990
- The Town and Country Planning Act 1990
- The Prevention of Damage by Pests Act 1949
- The Protection from Eviction Act 1977
- The Local Government (Miscellaneous Provisions) Acts of 1982 and 1976
- The Housing Grants, Construction and Regeneration Act 1996
- The Local Government and Housing Act 1989
- The Housing Act 2004
- The Consumer Protection from Unfair Trading Regulations 2008

Offences involving fraud

Offences in which the victim has been deprived of money, property or other benefit by misrepresentation/deception on the part of the offender including: -

- Theft
- Burglary
- Fraud
- Benefit fraud (particularly where tenants are in receipt of Housing Benefit)
- Conspiracy to defraud
- Obtaining money or property by deception
- People trafficking
- Being struck off as a company director

Offences involving violence

A conviction for the offence of:

- Murder
- Manslaughter
- Arson
- Malicious wounding or grievous bodily harm
- Grievous bodily harm with intent
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Criminal damage where the intent was to intimidate or was racially aggravated
- Common assault
- Common assault which is racially aggravated
- Assault occasioning actual bodily harm
- Possession of an offensive weapon
- Possession of a firearm

Offences involving drugs

- Consideration should be given to the nature of the offence and what bearing it could have on the Landlord or Agents business activities. The nature, quantity, purity and class of drugs should be taken into account. In addition where an offence of possession with intent to supply is involved regard should be had to the role and importance of, the subject in the supply chain

Offences involving sexual offences

- An offence contained in schedule 3 of the Sexual Offences Act 2003.

Unlawful discrimination

- Unlawful discrimination can include findings of an Industrial Tribunal on unlawful employment practice such as discrimination under the Disability Discrimination Act. Consideration should be given to the nature of the unlawful discrimination and what bearing it could have on the management of a licensable property.

Other offences

- Modern Slavery / Human Trafficking Offences involving the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.

Appendix 4 – Financial Penalty in the case of a first breach in respect of Prohibited Payments

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply, the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 5 – Financial Penalty in the case of a second or subsequent breach in respect of Prohibited Payments within 5 years of a previous breach

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
Medium culpability			
Harm category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
High culpability			
Harm category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
Very high culpability			
Harm category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

Appendix 6 – Financial Penalty in the case of a breach in respect of Publication of Fees

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 7 – Financial Penalty in the case of a breach in respect of Membership of a Redress Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

Appendix 8 – Financial Penalty in the case of a breach in respect of a failure to obtain membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
Medium culpability			
Harm category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
High culpability			
Harm category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
Very high culpability			
Harm category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

Appendix 9 – Financial Penalty in respect of a breach of transparency requirements of membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

		Range	
	Starting point (£)	Min (£)	Max (£)
Low culpability			
Harm category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
Medium culpability			
Harm category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
High culpability			
Harm category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
Very high culpability			
Harm category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

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Committee and Date

6th April 2022

Item

Public YES

Application by Tasley Parish Council for Tasley Parish to be considered as a Neighbourhood Area

Responsible Officer: Mark Barrow, Executive Director Place
email: mark.barrow@shropshire.gov.uk Tel: 01743 258916

1. Synopsis

- 1.1 This report seeks approval for the application by Tasley Parish Council for the Parish area of Tasley to be considered as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan. (application attached as Appendix A, proposed area map as Appendix B and summary of consultation responses as Appendix C)

2. Executive Summary

- 2.1. Tasley Parish Council made the application to Shropshire Council in November 2021 under the provisions of the Town and Country Planning Act 1990. In line with regulations Shropshire Council consulted on the proposed area for four weeks between 10th December 2021 and 28th January 2022. Five responses were received to this consultation, none of which objected to the principle of identifying the proposed Neighbourhood Area.
- 2.2. It is Shropshire Council's role to decide if the proposed Neighbourhood Area is an appropriate area for the purposes of preparing a Neighbourhood Plan. This consideration should take account of any views expressed through the consultation process as well as information from the Parish Council. The recommendation focusses solely on the extent of the area to be used in the preparation of the proposed Neighbourhood Plan. This recommendation does not deal with the proposed content of the Neighbourhood Plan, which are issues to be considered by Tasley Parish Council in cooperation with Shropshire Council in due course.

3. Recommendations

Cabinet agrees

- 3.1. the proposed Neighbourhood Area identified on the map in Appendix 2, covering the Parish of Tasley as an appropriate basis for the development of a Neighbourhood Plan and notifies Tasley Parish Council accordingly
- 3.2. that if the proposed Neighbourhood Area is approved, Tasley Parish Council will be able, but not obligated to prepare a Neighbourhood Plan for that area, which will be subject to public consultation, examination and local referendum as set out in Neighbourhood Planning Regulations 2012 as amended. Assuming any subsequent local referendum is successful, Shropshire Council will then be asked to adopt the final version of the Neighbourhood Plan.

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. The power to designate a Neighbourhood Area is exercisable under Section 61G of the Town and Country Planning Act 1990. Under Regulation 5(1) of The Neighbourhood Planning (General) Regulations 2012 an Area Application must include a map that identifies the area to which the application relates and a statement to explain why the area is considered appropriate to be designated as a Neighbourhood Area and that the body is in fact a "relevant body" for the purposes of Section 61 G(2) of the Act. Tasley Parish Council is a relevant body for the purposes of the Act.
- 4.2. The relevant material (Area Application and Area Map included as Appendix 1 and 2 to this report) was received by Shropshire Council in November 2021 and as required by regulation, was advertised on 10th December for a period of seven weeks. In advertising this information comments were invited through the 'Get Involved' section of the Shropshire Council website and e-mails circulated to all statutory consultees, as well as to adjoining Parish and Town Council areas. Shropshire Council received five responses to this consultation, none of which objected to the principle of the proposed Neighbourhood Area.
- 4.3. In determining the application Shropshire Council must have regard to the desirability of designating the whole of the parish area as a Neighbourhood Area and the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas. In the event the designation is approved, it will be published on the Council's website. In the event a designation is refused under Section 61G (9) of the Act reasons must be given and the decision publicised in accordance with Regulation 7 of the Regulations.

- 4.4. The designation of an appropriate area for a Neighbourhood Plan is to confirm the geographic area the Plan will cover. This does not set policies to be contained in the Neighbourhood Plan, or the thematic scope of that Plan. Indeed, and importantly, the designation of a Neighbourhood Area does not commit the Parish or Town Council to producing or completing a Neighbourhood Plan. It is, however, a first important step in the process of preparing a Neighbourhood Plan and required by regulations.
- 4.5. When approved, Neighbourhood Plans form part of the statutory development plan for the area. The statutory framework covering the production of neighbourhood plans is therefore quite prescriptive and there is little risk for either Shropshire Council or Tasley Parish Council in following this carefully. However, it is important that a high degree of trust and cooperation between the Councils is maintained in order to reduce any risk of the inconsistency and conflict between the Neighbourhood Plan and those other parts of the Development Plan prepared by Shropshire Council.
- 4.6. Shropshire Council's Local Plan Review (2016-2038) will be an important and ongoing consideration in the context of any Neighbourhood Plan prepared for the Tasley Parish Council area. The National Planning Policy Framework (NPPF) clarifies that Neighbourhood Plans must support the delivery of the strategic policies of the Local Plan. The draft Local Plan Review is currently at Examination in Public having been submitted to the Secretary of State on 3rd September 2021. It is therefore at a very advanced stage, and subject to the outcomes of the current independent Examination, could be adopted in late 2022 or early 2023.
- 4.7. The Local Plan Review process, which has been subject to extensive consultation during its preparation process, establishes the strategic growth requirements for the County and a number of specific settlements up to 2038. It is important to acknowledge that the draft Plan proposes significant new development through the delivery of the Tasley Garden Village proposal of around 1050 dwellings, 16 hectares of employment land, a new local centre and associated green infrastructure. Whilst this proposal is proposed to support the sustainable growth of Bridgnorth, it is recognised this growth is principally within the parish of Tasley, and therefore within a location which would fall under this Neighbourhood Area if approved. By ensuring any Neighbourhood Plan conforms to the Shropshire Local Plan, and subject to the outcome of the current Local Plan Examination process, any Neighbourhood Plan for Tasley would need to recognise the Tasley Garden Village proposal within its own objectives and policies, as well as the other strategic policies of the Local Plan Review.

- 4.8. However, it does remain open to the Parish Council to use the Neighbourhood Plan process as a mechanism for proposing appropriately scaled development in addition to that proposed in the Local Plan Review, and/or to propose additional development management policies where these would add to local distinctiveness and not undermine the viability of already planned development. It will therefore be particularly important that constructive discussions between Shropshire Council and Tasley Parish Council continue in the coming months to define the scope of the issues the Neighbourhood Plan will seek to address and the timeframe for preparation to ensure the Neighbourhood Plan remains in general conformity with the emerging Local Plan.
- 4.9. A Neighbourhood Plan will, after passing through the relevant stages of consultation, submission, examination and the referendum, go on to become part of the statutory Development Plan for the area. By definition, the Neighbourhood Plan should be a product of the community and as such will contain policies that, whilst in general conformity with other elements of the Development Plan, should have its own distinct character. The degree of scrutiny to be applied to a Neighbourhood Plan through its examination process is dependent upon the scope of the plan, and it will continue to be particularly important for appropriate evidence to be produced to inform the Neighbourhood Plan. Statute provides that planning applications should be determined in accordance with the provisions of relevant Development Plan policies unless material considerations indicate otherwise. The weight given to the Plan thus remains to be balanced with other considerations when taken in the round by decision makers.

5. Financial Implications

- 5.1. The Localism Act and Regulations provide that the following costs would fall to Shropshire Council: delivering a supporting role particularly in the latter stages of the Plan's development; appointing an Examiner for the Plan; and conducting an Examination and holding a Referendum. Current provisions allow an application for these additional costs to be met, and a reimbursement of costs will therefore be sought from Central Government. It is considered likely the robustness of the Neighbourhood Plan Policies will be tested over time by independent Planning Inspectors on planning appeals made under Section 78 of the Planning Act. Members are advised that the liability for future appeal costs rests with Shropshire Council as Local Planning Authority and as such the usability of such plans and their impact on local decision making will need to be carefully monitored.

6. Climate Change Appraisal

- 6.1. The Tasley Neighbourhood Area allows the important first step in the preparation of a Neighbourhood Plan for the parish of Tasley. Whilst at this stage the contents of the Plan are not known, and will be subject to the objectives led by Tasley Parish Council in consultation with their communities, it does present an opportunity to explore additional development management policies for the local area, which could respond to the ongoing need to mitigate and adopt to the impacts of climate change. Any new development management policies would need to show how they are deliverable and ensure development remains viable.

7. Background

- 7.1. Shropshire Council's localised planning approach supports Neighbourhood Plans being brought forward under the Localism Act and the 2012 Neighbourhood Planning Regulations; indeed, the Council is legally obliged to do so. However, Shropshire Council is also committed to promoting and supporting other forms of locality planning for neighbourhoods as potentially more cost effective and sustainable alternatives to a full Neighbourhood Plan through Community-led planning, parish planning, design guides etc. It is acknowledged these other forms of locality planning do not form part of the statutory development plan, but instead can be considered as material considerations in planning decisions.
- 7.2. The Government's National Planning Policy Framework (NPPF) supports the principle of Neighbourhood Plans and their status as part of the Development Plan. The NPPF states "*Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*". It is also made clear that Neighbourhood Plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.
- 7.3. The development of a Neighbourhood Plan must be facilitated by the Town or Parish Council and will, in most cases, proceed with support and assistance from volunteers across the community. It is recommended that Tasley Parish Council begin early consultation with their communities and seek to agree in principle grant funding from Locality - the national organisation overseeing funding and technical support to Neighbourhood Plans on behalf of the Department for Levelling Up, Housing and Communities.
- 7.4. In due course and as part of the Neighbourhood Plan preparation process, Shropshire Council will consider whether the Tasley Neighbourhood Plan conforms to the adopted strategic policies of

the Development Plan and, in agreement with the Parish Council, put it forward for independent assessment. It will be the responsibility of Shropshire Council to arrange a local referendum to assess local support for the plan proposals and subject to a successful referendum outcome, a “yes” vote, Shropshire Council will have a legal duty to ‘make’ (adopt) the Tasley Neighbourhood Plan and bring it into force. This final decision to ‘make’ the plan will be a matter for full Council.

8. Additional Information

- 8.1 The Council received five responses to the recent consultation. These came from The Canal and Rivers Trust, Historic England, the Coal Authority, a Shropshire Councillor and a member of the public. None of these responses objected to the proposal. Nevertheless, information in these responses will be useful in the ongoing Neighbourhood Plan preparation. Historic England point out that the proposed area contains a varied range of designated and undesignated heritage assets.
- 8.2 As well as reflecting on consultation responses, Shropshire Council should also consider any other relevant issues. In doing so Council officers have had early discussions with representatives from the Parish Council, specifically to discuss the extent of the proposal and to further understand the rationale for the area proposed
- 8.3 Having had these early discussions, it is considered the proposed area, which accords with the parish boundary, is appropriate for the purposes of preparing a Neighbourhood Plan and that the proposed Neighbourhood Plan can therefore offer the opportunity to deliver some additional value through the preparation of locally relevant planning policies to support the delivery of appropriate development, whilst continuing to be in conformity with the strategic policies of the Local Plan.
- 8.4 Tasley Parish Council must seek to ensure the future sustainable development of the settlement by providing detailed planning policies for their area. Whilst the exact scope and remit of the Neighbourhood Plan is to be discussed, at this stage it is clear there is an understanding from the Parish Council as to the general role of the Neighbourhood Plan and the type of policies it is likely to introduce. Further discussions will help to clarify this. In addition, it should be recognised that in line with national regulations on Community Infrastructure levy (CIL), areas with adopted (‘made’) Neighbourhood Plans in place, receive 25% CIL Neighbourhood Funds (uncapped) from CIL liable development in its area after the Plan’s adoption, compared with 15% (capped) in non-Neighbourhood Plan areas.

9 Conclusions

- 9.1 Tasley Parish Council have indicated they wish to prepare a Neighbourhood Plan for their Parish area. In order to progress this, and in line with national regulations, Shropshire Council have consulted on the principal of establishing Tasley Parish Council as a Neighbourhood Area. Following public consultation on this in late 2021, Shropshire Council has considered the responses and it is the officer recommendation to proceed with agreeing the Tasley Parish as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan.
- 9.2 This report only seeks to agree the Parish as a Neighbourhood Area. It does not cover any matters of content of a Neighbourhood Plan for the area, and it is fully acknowledged this is a responsibility of Tasley Parish Council to lead. However, it does identify the ongoing need for Council officer, where appropriate, to work collaboratively with Tasley Parish Council on the preparation of a Neighbourhood Plan, and sets out the regulatory requirements of Shropshire Council within this process.

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

Cabinet Member (Portfolio Holder)

Cllr Ed Potter, Portfolio Holder for Economic Growth, Regeneration and Planning

Local Member

Cllrs Julia Buckley and Les Winwood

Appendices

Appendix 1: Area Application

Appendix 2: Proposed Neighbourhood Area

Appendix 3: Summary of consultation responses

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Shropshire Council
Town and Country Planning Act 1990
Regulation No.5 of the Neighbourhood Planning (General) Regulations 2012

Application for the designation of the Tasley Parish as a neighbourhood area

NOTICE IS GIVEN that Shropshire Council has received from the Tasley Parish Council an application under Regulation 5 for the Council to designate the area comprising the civil parish of Tasley as a “neighbourhood area” within the meaning of section 61 G of the 1990 Act (see explanatory note below).

A copy of the application and a map of the area, can be viewed on the Council website at www.shropshire.gov.uk/neighbourhoodplanning, at Bridgnorth Library, Listley Street, Bridgnorth WV16 4AW and at Shropshire Local Hub, The Darwin Shopping Centre, Shrewsbury SY1 1PL

Representations on whether the civil parish of Tasley is an appropriate neighbourhood area may be made to the Council no later than 5pm on Friday 28th January 2022 by writing to Planning Policy, Shropshire Council, PO BOX 4826, Shrewsbury SY19LJ or by emailing planning.policy@shropshire.gov.uk

Edward West

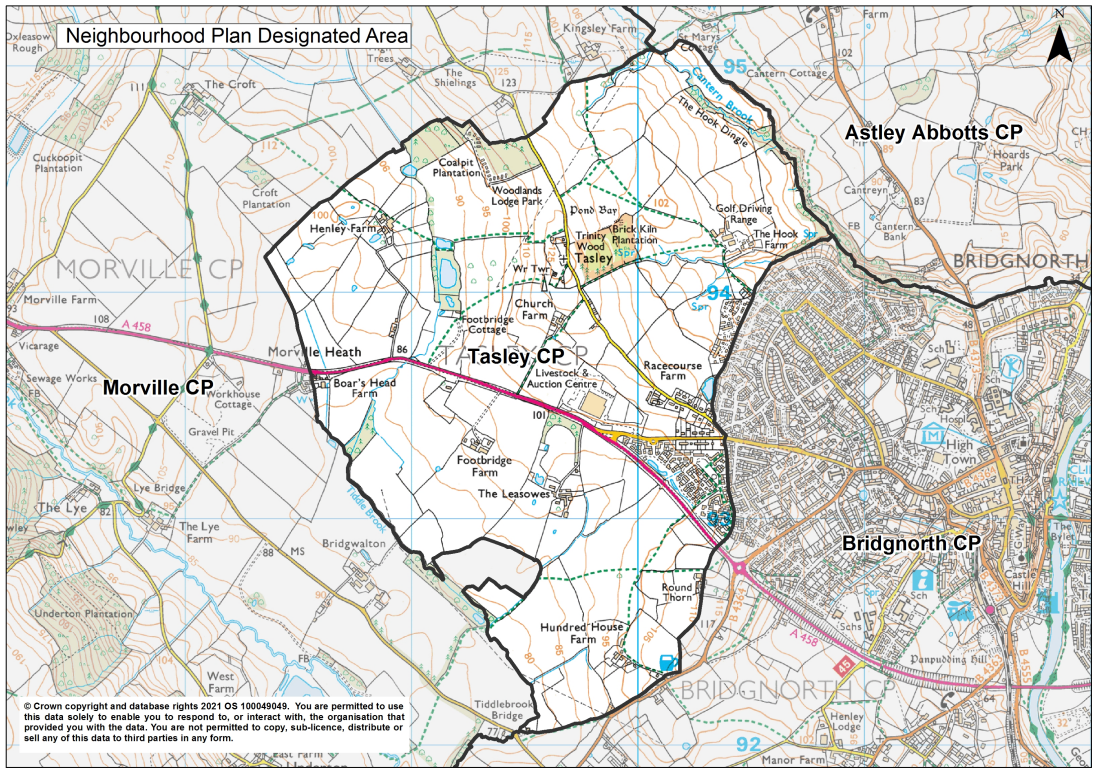
Planned Policy & Strategy Manager

Date 10th December 2021

Explanatory Note

Following the introduction of the Localism Act 2011, the purpose of designating a neighbourhood plan area is for the neighbourhood plan to then be prepared for that area. The Tasley Parish Council is in the earliest stages of considering a neighbourhood plan and this application seeks to formalise the process.

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Tasley Neighbourhood Plan – Regulation 6 – Summary of Representations

	Consultee	Summary of comments
1	David Turner	Believes that the civil parish of Tasley is an appropriate neighbourhood area and wishes the community well in their endeavour to create a neighbourhood plan.
2	The Coal Authority	<p>Their records indicate that within the area identified for the Neighbourhood Plan there are areas of probable shallow coal workings are shallow depth. If present shallow coal workings may pose a potential risk to surface stability and public safety. But note however that this current consultation relates only to the designation of the Neighbourhood Plan area.</p> <p>On this basis confirm that the Planning team at the Coal Authority have no specific comments to make on the area proposed for designation.</p>
3	Historic England	<p>The proposed neighbourhood plan area contains a varied range of designated heritage assets details of which can be found in the National Heritage List for England (NHLE):</p> <p>https://historicengland.org.uk/listing/the-list/</p> <p>Some of these assets may be “At Risk” and these are listed in the National Heritage at Risk Register:</p> <p>https://historicengland.org.uk/advice/heritage-at-risk/</p>
4	Cllr Julia Buckley	<p>Supports the application made by Tasley Parish Council to be considered for a Neighbourhood Plan area.</p> <p>The Parish Council represent a discrete village area which is both distinct from, and adjacent to the large market town of Bridgnorth. The area is subjected to large scale developments in both the current Local Plan and future proposed plan. The plans will have a lasting impact on the environment, highways, residents and community and they have been actively engaged throughout the Local Plan process as very dynamic and organised stakeholders.</p> <p>The Parish Council is a well organised, collegiate, and dynamic group of local representatives.</p>

		<p>They have faced many largescale challenges through planning applications, local plans, and community governance reviews.</p> <p>Supports their application to be recognised as a neighbourhood plan area and has every confidence the group would engage in a positive, open and constructive manner.</p>
5	Canal and River Trust	Confirms that the Canal & River Trust hold no assets within the proposed Neighbourhood Area and therefore has no comment to make at this time



Committee and Date

Cabinet
6th April 2022

Item

Public

LAND AT SHREWSBURY FLAXMILL (ROAD FRONTAGE) COMPULSORY PURCHASE ORDER

Responsible Officer Mark Barrow
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1. Synopsis

This report is seeking approval to make a Compulsory Purchase Order (hereafter CPO), and, subject to the confirmation of the Order by the Secretary of State for Levelling Up, Housing and Communities, to subsequently transfer the land acquired (hereafter the Order Land) to Historic England, to enable the delivery of a mixed-use development comprising residential accommodation, together with commercial, business and service uses (the Scheme), being a key element of the wider regeneration of Shrewsbury Flaxmill Maltings (the Flaxmill).

2. Executive Summary

- 2.1 The Flaxmill is an internationally important site that reflects a time when Shropshire led the way in engineering innovation. It comprises 8 listed buildings, including the Main Mill (listed at Grade I), which was built in 1797 and, as the world's first iron framed building, is the forerunner of the modern skyscraper. The site operated as a flaxmill from 1797 – 1897, and then as a maltings until its closure in 1987. The whole of the site was of great local significance as the economic and social driver for the northward expansion of Shrewsbury, facilitated by the Shrewsbury and Newport Canal.
- 2.2 From 1987 – 2004 there were various failed attempts to regenerate the Flaxmill. However, continued vandalism and neglect resulted in it being placed on the Heritage at Risk Register. The former Shrewsbury and Atcham Borough Council served enforcement planning notices on the owner in 2004, thereby forcing a resolution. A Masterplan Study (2004) also identified the opportunity to greatly improve the presentation and viability of the Flaxmill by acquiring neighbouring sites and re-developing them in a sympathetic manner.

- 2.3 Historic England (then English Heritage) acquired the freehold of the Flaxmill site in 2005 in order to halt its further decline. In 2010, The Friends of the Flaxmill Maltings was formed to support the renovation and regeneration of the Flaxmill while actively engaging the local and wider communities in its objectives. Subsequent to this, Historic England devised a four stage 'rescue operation' for the Flaxmill which has provided a framework for and governed Historic England's approach towards the site's resurgence.
- 2.4 The first stage of the redevelopment project for the site was completed at the end of 2015 with the opening of an interactive visitor experience and education facility, delivered using £1.9 million of funding secured via the European Regional Development Fund.
- 2.5 Planning permission and listed building consent for the second stage of works at the Flaxmill was obtained by Historic England in November 2016. The second stage works concern the repair and restoration of the Main Mill and Kiln; in particular, the reopening of windows to all floors of the Main Mill, the creation of a ground floor interpretation, learning space and cafe managed by the Friends, and the restoration of the four upper floors of the Main Mill to create a commercial workspace. These works are now at an advanced stage and are on track to be completed by the end of May 2022.
- 2.6 The Scheme constitutes the third stage of development at the Flaxmill, for which outline planning permission was obtained by Historic England on 10 May 2021 (ref. 20/05065/OUT), and comprises residential development, together with commercial, business and service uses. Change of use of the ground floor of no. 1 and no. 15 Haughmond Square to a mixed use has also been authorised, as well as change of use of the Apprentice House, on the main site itself, to residential use.
- 2.7 It is envisaged that the Scheme will be undertaken by a private sector development partner whom Historic England will appoint following a competitive tendering exercise. Assembly of the Order Land (see at paragraphs 2.10 and Section 11 below for further details) is of critical importance and a pre-requisite to Historic England being able to 'go to market' and invite tender responses in respect of this unique development opportunity.
- 2.8 The Scheme is vital to ensuring the overall success of the Flaxmill site's regeneration. In particular, it will facilitate the fourth stage and final phase of the Flaxmill redevelopment, which will see reinvestment of a pre-agreed proportion of the profit generated by the delivery of the Scheme into the ongoing maintenance, repair and preservation of the complex of historic buildings comprised within the Flaxmill. In order to realise the plethora of public benefits which the Flaxmill Maltings project has the potential to deliver, it is

essential that this final stage of development is reached, implemented and completed. Moreover, it will secure the site's long-term and sustainable future in order that its legacy may be safeguarded and continue for the benefit of all, including the local and wider communities and visitors to the town of Shrewsbury. The Scheme is therefore vital to ensuring the overall success of the Flaxmill's regeneration, and without which fourth stage, and the full delivery of the Flaxmill project and associated public benefits, is in jeopardy.

- 2.9 In order to facilitate the full delivery of this development, Historic England is currently making every effort to acquire the third party interests which exist in the Order Land by private agreement. However, in the event that these negotiations fail, Historic England has requested that the Council uses its CPO powers under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) to assemble the Order Land and, subject to the confirmation of the CPO by the Secretary of State, to transfer the Order Land to them (see **Appendix 1**).
- 2.10 The Order Land is made up of thirteen land parcels, as described in the draft CPO Schedule and shown on the draft CPO Map (see **Appendix 2 and Appendix 3** respectively). It includes two unlisted 19th century properties – no. 1 and no. 15 Haughmond Square, situated along the St Michaels Street road frontage - that are currently being used as hot food takeaway premises with residential flats above. Both properties are in third party ownership.
- 2.11 The Government's Guidance on compulsory purchase process and the Crichel Down Rules (July 2019) (hereafter the CPO Guidance) makes it clear that it is the Secretary of State's policy to only authorise the use of this power in circumstances where a compelling case can be demonstrated. However, Officers consider that, in order to deliver the substantial public benefits that the comprehensive redevelopment of the Flaxmill will bring, the use of the Council's powers of compulsory acquisition can be justified in accordance with the terms set out in the CPO Guidance. A draft of the Statement of Reasons which sets out the case for compulsory acquisition is at **Appendix 4**. CPO powers are rarely used by the Council which reinforces the importance of the Flaxmill and the imperative to securing its successful regeneration.
- 2.12 This report seeks approval to use the Council's CPO powers to assemble the Order Land, via the acquisition of all third party interests therein, and, subject to the CPO being confirmed by the Secretary of State, to subsequently transfer ownership of the Order Land to Historic England.

3. Recommendations

- 3.1. To resolve, subject to consideration of the matters set out in this report and the prior completion of a CPO Indemnity Agreement (CPOIA), to make a compulsory purchase order pursuant to the Council's powers under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) in order to deliver the Scheme and to facilitate the comprehensive redevelopment and regeneration of the Shrewsbury Flaxmill Maltings, which in turn will contribute to the promotion or improvement of the economic, social and environmental well-being of the Council's area.
- 3.2 To authorise
- (1) the Assistant Director – Legal and Governance to carry out the functions set out in (a), (b) (c), (d), (e), (f), (g) and (h) below and
- (2) the Executive Director of Place to carry out the functions set out in (b), (c), (d), (e), (f) (h) below:
- (a) To negotiate and enter into the CPOIA;
- (b) Subject to the completion of the CPOIA, and subject to the requirements of the CPOIA, to take all steps to secure the making, confirmation and implementation of the CPO including the publication and service of all notices and all preparation and promotion of the Council's case at any public inquiry;
- (c) To identify and acquire all third party interests required to facilitate delivery of the Scheme either by agreement or compulsorily pursuant to the CPO (including pursuant to any blight notices as appropriate) including the conduct of negotiations and making provision for the payment of compensation;
- (d) To negotiate, agree terms and enter into agreements with interested parties including agreements for the withdrawal of blight notices and/or the withdrawal of objections to the CPO and/or undertakings not to enforce the CPO on specified terms, including where appropriate removing land or rights from the CPO and making provision for the payment of compensation;
- (e) In the event the CPO is confirmed by the Secretary of State, to advertise and give notice of confirmation and thereafter to take all steps to implement the CPO including the making of a General Vesting Declaration(s) and/or service of Notices to Treat and Notices of Entry in respect of the acquisition of interests in the Order Land;
- (f) To take all steps in relation to any legal proceedings relating to the CPO including defending or settling claims for compensation which

are referred to the Upper Tribunal (Lands Chamber) and/or applications to the courts and any appeals;

- (g) To retain and/or appoint external professional advisers and consultants to assist in facilitating the promotion, confirmation and implementation of the CPO, the settlement of compensation and any other claims or disputes; and
- (h) Following implementation of the Council's powers of compulsory acquisition, to authorise and take all legal and procedural steps to secure the transfer of the Order Land to Historic England.

REPORT

4. Risk Assessment and Opportunities Appraisal

4.1 Risk Management appraisal

4.1.1 The proposed redevelopment of the Flaxmill has been a long held objective for Shropshire Council. The site is important for its historic interest incorporating a number of Grade I internationally significant buildings including the world's first Iron framed building. The regeneration of this historic site is also key to the Council's wider ambition to deliver sustainable economic growth contributing to the regeneration and economic viability of Shrewsbury.

4.1.2 If the Council is minded to resolve to make a CPO, the Order can be objected to by affected parties in which case the Secretary of State can convene a public local inquiry into the making of the CPO. Furthermore, any inability to agree compensation could result in the reference of claims to the Upper Tribunal (Lands Chamber) for resolution.

4.1.3 The significant costs involved in the making, confirmation and implementation of a CPO - to include any inquiry costs, professional fees and compensation payments arising - will be underwritten by Historic England, and should the Council decide to make a CPO, this decision will be subject to the completion of a CPO Indemnity Agreement.

4.2 Human Rights Act Appraisal

4.2.1 The CPO Guidance directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights (hereafter the Convention) in order that they can be sure that the purposes for which a compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.

4.2.2 The Human Rights Act 1998 incorporates the rights set out in the Convention into domestic British law – section 6 prohibits public

authorities from acting in a way which is incompatible with the Convention and the rights it protects.

4.2.3 The following articles of the Convention are of particular relevance and are usually engaged in the process of making a compulsory purchase order:

4.2.3.1 Article 1 of the First Protocol provides as follows: *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties"*.

4.2.3.2 Article 6 provides that in determining their civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

4.2.3.3 Article 8 protects private and family life, home and correspondence. No public authority can interfere with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4.2.3.4 Article 14 requires that all of the rights and freedoms set out in the Convention must be protected and applied without discrimination. In particular, the enjoyment of the said rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

4.2.4 Each of the rights set out within the above-mentioned articles are qualified such that they may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Furthermore, within the context of Article 1 of the First Protocol, the European Court of Human Rights has recognised that regard must be had to the fair balance which is required to be struck between

the competing interests of the individual and the community as a whole.

- 4.2.5 There are two dwellings included within the Order Land, namely the tenanted first floor residential accommodation located above the takeaway premises which operate from no. 1 and no. 15 Haughmond Square (hereafter the Haughmond Square Properties). Therefore, Article 8 of the Convention is engaged. Re-housing options for the residential tenants are being actively explored and the Council is prepared to lend the necessary support via its Housing Team.
- 4.2.6 As regards Article 1 of the First Protocol, consideration has been given to the individual rights of those affected by the CPO and the wider public interest, together with the fair balance to be struck between these competing interests in the delivery of the Scheme. As set out in Section 12 below, the Scheme will give rise to a number of very significant public benefits, both in its own right, and as an integral part of the wider redevelopment proposals for the Flaxmill. Given these benefits and the critical need to secure their delivery, the Council considers that the making and subsequent confirmation of the CPO would be legitimate, proportionate and justified, such that the CPO would not constitute an unlawful interference with the property rights of those affected.
- 4.2.7 Furthermore, the statutory procedures relating to the making of the CPO, which include a right to object, for any objection to be considered by an independent and impartial inspector and, where necessary, to be heard through the public inquiry process, together with the right to pursue a legal challenge to a confirmed compulsory purchase order, made under the Acquisition of Land Act 1981 and on the relevant statutory grounds, satisfy the requirements of Article 6. Affected persons are also entitled to claim compensation, proportionate to any losses incurred, where their interests within the Order Land have been acquired or where possession of their land has been disturbed as a consequence of the exercise of the Council's powers of compulsory acquisition.
- 4.2.8 Turning finally to Article 14 of the Convention, this article is based on the core principle that all of us, no matter who we are, enjoy the same human rights and should have equal access to them. However, it should be noted that the protection against discrimination enshrined in the Convention and enacted into UK law under the Human Rights Act 1998 is not 'free-standing'. Therefore, to rely on this right, a person must demonstrate that discrimination has affected their enjoyment of one or more of the other rights in the Convention.
- 4.2.9 The protections and procedures summarised above will not be exercised in a discriminatory manner. English is not spoken as a

first language by one of the takeaway owners. Accessible formats and translations have been offered for all communications with him and discussions, in the main, have been conducted via a family member who is a fluent English speaker. Further, Historic England has sought to identify solicitor who speaks their first language to act on their behalf. Accordingly, it is not considered that the making and pursuance of the CPO by the Council will fall foul of Article 14. The more general protection against discrimination which is afforded by the Equality Act 2010 is addressed in Section 4.3 below.

4.3 Part 4 Public Sector Equalities Duty & Appraisal

4.3.1 Paragraph 6 of the CPO Guidance states that:

“All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers (eg powers of entry) these acquiring authorities must have regard to the effect of any differential impacts on groups with protected interests.”

4.3.2 Therefore, in making the Order, the Council has a statutory duty under section 149 of the Equality Act 2010 (the 2010 Act) to have due regard to the need to:

- 4.3.2.1 Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- 4.3.2.2 Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- 4.3.2.3 Foster good relations between persons who share a ‘relevant protected characteristic’ (age, disability, gender reassignment, pregnancy & maternity, race, religion or belief, sex & sexual orientation, and marriage & civil partnership) and persons who do not share it.

4.3.3 These are sometimes referred to as the three aims of the general equality duty. The 2010 Act helpfully explains that having due regard for advancing equality involves:

- 4.3.3.1 Removing or minimising disadvantages suffered by people due to their protected characteristics;
- 4.3.3.2 Taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and

- 4.3.2.3 Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 4.3.4 The redevelopment of the Flaxmill is part of the Council’s ongoing plan for Shrewsbury as a historical and cultural destination for tourists. The proposed learning centre and interactive exhibition (see paragraph 9.8 below) will facilitate opportunities for interaction between local, national and international visitors, local residents and employees of the Flaxmill. This will create an environment that will encourage good relations between those who share a Protected Characteristic as defined by the Equality Act 2010, and those who do not. In promoting a local heritage site, participation from across groupings, including our tenth category of Social Inclusion (an additional grouping that is used by Shropshire Council to ensure that it considers individuals and households that may describe as vulnerable due to their circumstances, eg those living in low income households, young people leaving care, etc.), will be encouraged.
- 4.3.5 Notably, the concept of private life (the protection of which is captured within Article 8 of the Convention (see Section 4.2 above) includes a person’s right to develop their personal identity and to forge friendships and other relationships. This includes a right to participate in essential economic, social, cultural and leisure activities. By taking steps to secure the implementation of the Scheme and the coming to fruition of the wider regeneration opportunity which the Flaxmill embodies, the Council is supporting the enjoyment of this fundamental right – the right to a private life, including a person’s ability to participate in society.
- 4.3.6 Furthermore, the redevelopment of the Flaxmill and the surrounding area is part of the Council’s ongoing plan to promote Shrewsbury as a business investment location, with additional employment opportunities, the framework for which is set out in Shrewsbury’s Big Town Plan (2018) – see Section 10 below. All offers of employment will be made having due regard to the duties contained in the 2010 Act.
- 4.3.7 An Equality, Social Inclusion and Health Impact Assessment (ESHIA) has been carried out in order to screen the proposals for such impacts and in order to incorporate the assessment detailed in this Report with regard to Human Rights considerations - see **Appendix 4**. Overall, positive equality impacts are anticipated for local people in the groupings of Age, Disability, and Sex, for whom employment opportunities will be closer to where they live. There will also be likely to be positive impacts with regard to promoting Social Inclusion, through the provision of physical access to the listed buildings and the intellectual access and educational opportunities provided by the visitor facility.

- 4.3.8 Focusing in particular on the acquisition of the Haughmond Square Properties, and the impact such acquisition will have on the owners of each takeaway business, their families and employees, it is acknowledged that there will be a potential negative impact with regard to the grouping of Race, for the proprietors and their families and workers affected. This is notwithstanding the entitlement of the affected persons to compensation and the support on offer as regards the identification of suitable commercial relocation premises and re-housing options. The Council and Historic England are aware that English is not spoken as a first language by one leaseholder/owner of one of the takeaway businesses. Accessible formats and translations have been offered for all communications with them and discussions, in the main, have been conducted via a relative who is a fluent English speaker. Further, Historic England has sought to identify a solicitor who speaks their first language to act on their behalf. These actions present as positive ongoing efforts in terms of mitigating negative impacts on grounds of Race.
- 4.3.9 The impact of the Order (and delivery of the Scheme) on other Protected Characteristic groupings groups was considered, found, in the main, to be neutral. Further, there is an anticipated likely low to medium positive impact on the communities that are resident in the vicinity of (and in due course at) the Flaxmill due to the increased opportunities for social inclusion, employment and educational betterment which a fully repurposed and regenerated site will offer and related recognised positive mental well being impacts that may be accrued from employment opportunities and from access to leisure and cultural opportunities.
- 4.3.10 Accordingly, in promoting the wider Flaxmill redevelopment proposals and, latterly, in formulating the proposal for the CPO, it is considered that full regard has been had to the Council's statutory obligations under the 2010 Act and, in particular, its duty under section 149. In the event that a CPO is made, these obligations will be kept under review throughout the compulsory acquisition process noting the particular needs and characteristics of the parties affected, to ensure that no person with a protected characteristic or from a protected group is left at a disadvantage.

4.4 Community and other Consultation

- 4.4.1 The Council has actively consulted with the community and other interested parties over the successive applications for planning permission and listed building consent to redevelop and regenerate the Flaxmill, including the outline planning permission (ref. 20/05065/OUT) granted in respect of the Scheme. Comments received from the community have been taken into account when

regulatory decisions have been taken through the planning process. A schedule of planning permissions relating to the Flaxmill is attached as **Appendix 6**.

4.4.2 Historic England has opened the site periodically and actively engaged with the local community through a formally constituted Friends of the Flaxmill group.

5. Financial Implications

5.1. As explained in paragraph 4.1.3 of this report, the Council's costs incurred in making and securing the confirmation and implementation of the CPO (including the costs of any public inquiry), as well as acquiring interests included in the CPO (including any compensation payments arising), are being underwritten by Historic England. Any decision by the Council to make a CPO, will be subject to the completion of a CPO Indemnity Agreement.

6. Climate Change Appraisal

6.1 Whilst the acquisition of additional properties as part of the land assembly process itself has limited implications for climate change, detailed project planning for the redevelopment of the Flaxmill, which through the conservation and conversion of the nationally important historic buildings will retain embodied energy they contain, will be expected to take into account opportunities to incorporate:

- i. Measures to improve the energy efficiency of the buildings and reduce the need for travel;
- ii. The generation of renewable energy on site;
- iii. Measures to capture and store carbon emissions, including through tree planting and landscaping on site;
- iv. Design measures or features which will improve the resilience of the site to the impact of more extreme temperatures or rainfall events.

7. Legal Implications – Statutory Powers to undertake proposals in this report

7.1 The compulsory purchase is to be pursued in accordance with section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) and the procedural requirements prescribed by the Acquisition of Land Act 1981 will be required to be observed.

8. Other Implications

- 8.1 In recommending the making of a CPO, the rights of third parties that may be affected (including their property rights) have been balanced against the public interest in acquiring the Order Land and delivery the Scheme which underpins the CPO. It is recommended that the Council can be satisfied that the proposed CPO is necessary and proportionate having regard to the provisions of the Human Rights Act 1998 and is in the public interest having regard to the need to support and facilitate the wider regeneration of the Flaxmill.

9. Background

- 9.1 The Scheme is an integral part of a wider redevelopment project being undertaken at the Flaxmill.
- 9.2 This internationally important site reflects a time when Shropshire led the way in engineering innovation. It comprises 8 listed buildings, including the Main Mill which was built in 1797 (which coincided with the completion of the Shrewsbury and Newport Canal) and which was added to the list in January 1953 at Grade I. The Main Mill was the world's first iron framed building and, as such, is the forerunner of the modern skyscraper. The site was a Flaxmill from 1797 until 1886. It reopened as a maltings in 1897 and operated as such until the maltings closed in 1987.
- 9.3 The conversion of the site to a maltings gives it further significance, as an example of a large scale maltings and the ingenious adaptation of a complex of buildings of special architectural or historic importance, 3 of which are Grade 1 listed. This grading is applicable to just 2.5% of all listed buildings. The whole of the Flaxmill was of great local significance as the economic and social driver for the northward expansion of Shrewsbury, facilitated by the Shrewsbury and Newport Canal.
- 9.4 In recent history (1987-present), there have been various failed attempts to regenerate the Flaxmill, none of them successfully harnessing the private sector investment required to give the complex of mill buildings a new lease of life. Vandalism and neglect have also taken their toll on the site, which has been on the Heritage at Risk Register for a number of years. Both an Urgent Works Notice under section 54 and an Urgent Repairs Notice under section 47 of the Planning (Listed Building and Conservation Areas) Act 1990 were served on the site's then owner in April 2004.
- 9.5 Historic England (then English Heritage) acquired the freehold of the Flaxmill in 2005 in order to halt its further decline. In 2010, The Friends of the Flaxmill Maltings was formed to support the renovation and regeneration of the Flaxmill while actively engaging the local and wider communities in its objectives. Their primary

role is to promote the site's history, conducting guided tours and organising open days and lectures, as well as liaison with local residents, community organisations and schools.

- 9.6 Planning permission for the redevelopment of the Flaxmill (comprising an outline planning permission (ref. 10/03237/OUT) and a detailed planning permission and listed building consent (ref. 10/03230/FUL and ref. 10/03233/LBC respectively) for a first phase of development) was first obtained in November 2010 following a masterplan study (undertaken in 2004) which identified the opportunity to greatly improve the site and surrounding environment based upon the acquisition and sympathetic redevelopment of neighbouring sites (together the masterplan consents). The masterplan consents have now expired.
- 9.7 A series of planning permissions and listed building consents, obtained subsequent to the masterplan consents, have been implemented by Historic England (see Appendix 6 for a full list of the planning permissions relating to the site). In particular, the Office (now Smithy) and Stable buildings have been renovated to provide a visitor centre (pursuant to planning permission ref. 12/04435/FUL and listed building consent ref. 12/04436/LBC) and the repair and restoration of the Main Mill and Kiln is underway and nearing completion. These repair and restoration works constitute a second stage of development, consent for which was obtained on 3 November 2016 (in the form of planning permission ref. 16/02872/FUL and listed building consent ref. 16/02873/LBC).
- 9.8 The detailed planning permission for the "stage 2 project" comprises the comprehensive repair and restoration of the Main Mill and Kiln. The ground floor of the Main Mill and North Engine house will be opened to the public and house a visitor and interpretation centre and café. The four upper floors of the Main Mill will provide commercial space (offices and creative light industry) for a maximum of c.330 people. The upper floors will be accessed from the Kiln, which will provide circulation space for commercial tenants and will house two 13-person internal lifts and level access to all floors. The Jubilee Tower will also be fully repaired and restored and, subject to the requisite consents being obtained, will be available for special tours to visiting members of the public.
- 9.9 The "stage 2 project" also includes the creation of a car parking area comprising 94 spaces intended for use by visitors to the Flaxmill (the Main Mill and Kiln), together with users of the proposed commercial space. A new vehicular roadway leading north from Marshalls Court to the other side of the mainline railway (Shrewsbury to Crewe) and a combined cycle and pedestrian route will provide access to the Flaxmill from the new car park.

- 9.10 The area of land comprising the new car park, roadway and combined cycle and pedestrian route is known as the 'Railway Triangle'. The Railway Triangle has been the subject of a previous compulsory purchase order which was confirmed by the Secretary of State on 7 April 2021. Following the confirmation of this CPO, the Council has implemented its compulsory acquisition powers via the making of a General Vesting Declaration (GVD). The land, subject of the GVD, vested in the Council on 3 November 2021 and has been transferred to Historic England. The transfer is in the process of being registered at HM Land Registry.
- 9.11 The Scheme is to comprise a third phase of development at the Flaxmill. Outline planning permission of the Scheme was granted by the Council on 10 May 2021 (ref. 20/05065/OUT) (hereafter the 2021 Permission) for the residential development of the Order Land, incorporating elements of commercial, business and service uses (i.e. Class E uses), with all matters reserved, save for access. Copies of the Officer's Report and the 2021 Permission are provided at **Appendix 7a & Appendix 7b** respectively. The 2021 Permission identifies a quantum of development (with the illustrative masterplan showing 120 residential dwellings and two commercial units, plus the retained, but newly refurbished, no. 1 and no. 15 Haughmond Square which the application site is capable of accommodating, and in doing so sets the site's capacity. Further, the change of use of the Apprentice House (Grade 2* listed) to residential use is authorised, as well as the change of use of the ground floor of the Haughmond Square Properties to a mixed commercial use.
- 9.12 The 2021 Permission presents an illustrative scheme, intended to demonstrate how the maximum quantum of development applied for can be accommodated in an acceptable manner. The primary use of the application site will be residential (a mixture of house types and tenures is considered suitable), with a small number of commercial units (suitable for use as local shops and/or cafes, a gym and lifestyle centre or other health and beauty businesses) located at key, visually prominent positions within the site, strategically placed on the Spring Gardens frontage, where there will be passing traffic and footfall. The illustrative scheme shows the Haughmond Square Properties retained and refurbished, potentially as live/work units, so that they would act as 'gate posts' forming an appropriate entrance, indeed the community gateway, to the historic core of the wider Flaxmill. This will rebuild the relationship and physical connection between the buildings with the surrounding public realm, and once occupied will bring activity to the area.
- 9.12 It will be necessary for reserved matters approval in respect of the scale, layout and appearance of the outline elements of the Scheme to be obtained. These applications will be made in due course by

the private sector development partner who will be appointed by Historic England, following a competitive tendering exercise, to deliver the Scheme. Accordingly, assembly of the Order Land is of critical importance and a pre-requisite to Historic England being able to 'go to market' and invite tender responses in respect of this unique development opportunity.

- 9.13 The fourth and final stage of the redevelopment project for the Flaxmill is dependent on the third and the successful implementation of the Scheme. Historic England plan to dispose of the Order Land to their appointed development partner on terms which will see reinvestment of a pre-agreed proportion of the profit generated by the delivery of the Scheme into the ongoing maintenance, repair and preservation of the complex of historic buildings comprised within the Flaxmill. The site's redevelopment represents a unique regeneration opportunity. In order to realise the plethora of public benefits which the Flaxmill Maltings project has the potential to deliver, it is essential that this final stage of development is reached, implemented and completed. The Scheme is vital to ensuring the overall success of the Flaxmill's regeneration. Moreover, it will secure the site's long-term and sustainable future in order that its legacy may be safeguarded and continue for the benefit of all, including the local and wider communities and visitors to the town of Shrewsbury.

10. Planning Policy and current development

- 10.1 The Local Plan for Shropshire consists of the Shropshire Core Strategy adopted March 2011 and the Site Allocations and Management of Development (SAMDev) Plan adopted in 2015. The most relevant Core Strategy and SAMDev Plan policies (for a full schedule of relevant policies see **Appendix 8**), as considered in relation to the 2021 Permission, are:

CS2: Shrewsbury Development Strategy
CS6: Sustainable Design and Development Principles
CS8: Facilities, Services and Infrastructure Provision
CS17: Environmental Networks
MD2: Sustainable Design
MD12: Natural Environment
MD13: Historic Environment
S16: Shrewsbury area settlement policy

- 10.2 Policy CS2 identifies that: 'The Shrewsbury Northern Corridor will be improved in accordance with the aims of the Northern Corridor Regeneration Framework, with the restoration and redevelopment of the Ditherington Flaxmill site and the enhancement of major existing commercial, employment and mixed use areas a priority'.

- 10.3 SAMDev Policy S16 supports the restoration and redevelopment of the Flaxmill as part of improvements to the Shrewsbury Northern Corridor in accordance with the aims of the Northern Corridor Regeneration Framework to provide a sustainable and complementary mix of retail, community, employment and residential uses.
- 10.4 The Flaxmill is an allocated housing site under SAMDev Policy S16.1a (SHREW198) with the following development guidelines:
- 'Mixed use development to have regard to the adopted masterplan for the re-development of the Flaxmill and adjoining land and buildings, to include approximately 120 dwellings. The redevelopment will comprise of the repair and reuse of historic buildings to create workspace and associated cultural activities, new retail/commercial office and residential development, associated access, landscaping and car parking, with demolition of non-listed buildings'*
- 10.5 The Scheme, which makes effective use of a brownfield site, is considered to represent sustainable development and is acceptable in principle having regard to Policy CS2 which identifies Shrewsbury as the main focus for all new residential development. The development of the Flaxmill also accords with SAMDev Policy S16.
- 10.6 The Scheme is to be delivered wholly within the Shrewsbury Town Centre Conservation Area and has the potential to affect the complex of listed buildings at the Flaxmill. Therefore, in determining the 2021 Permission, the Scheme was considered against Shropshire Council policies MD2, MD13, CS6 and CS17 and with national policies and guidance including section 16 of the National Planning Policy Framework (NPPF). Likewise, special regard had to be given to the desirability of preserving or enhancing the character or appearance of the Conservation Area and to preserving the Flaxmill's listed buildings, their setting and the features of special architectural or historic interest which the buildings possess as required by sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 10.7 A full Heritage Impact Assessment was submitted with the application for the 2021 Permission, as required by Policy MD13 and the NPPF. While the focus of the policy considerations is the sensitive repair and conversion of the historic buildings, and the impacts upon their settings, the Scheme concerns the redevelopment of the wider site around them. The Order Land is prominently situated and central to the frontage of the site. Hence, the buildings to be constructed pursuant to the 2021 Permission will be viewed in context with the Grade 1 Listed Main Mill to the rear. The CPO will enable the assembly of the whole of the Order Land.

With regard to the Haughmond Square Properties in particular, this will enable Historic England to change the use of the properties and to undertake a programme of coordinated repairs and enhancements to the buildings, thereby providing a gateway entrance to the historic core of the Flaxmill via the Kiln.

- 10.9 Similarly, the Council's Big Town Plan (2018) for Shrewsbury establishes a vision to prepare the town for sustainable growth, ensuring Shrewsbury fulfils its role as an important sub regional centre with an excellent quality of life and a growing and balanced economy with an exceptional and widely celebrated natural and historic environment. Further, there is a desire to enhance areas in need of investment and renewal and to expand the town centre beyond the river loop to include edge of centre areas. The comprehensive regeneration of the Flaxmill is central to this vision.

11. The Order Land

- 11.1 The Order Land is situated in Ditherington approximately one mile to the north of Shrewsbury Town Centre. It is part bounded by the Crewe to Shrewsbury railway line to the north west and Spring Gardens, a busy main road, to the south east. Residential properties lie immediately to the north west and south west of the Order Land and on the opposite side of Spring Gardens to the south east.

- 11.2 The Order Land includes thirteen land parcels with a total area of circa 1.74 hectares. Full details of the Order Land are contained in the draft CPO Schedule and shown on the draft CPO Map at **Appendix 2 and Appendix 3** respectively.

11.3 Current Ownership and Use of the Order Land

- 11.3.1 The majority of the Order Land is already within the ownership of Historic England. However, delivery of the Flaxmill's redevelopment in full, and, in particular, the implementation of the Scheme as the third phase of the Flaxmill Maltings project (see paragraph 9.11 above), requires the acquisition of a number of privately owned, third party interests. These interests are primarily comprised within Plots 5, 6, 7 and 8 – the Haughmond Square Properties (i.e. no. 1 & no. 15 Haughmond Square).

- 11.3.2 .The freehold owner of no. 1 Haughmond Square (comprising ground floor commercial premises, residential accommodation above, and yard to the rear) leases both the commercial premises , which is occupied by the 'Spring Garden' Chinese takeaway, and the residential flat above..

- 11.3.3 Turning to no. 15 Haughmond Square (comprising ground floor commercial premises, residential accommodation above, and yard

to the rear), the ground floor of this property also operates as a hot food takeaway; in this instance the 'Chilli Spice' Indian takeaway. The business owner leases the commercial premises from the freehold owner of no. 15 Haughmond Square. The first floor residential flat is also let to a tenant

11.3.4 The Haughmond Square Properties are not listed, but as with the whole of the Order Land they sit within the Shrewsbury Town Centre Conservation Area. They are in average condition and have each been the subject of inappropriate alterations and additions and currently have semi-derelict rear yards.

11.3.5 In addition to the third party interests held in the Haughmond Square Properties, the Council also wishes to acquire all private rights, covenants and other qualifying interests by which the Order Land is burdened, details of which are recorded in the draft Order Schedule (see **Appendix 3**). Upon implementation of the Scheme, the effect of the Order will be to override the aforesaid burdens, thereby ensuring that there are no legal impediments to its delivery.

11.3.6 The balance of the Order Land comprises land in front of and to the south east of the Main Mill. This land, together with land to the north east, has been cleared of all buildings by Historic England in order to ready it for development. In addition to the Haughmond Square Properties, the Grade 2* listed Apprentice House is proposed to be retained. The Apprentice House has been vacant since 1987 and is awaiting conversion to residential use as part of the Scheme.

11.4 Negotiations with Affected Parties

11.4.1 In pursuing a CPO the Council must have regard to paragraph 2 of the CPO Guidance. This states that whilst compulsory acquisition is intended as a measure of last resort to secure the assembly of all of the land required for the implementation of a scheme or project, it may often be sensible for the acquiring authority to initiate formal procedures and, in parallel, to continue to engage in meaningful negotiations with affected parties.

11.4.2 Negotiations to acquire the third party interests comprised in no. 1 Haughmond Square are at an advanced stage. Heads of terms to acquire both the freehold and leasehold interests in the property have been agreed and solicitors have been instructed to prepare and negotiate the legal agreements required to document the same. Alongside and in parallel with the acquisition of no. 1 Haughmond Square, options for the relocation and re-housing of the tenant are being actively explored.

11.4.3 Conversely, very little, if no, progress has been made towards securing the acquisition of the third party interests comprised in no. 15 Haughmond Square. To date, the freehold owner has been unwilling to engage in any meaningful discussion with the Council and/or Historic England and has strongly objected to the initiation of any direct communication with this tenants. Requisitions for information have been sent out as part of the land referencing exercise undertaken on the Council's behalf in respect of the Order Land, to which all parties have responded. Therefore, the nature of their respective interests in no. 15 Haughmond Square is clear. However, negotiations to acquire these interests by agreement are considered to be at an impasse with little prospect of being moved forward in a constructive and timely manner. As envisaged by the CPO Guidance, it is hoped that the making of the Order will serve to focus minds and to impress upon the parties the seriousness of the Council's intent and the imperative to assemble all of the land required to deliver the Scheme.

11.4.4 The Council will continue to negotiate with affected parties, both by way of direct communication where this is sought, and via the ongoing consultation and attempts at engagement being conducted by Historic England, with a view to acquiring their interests by agreement. However, it is clear that use of the Council's powers of compulsory acquisition is needed to ensure that the Scheme can be delivered in full and within a reasonable timeframe.

12. Justification for making the Compulsory Purchase Order.

12.1 Account has been taken by Officers of paragraphs 12-15 of the CPO Guidance which set out the fundamental principles that a confirming minister should consider when deciding whether or not to confirm a compulsory purchase order. A draft of the Statement of Reasons which sets out the case for compulsory acquisition is at **Appendix 4**.

12.2 Intended use of the Order Land and the consideration of Alternatives

12.2.1 Paragraph 13 of the CPO Guidance confirms that whilst a confirming minister will not require a particular degree of justification for any specific order:

"If an acquiring authority does not: have a clear idea of how it intends to use the land which it is proposing to acquire; and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale, it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making".

12.2.2 The Council has a very clear idea of how it intends to use the Order Land through the delivery of the Scheme. Further, and as demonstrated below, the necessary resources (and consents) are in place to enable the Scheme and the wider redevelopment of the Flaxmill to be delivered within a reasonable timeframe.

12.2.3 Turning to the consideration of alternatives, the 'do nothing' option or the delivery of an alternative development proposal which excludes the acquisition and refurbishment of the Haughmond Square Properties are not considered credible, nor viable.

12.2.4 As explained in Section 9 above, the Scheme constitutes a penultimate and crucial 'enabling' stage in the successful delivery of the Flaxmill Maltings project. The Council and Historic England have gone through a deliberative process to identify the key component parts of the Scheme, with the retention and refurbishment of the Haughmond Square Properties being one such part, with a view to maximising the Scheme's appeal as an attractive redevelopment opportunity to the private sector developer market and the value of the return which will be generated by its delivery. This has been done in order to make certain, so far as possible, that the fourth and final stage of the Flaxmill Maltings project will be reached, implemented and completed, thereby ensuring the overall success of the Flaxmill's regeneration.

12.2.5 Accordingly, it is considered that the redevelopment of the Order Land pursuant to the Scheme, will secure the long-term and sustainable future of the Flaxmill in order that it may have a lasting legacy and that there is longevity to the reaping of the benefits generated.

12.3 Impediments to the Scheme

Resource and Funding Implications of the Scheme

12.3.1 The funding for the redevelopment of the Flaxmill is secured in the main and has been obtained from a variety of sources. The National Lottery Heritage Fund, Historic England, The Marches Local Enterprise Partnership, the Council and the European Regional Development Fund are the primary sources of secured funding – circa £30,650,148.

12.3.2 Alongside this, Historic England have a fundraising target of £1,000,000, against which £965,000 has already been raised with further opportunities identified via its Philanthropy Team. It is anticipated that these further opportunities will be secured by the end of the construction period in the Autumn 2022. The income and volunteer time of the Friends must also be factored in and equates to circa £1,160,955 of additional funding.

- 12.3.3 Further funding in the order of £1,000,000 has been obtained via the Heritage Stimulus Fund and committed in order to enable the carrying out of essential works at the Flaxmill during the COVID-19 pandemic.
- 12.3.4 As regards acquisition of the Haughmond Square Properties, the requisite funding has been ringfenced by Historic England and is available to be drawn down at the point at which agreement over their purchase is agreed or authorised via the CPO. As such, the compulsory acquisition of these third party interests via the CPO can be completed within a reasonable timeframe. This is a key step in unlocking a third and crucial stage of development at the Flaxmill and in enabling Historic England to pursue its disposal and redevelopment strategy for the Order Land.

Planning Permission and Scheme Delivery

- 12.3.5 Paragraph 15 of the CPO Guidance confirms that, in addition to demonstrating that there are no funding related impediments to the delivery of the scheme underpinning a compulsory purchase order, an acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation.
- 12.3.6 Any need for planning permission or other consent or licence is amongst the examples given by the CPO Guidance as to what may constitute a legal impediment. As confirmed in Section 9, outline planning permission for the Scheme is in place. Further details of the Scheme's compliance with planning policy are set out in Section 10 above.
- 12.3.7 The required reserved matters approvals will be applied for and obtained in due course following the disposal of the Order Land by Historic England to a private sector development partner who will take forward the Scheme. In building out the Scheme, strict adherence to design criteria, materials and sustainability requirements, set by Historic England, will be insisted upon to ensure quality. Further, the intention is for a pre-agreed proportion of the profit generated by the development of the Order Land to be reinvested in the ongoing maintenance repair and preservation of the complex of historic buildings at the Flaxmill.
- 12.3.8 Sufficient certainty over acquisition of the Haughmond Square Properties is a pre-requisite of Historic England 'going to market' and commencing the competitive tendering process to identify a private sector development partner. Subject to this, there is no reason why delivery of the Scheme could not progress at pace.

12.3.9 Failing an agreement to acquire the Haughmond Square Properties, it will be necessary to rely upon the CPO to provide the requisite certainty. Assuming that the Secretary of State is minded to confirm the CPO, the Council will take immediate steps to implement the same. The land assembly process will be completed as soon as possible once the statutory minimum period of 3 months following the CPO becoming operative has been observed and the requisite notices have been served on affected landowners. The competitive tendering process in respect of the third stage of development at the Flaxmill is proposed to be run in parallel such that the appointment by Historic England of its private sector development partner would be completed within the same timeframe.

Demonstrating a compelling case in the public interest

12.3.10 Paragraph 12 of the CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. Acquiring authorities required to give particular consideration to the rights protected under the European Convention on Human Rights - Section 4.2 above provides a Human Rights Appraisal for the CPO.

12.3.11 In the absence of the CPO, there is no certainty as regards assembly of the land required to implement the Scheme, thereby jeopardising the delivery of the Flaxmill's redevelopment in full and its associated public benefits. Accordingly, the Officer's consider there is a compelling case in the public interest for the compulsory acquisition of the Order Land.

13. Conclusions

13.1 The Council's vision for the regeneration of the Flaxmill is set out in the Core Strategy and the Shrewsbury Big Town Plan (2018). Delivery of the Scheme will enable that vision to be realised. The Scheme offers an opportunity to develop a high quality residential led-mixed use development which will make a significant contribution to the economic and social vitality of the town and provide an enhanced environment and sense of place.

13.2 Absent the CPO, the successful delivery of the Scheme is in jeopardy, as is the ability of this third and crucial phase of development to enable the implementation of the final stage of the redevelopment project for the Flaxmill. The project must be delivered its entirety otherwise the wider public benefits arising from the comprehensive regeneration of both the Flaxmill and Shrewsbury's Northern Corridor as a whole will not be realised.

13.3 In light of the facts and considerations set out within this report, it is concluded by Officers that there is a compelling case in the public interest for the exercise by the Council of its compulsory purchase powers.

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

Shropshire Core Strategy and SAMDev Plan
Shrewsbury Big Town Plan 2018
Reports to Central Area Planning Committee

Cabinet Member (Portfolio Holder)

Edward Potter, Portfolio Holder for Economic Growth, Regeneration & Planning

Local Member

Councillor Alan Moseley

Appendices

Appendix 1 – Request from Historic England for the council to use its CPO powers
Appendix 2 – Draft CPO Schedule
Appendix 3 – Draft CPO Map
Appendix 4 – Draft Statement of Reasons
Appendix 5 – Equality and Social Inclusion Impact Assessment (ESIIA)
Appendix 6 – Schedule of planning permissions relating to the Flaxmill
Appendix 7a – Officer Report for Outline Planning Permission Ref. 20/05065/OUT
Appendix 7b – Decision Notice for Planning Permission Ref. 20/05065/OUT
Appendix 8 – Planning Policy Schedule

Dr Andrew Wigley
Shropshire Council
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND

8 March 2022

Dear Dr Wigley,

Shrewsbury Flaxmill Maltings

As you will be aware, Historic England are in the process of restoring Shrewsbury Flaxmill Maltings (“the Flaxmill”), a site of historic and international significance, following its acquisition in March 2005. The site’s restoration is being undertaken in four stages.

Planning permission for the Flaxmill (comprising an outline planning permission and a detailed planning permission and listed building consent for an initial phase of development) was first obtained in November 2010 following a masterplan study (undertaken in 2004) which identified the opportunity to greatly improve the site and the surrounding environment of the Flaxmill based upon the acquisition and sympathetic redevelopment of neighbouring sites (“the masterplan consents”)¹. The masterplan consents have now expired.

However, a series of planning permissions and listed building consents have subsequently been obtained (and in certain instances implemented) in order to authorise the mixed-use redevelopment of outbuildings within the vicinity of the Main Mill (which is Grade 1 listed)², as well as the repair and restoration of the Main Mill and Kiln themselves in order to form a visitor interpretation centre; a learning space and café; restoration of the upper floors of the Main Mill for commercial use; and the creation of a new car park, roadway and combined cycle and pedestrian route within an area known as the ‘Railway Triangle’³. These works constitute a first and second stage of development – the first stage focussed on the Office (now Smithy) and Stable buildings and was completed at the end of 2015 with the opening of a visitor centre and education facility charting the history of the Flaxmill; the second stage works, comprising the repair, restoration and repurposing of the Main Mill and Kiln, are well progressed and are due to be completed by the end of May.

¹ See the following consents: ref. 10/03237/OUT; 10/03230/FUL; and 10/03233/LBC.

² See the following consents: ref. 12/04435/FUL and 12/04436/LBC – repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping; and ref. 13/02383/LBC – demolition of existing south silo structure affecting a Grade 1 Listed Building.

³ See the following consents: ref. 16/02872/FUL and 16/02873/LBC – repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors, formation of visitor interpretation centre, learning space and café; restoration of upper floors for commercial use; landscaping and formation of car parking area with improved accessibility across the site.



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The third stage of development at the Flaxmill proposes the conversion of the Apprentice House to residential use and the redevelopment of the brownfield land to the north and east of the Flaxmill's historic buildings for a residential-led mixed use scheme ("the Scheme"). Planning permission for the Scheme has been obtained in outline, granted on 10 May 2021, with all matters reserved save for access ("the 2021 Permission")⁴. It is intended that, following a competitive tendering exercise, Historic England will appoint a private sector development partner to deliver the Scheme and that a proportion of the profit generated as a consequence of the said redevelopment will be utilised by Historic England to reinvest into the Flaxmill and provide critical funding for the ongoing maintenance, repair and preservation of the site's historic buildings. This will be the fourth and final stage of the Flaxmill's redevelopment. The implementation of this final stage, and the realisation of Historic England's ultimate objective to comprehensively regenerate the site, is reliant upon the Scheme being delivered in full.

Much of the land needed for the Scheme ("the Stage 3 Land") is already within the ownership of Historic England. However, the Stage 3 Land includes commercial premises at no. 1 and no. 15 Haughmond Square, located on the Spring Gardens frontage, which are currently being operated as hot food takeaways, each with residential accommodation at first floor level (together, "the Haughmond Square Properties"). The Haughmond Square Properties are both in private, third party ownership.

Historic England has sought to acquire the freehold interests in the Haughmond Square Properties and is committed to supporting the relocation of both takeaway operators, together with the residential occupiers of both properties. We will continue to communicate with the affected parties with a view to moving matters forward. However, it is considered that the present dialogue has reached stalemate and that, absent intervention, there is little prospect of the acquisition of the Haughmond Square Properties proceeding in a timely and constructive manner. Therefore, assembly of the totality of the Stage 3 Land cannot currently be guaranteed.

The Haughmond Square Properties are in average condition and have each been the subject of ad-hoc, ill-considered and poor quality works/repairs over the years, including inappropriate fenestration, low-grade shop fronts and unsightly extraction units. The rear yards to both properties are in a semi-derelict state, being overgrown with vegetation and strewn with rubbish and fly-tipped material. The Haughmond Square Properties detract from the Shrewsbury Town Centre Conservation Area within which the Flaxmill sits.

As part of the Scheme, and the illustrative masterplan submitted in support of the application for the 2021 Permission, the Haughmond Square Properties will appear as 'gate posts' forming an

⁴ See planning permission ref. 20/05065/OUT.



appropriate entrance, indeed the community gateway, to the historic core of the wider Flaxmill, and serving as the threshold to a reinstated Haughmond Square – historically the location of a cluster of small workers cottages which have long since been demolished. Indeed, in their resumed role as ‘gate posts’, the Haughmond Square Properties will frame a key view of the Kiln (which is Grade 2 listed) – the hub of the historic mill complex – and of Jubilee Tower alongside. The Haughmond Square Properties sit at ‘front and centre’ of the Scheme. As such, their acquisition and refurbishment for a mixed commercial use is central to the Scheme’s success. In particular, the unsightly modern extension and lean-to structures at the side and to the rear of the properties are required to be removed and the 19th century elevations restored.

The financial appraisals undertaken in respect of the Scheme indicate that a failure to acquire the Haughmond Square Properties will result in a marked reduction in the residual value of the Scheme, which will have an undermining effect on Historic England’s disposal and redevelopment strategy for the Stage 3 Land and the overall viability of the redevelopment project for the Flaxmill. The assembly of the Stage 3 Land is of critical importance and a pre-requisite to Historic England being able to ‘go to market’ and invite tender responses in respect of this unique development opportunity. The prospects of success for this third stage of development must be maximised so that it can enable the fourth and final stage of the redevelopment project. Only then will the Flaxmill’s long-term and sustainable future be secured and its legacy safeguarded.

In order to secure the comprehensive regeneration of the Flaxmill, and the delivery in full of the four-stage redevelopment project to which this letter refers, Historic England require the ongoing support of the Council and, in particular, a commitment on the part of the Council to authorise, in due course, the making of a compulsory purchase order pursuant to s.226(1)(a) of the Town and County Planning Act 1990, the Council being satisfied that a compelling case in the public interest is established thereby justifying the exercise of its powers of compulsory acquisition. You will recall that the Council proceeded with a compulsory purchase order in April 2020, made pursuant to the same powers, in respect of land in unknown ownership within the Railway Triangle. This order was successful and was confirmed by the Secretary of State in April 2021. The acquired land has since been transferred from the Council to Historic England and has been developed to provide the new car park and roadway at the Flaxmill.

As you will be aware, a local authority to whom s.226(1)(a) applies shall, on being authorised to do so by the Secretary of State, have the power to acquire compulsorily any land in their area if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land, the subject of the compulsory purchase order, provided that such development, re-development or improvement is likely to contribute to the



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achievement of any one or more of the following objects: the promotion or improvement of the economic, social and/or environmental well-being of the local authority's area.

A key milestone in the compulsory acquisition process is the preparation of the Statement of Reasons which will articulate the 'compelling case' in support of a decision by the Council to make a compulsory purchase order in this instance. It is accepted that in order for the Council to proceed in the manner envisaged, the case for compulsory acquisition will need to be fully developed and substantiated.

With regard to the contents of this letter, it is requested that the Council continues to support the long-anticipated restoration of the Flaxmill and, in particular, that it confirms its commitment, in principle, to the use of the Council's powers of compulsory acquisition in order to secure the delivery in full of this critical regeneration project.

Kind regards.

Yours sincerely



Alastair Godfrey
Project Lead, Shrewsbury Flaxmill Maltings
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**SHROPSHIRE COUNCIL
(SHREWSBURY FLAXMILL MALTINGS - REDEVELOPMENT) (NO. 2)
COMPULSORY PURCHASE ORDER 2022**

SHROPSHIRE COUNCIL (SHREWSBURY FLAXMILL MALTINGS – REDEVELOPMENT) (NO. 2) COMPULSORY PURCHASE ORDER 2022

Section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981

Shropshire Council (in this order called “the acquiring authority”) makes the following order –

1. Subject to the provisions of this order, the acquiring authority is under section 226(1)(a) of the Town and Country Planning Act 1990 hereby authorised to purchase compulsorily the land described in paragraph 2 for the purpose of facilitating the carrying out of development, redevelopment or improvement of that land including by the delivery of a mixed-use development comprising residential accommodation, together with commercial, business and service uses being a key element of the wider regeneration of Shrewsbury Flaxmill Maltings, which the acquiring authority considers will contribute to the promotion or improvement of the economic, social and environmental wellbeing of the area.
2. The land authorised to be purchased compulsorily under this order is the land described in the Schedule and delineated and shown edged red and tinted pink on a map prepared in duplicate, sealed with the common seal of the acquiring authority and marked “Map referred to in the Shropshire Council (Shrewsbury Flaxmill Maltings - Redevelopment) (No. 2) Compulsory Purchase Order 2022”.

THE SCHEDULE

Table 1

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
1	All interests in approximately 16,806 square metres of land, outbuildings and construction site, including underground electricity cables, underground gas main, underground water main, and underground telecommunication cables, part of Shrewsbury Flaxmill Maltings, site of former premises known as: Rexel Senate building, Midlands Social Club, and former Arriva bus depot, situated between Spring Gardens, Marshalls Court and the Shrewsbury to Crewe railway line, except those owned by The Historic Buildings and Monuments Commission for England	The Historic Buildings and Monuments Commission for England 4 th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i>	-	-	The Historic Buildings and Monuments Commission for England 4 th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i> Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i> National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
1 (cont'd)					<p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p> <p>Severn Trent Water Limited 2 St. John's Street Coventry CV1 2LZ <i>(in respect of underground water main)</i></p> <p>Openreach Limited Kelvin House 123 Judd Street London WC1H 9NP <i>(in respect of underground telecommunication cables)</i></p>
2	All interests in approximately 58 square metres of land, including underground electricity cables, underground water main, and underground gas main, situated to the north of the junction with Marshalls Court and Spring Gardens, adjoining adopted highway known as Spring Gardens (A5191), except those owned by The Historic Buildings and Monuments Commission for England	<p>Unknown</p> <p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p>	-	-	<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
2 (cont'd)					<p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p>
3	All interests in approximately 25 square metres of land, including underground electricity cables, underground water main, and underground gas main, forming part of adopted highway known as Spring Gardens (A5191), situated to the north of the junction with Marshalls Court and Spring Gardens, except those owned by the acquiring authority, the highways authority, and The Historic Buildings and Monuments Commission for England	Unknown <i>(in respect of subsoil)</i>	-	-	<p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
3 (cont'd)		<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> <i>(as frontage in respect of presumed owner of subsoil beneath adopted highway)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> <i>(in respect of adopted highway)</i></p>			<p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p> <p>Severn Trent Water Limited 2 St. John's Street Coventry CV1 2LZ <i>(in respect of underground water main)</i></p>

THE SCHEDULE

Table 1 (cont'd)

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
4	All interests in approximately 28 square metres of land, including underground electricity cables, underground water main, and underground gas main, situated to the south west of 15 Haughmond Square, Shrewsbury, SY1 2TA, including adopted highway known as Spring Gardens (A5191), except those owned by the acquiring authority, the highways authority, and The Historic Buildings and Monuments Commission for England	<p>Unknown <i>(in respect of subsoil)</i></p> <p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> <i>(as frontage in respect of presumed owner of subsoil beneath adopted highway)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> <i>(in respect of adopted highway)</i></p>	-	-	<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
4 (cont'd)					<p>Severn Trent Water Limited 2 St. John's Street Coventry CV1 2LZ <i>(in respect of underground water main)</i></p> <p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p>
5	All interests in approximately 58 square metres of land, ground floor commercial premises, and residential flat above, including underground electricity cables, and underground gas main, known as 15 Haughmond Square, Spring Gardens, Shrewsbury, SY1 2TA	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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THE SCHEDULE

Table 1 (cont'd)

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
5 (cont'd)					<p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p> <p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p>
6	All interests in approximately 76 square metres of land, including underground electricity cables, and underground gas main, situated to the rear and to the side of 15 Haughmond Square, Spring Gardens, Shrewsbury, SY1 2TA		-	-	

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
6 (cont'd)					<p>[REDACTED]</p> <p>[REDACTED]</p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
7 (cont'd)					<p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p> <p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p> <p>Severn Trent Water Limited 2 St. John's Street Coventry CV1 2LZ <i>(in respect of underground water main)</i></p>
8	All interests in approximately 56 square metres of land, including underground electricity cables, and underground gas main, situated to the rear of 1 Haughmond Square, Spring Gardens, Shrewsbury, SY1 2TA	[REDACTED]	-	-	[REDACTED]

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Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
8 (cont'd)					<p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p> <p>Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
9	Approximately 1 square metre of land, including underground electricity cables, situated on the north west side of Spring Gardens (A5191), fronting 52 Spring Gardens, Shrewsbury, SY1 2ST and to the east of 1 Spring Gardens, Shrewsbury, SY1 2TA except those owned by The Historic Buildings and Monuments Commission for England	<p>Unknown <i>(in respect of subsoil)</i></p> <p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> <i>(as frontage in respect of presumed owner of subsoil beneath adopted highway)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> <i>(in respect of adopted highway)</i></p>	–	–	<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i></p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
10	Approximately 11 square metres of land, including underground electricity cables, situated on the north west side of Spring Gardens (A5191), fronting 52 Spring Gardens, Shrewsbury, SY1 2ST and to the east of 1 Spring Gardens, Shrewsbury, SY1 2TA, including adopted highway known as Spring Gardens (A5191), except those owned by the acquiring authority, the highways authority, and The Historic Buildings and Monuments Commission for England	<p>Unknown</p> <p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority (in respect of adopted highway)</i></p>	-	-	<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i></p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
11	All interests in approximately 149 square metres of land and adopted highway (footway) known as Spring Gardens (A5191), including underground electricity cables and underground gas main, situated on the northwest side of Spring Gardens (A5191) fronting 60 Spring Gardens, SY1 2TE, including adopted highway known as Spring Gardens (A5191), except those owned by the acquiring authority and The Historic Buildings and Monuments Commission for England	<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> <i>(in respect of adopted highway)</i></p>	-	-	<p>The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i></p> <p>Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i></p> <p>National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i></p> <p>Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i></p> <p>National Grid Gas plc 1-3 Strand London WC2N 5EH <i>(in respect of underground gas main)</i></p>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
11 (cont'd)					Cadent Gas Limited Ashbrook Court Prologis Park Central Boulevard Coventry CV7 8PE <i>(in respect of underground gas main)</i>
12	All interests in approximately 4 square metres of land, including underground electricity cables and underground water main, situated to the north west of Spring Gardens (A5191), including adopted highway known as Spring Gardens (A5191), except those owned by the acquiring authority, the highways authority, and The Historic Buildings and Monuments Commission for England	Unknown <i>(in respect of subsoil)</i> The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> <i>(as frontage in respect of presumed owner of subsoil beneath adopted highway)</i> Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> <i>(in respect of adopted highway)</i>	-	-	The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
12 (cont'd)					National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i>
13	All interests in approximately 1 square metre of land, including underground electricity cables, situated to the north west of Spring Gardens (A5191) opposite Frank Partner & Son Funeral Directors, Shrewsbury, SY1 2TF, including adopted highway known as Spring Gardens (A5191), except those owned by the acquiring authority, the highways authority, and The Historic Buildings and Monuments Commission for England	Unknown <i>(in respect of subsoil)</i> The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> <i>(as frontage in respect of presumed owner of subsoil beneath adopted highway)</i> Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> <i>(in respect of adopted highway)</i>	-	-	The Historic Buildings and Monuments Commission for England 4th Floor Cannon Bridge House 25 Dowgate Hill London EC4R 2YA <i>(operating as Historic England)</i> Shropshire Council Shirehall Abbey Foregate Shrewsbury SY2 6ND <i>(as highway authority)</i> Western Power Distribution plc Avonbank Feeder Road Bristol BS2 0TB <i>(in respect of underground electricity cables)</i>

Table 1 (cont'd)

THE SCHEDULE

Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
13 (cont'd)					National Grid Electricity Transmission plc 1-3 Strand London WC2N 5EH <i>(in respect of underground electricity cables)</i>

DRAFT

THE SCHEDULE

Table 2

Number on map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining column is likely to make a claim
1	<p>Homes England One Friargate Coventry CV1 2GN (SL131453) (replacing Homes and Communities Agency)</p>	<p>As mortgagee to The Historic Buildings and Monuments Commission for England in respect of a registered charge dated 30 March 2005, in respect of land in title SL142169 and affecting also other titles under which the charge is registered being titles SL131453, SL142169 and SL83360</p>	<p>Unknown</p> <p>Homes Plus Limited Acton Court Acton Gate Stafford ST18 9AP</p> <p>National Grid plc 1-3 Strand London WC2N 5EH</p> <p>Unknown</p>	<p>Restrictive covenants relating to the property use, disposal and lease periods (permitted up to 7 years or less) other than with the approval of and for the benefit of Advantage West Midlands over land in titles SL142169, SL131453 and SL83360 more particularly described in a Deed dated 30 March 2005 registered under titles SL131453, SL83360 and SL142169</p> <p>Right in respect of the laying of a sewer located within part of the land (tinted blue on the title plan SL142169) and more particularly described in a Conveyance dated 7 May 1936 (Conveyance not available at HMLR) for the benefit of adjoining land registered under title SL142169</p> <p>Right as to support, drainage and services more particularly described in a Transfer dated 1 October 2001 (transfer not available from HMLR) for the benefit of adjoining land and over land in the title SL144060 and SL173298 registered under titles SL144060 and SL173298</p> <p>Right in respect of electrical equipment located within land in the title SL142169 more particularly described in an Agreement dated 29 July 1971 registered under title SL142169</p> <p>Right in respect of water and soil drainage over land in title SL149042 more particularly described in a Conveyance dated 5 April 1930 (conveyance not available from HMLR) for the benefit of unknown land registered under title SL149042</p>

THE SCHEDULE

Table 2 (cont'd)

Number on map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)		Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 – not otherwise shown in Tables 1 & 2 (6)	
	Name and address	Description of interest to be acquired	Name and address	Description of the land for which the person in adjoining column is likely to make a claim
1 (cont'd)			<p>[REDACTED]</p> <p>Senate Group Limited Ground Floor Eagle Court 2 Hatchford Brook Hatchford Way Seldon Birmingham B26 3RZ</p> <p>Unknown</p>	<p>Unknown provisions more particularly described by an Agreement dated 24 January 1980 (agreement not available from HMLR) over land in title SL149042 registered under title SL149042</p> <p>Unknown provisions more particularly described by an Agreement dated 24 January 1980 (agreement not available from HMLR) over land in title SL149042 registered under title SL149042</p> <p>Unknown restrictive covenants which have been imposed before 4 June 2019 over the land in title SL260260 as described in the registers of title SL260260 and for the benefit of unknown land</p>
2 - 13	-	-	-	-

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THE SCHEDULE

GENERAL ENTRIES

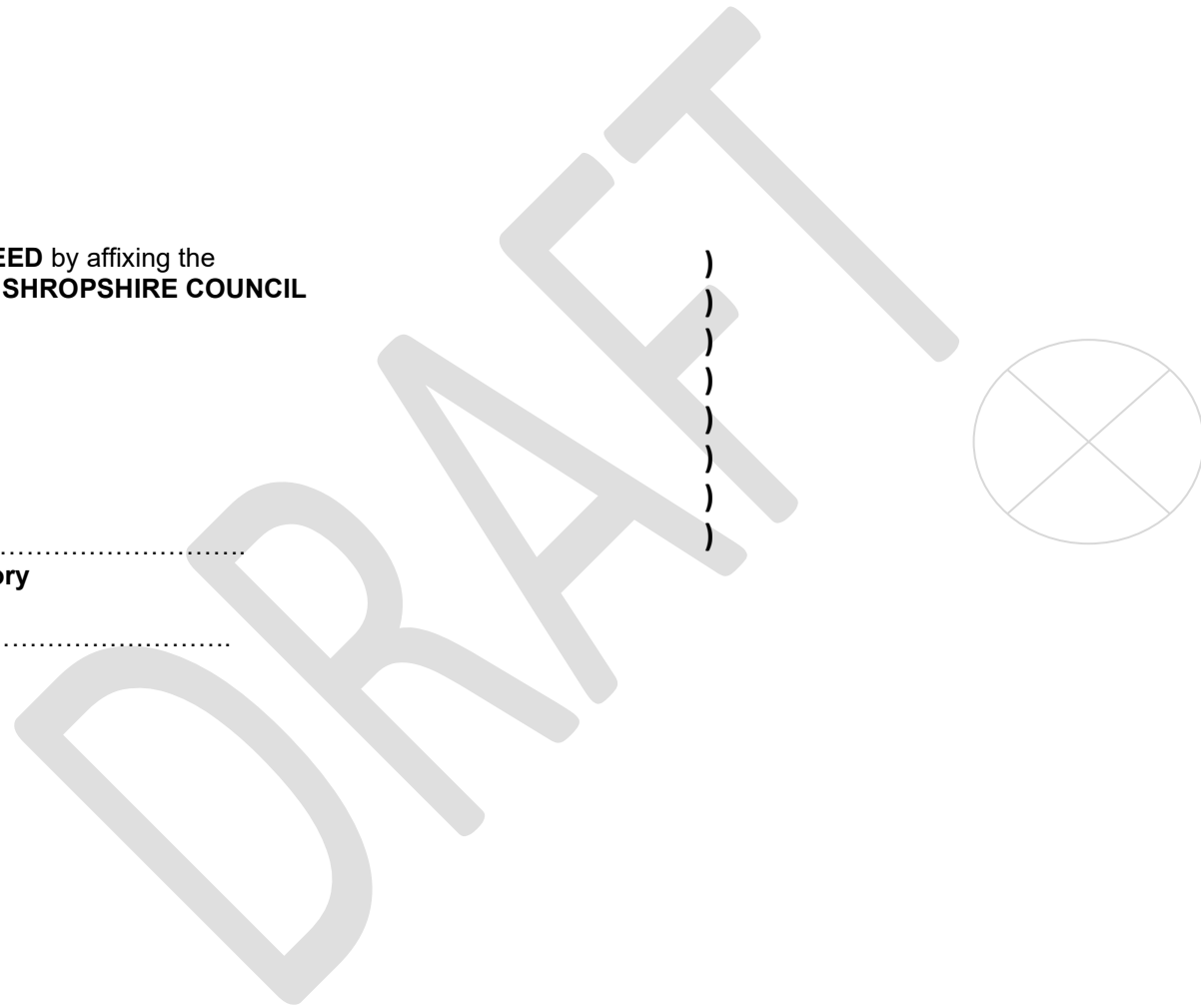
***LIST OF STATUTORY UNDERTAKERS AND OTHER LIKE BODIES HAVING OR POSSIBLY HAVING A RIGHT TO KEEP EQUIPMENT OR HAVING THE BENEFIT OF EASEMENTS ON,
IN OR OVER THE LAND WITHIN THE ORDER***

Party Name	Address
Openreach Limited	Kelvin House, 123 Judd Street, London, WC1H 9NP
Western Power Distribution plc	Avonbank, Feeder Road, Bristol, Avon, BS2 0TB
National Grid Electricity Transmission plc	1-3 Strand, London, WC2N 5EH
National Grid Gas plc	1-3 Strand, London, WC2N 5EH
Severn Trent Water Limited	2 St. John's Street, Coventry, CV1 2LZ
Cadent Gas Limited	Ashbrook Court, Prologis Park, Central Boulevard, Coventry, CV7 8PE
Npower Group Limited	Windmill Hill Business Park, Whitehall Way, Swindon, SN5 6PB

EXECUTED as a **DEED** by affixing the
COMMON SEAL of **SHROPSHIRE COUNCIL**
in the presence of

.....
Authorised Signatory

Date:.....



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**Shropshire Council (Shrewsbury Flaxmill Maltings –
Redevelopment) (No. 2)
Compulsory Purchase Order 2022**

STATEMENT OF REASONS

DRAFT

**Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND**

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1	Order Map
2	Location Plan
3	Illustrative Masterplan Drawing: The Scheme
4	Planning Policy Context

1 INTRODUCTION

The Order

- 1.1 On [INSERT DATE] 2022, Shropshire Council (“**the Council**”), made the “Shropshire Council (Shrewsbury Flaxmill Maltings – Redevelopment) (No. 2) Compulsory Purchase Order 2022” (“**the Order**”), having obtained authority to take this step from the Council’s cabinet on [INSERT DATE].
- 1.2 The Order has been made pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) (“**the 1990 Act**”) to assemble the land required to deliver a mixed-use development comprising residential accommodation, together with commercial, business and service uses (“**the Scheme**”) being a key element of the wider regeneration of Shrewsbury Flaxmill Maltings (“**the Flaxmill**”).
- 1.3 This document is the Statement of Reasons of the Council for the Order, prepared pursuant to and in accordance with the “Guidance on Compulsory purchase process and The Crichel Down Rules” (“**the CPO Guidance**”), issued by the Ministry of Housing, Communities & Local Government (now the Department for Levelling Up, Housing and Communities) in July 2019.
- 1.4 The land proposed to be compulsorily acquired pursuant to the Order (which shall be referred to hereinafter as “**the Order Land**”) comprises land, outbuildings and construction site, part of the Flaxmill and site of former premises known as Rexel Senate building, Midlands Social Club and former Arriva bus depot, situated between Spring Gardens (A5191), Marshalls Court and the Shrewsbury to Crewe railway line. The Order Land also includes commercial premises at no. 1 and no. 15 Haughmond Square, located on the Spring Gardens frontage, which are currently being operated as hot food takeaways (respectively, the ‘Spring Garden’ Chinese takeaway and the ‘Chilli Spice’ Indian takeaway), each with residential accommodation at first floor level (together “**the Haughmond Square Properties**”). Further details of the Order Land are contained in **Section 2** below.
- 1.5 The schedule to the Order (“**the Order Schedule**”) lists the owners, lessees, tenants and occupiers of the Order Land. In addition, the Order Schedule includes details of other parties with a qualifying interest in the Order Land as defined by section 12(2A) of the Acquisition of Land Act 1981, including those with the benefit of rights within the Order Land. The Order Schedule is based on information gathered through a desk top exercise, consisting of index map searches and a review of title information held by HM Land Registry, supplemented by site visits to the Order Land and formal requisitions for information issued by the Council pursuant to section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.6 The extent of the Order Land is shown on the map to the Order (“**the Order Map**”), a copy of

which is at **Appendix 1**. The land which is proposed to be acquired is shown edged red and shaded pink. Individual plot boundaries and numbers on the Order Map correspond with the plot descriptions referred to in the Order Schedule.

- 1.7 The Council is satisfied that the proposed acquisition of the Order Land will facilitate the carrying out of development, redevelopment or improvement of the said land. In considering whether to exercise its powers to make the Order, the Council has had, as is required, regard to section 226(1A) of the 1990 Act and considers that the proposed redevelopment will promote and/or improve the economic, social and environmental well-being of the Council's administrative area.

The Flaxmill

- 1.8 The Scheme is an integral part of a wider redevelopment project being undertaken at the Flaxmill.
- 1.9 This internationally important site reflects a time when Shropshire led the way in engineering innovation. It comprises 8 listed buildings, including the Main Mill which was built in 1797 (which coincided with the completion of the Shrewsbury and Newport Canal) and which was added to the list in January 1953 at Grade I. The Main Mill was the world's first iron framed building and, as such, is the forerunner of the modern skyscraper. The site was a Flaxmill from 1797 until 1886. It reopened as a maltings in 1897 and operated as such until the maltings closed in 1987.
- 1.10 The conversion of the site to a maltings gives it further significance, as an example of a large scale maltings and the ingenious adaption of a complex of buildings of special architectural or historic importance, 3 of which are Grade 1 listed. This grading is applicable to just 2.5% of all listed buildings. The whole of the Flaxmill was of great local significance as the economic and social driver for the northward expansion of Shrewsbury, facilitated by the Shrewsbury and Newport Canal.
- 1.11 A location plan showing the Order Land within the context of the wider Flaxmill is at **Appendix 2**.
- 1.12 In recent history (1987-present), there have been various failed attempts to regenerate the Flaxmill, none of them successfully harnessing the private sector investment required to give the complex of mill buildings a new lease of life. Vandalism and neglect have also taken their toll on the site, which has been on the Heritage at Risk Register for a number of years. Both an Urgent Works Notice under section 54 and an Urgent Repairs Notice under section 47 of the Planning (Listed Building and Conservation Areas) Act 1990 were served on the site's then owner in April 2004.

- 1.13 Historic England (then English Heritage) acquired the freehold of the Flaxmill in 2005 in order to halt its further decline. In 2010, The Friends of the Flaxmill Maltings (“**the Friends**”) was formed to support the renovation and regeneration of the Flaxmill while actively engaging the local and wider communities in its objectives. Their primary role is to promote the site’s history, conducting guided tours and organising open days and lectures, as well as liaison with local residents, community organisations and schools.
- 1.14 Having acquired the Flaxmill and established the Friends, Historic England devised a four stage ‘rescue operation’ for the Flaxmill which has provided a framework to govern Historic England’s approach towards the site’s resurgence.
- 1.15 The first stage of the redevelopment project for the site focussed on the Office (now Smithy) and Stable buildings, and was completed at the end of 2015 with the opening of a visitor centre and education facility, delivered using £1.9 million of funding secured via the European Regional Development Fund. The visitor centre, which was managed by the Friends, charted the site’s history, along with the story of its engineering, architectural and social legacy.
- 1.16 Planning permission and listed building consent for the second stage of works to the Flaxmill was obtained by Historic England in November 2016. The second stage works comprising the repair and restoration of the Main Mill and Kiln, a new, large ground floor interactive visitor experience (which replaced the small visitor centre, allowing that space to be repurposed), learning space and cafe managed by the Friends, and the restoration of the four upper floors of the Flaxmill to create commercial workspace, are well underway and are on track to be completed by the end of May 2022.
- 1.17 The Scheme constitutes a third stage of development which is focused upon the Apprentice House and the brownfield land to the north and east of the Flaxmill’s historic buildings. Rather than being carried out by Historic England, it is envisaged that this phase will be undertaken by a private sector development partner whom Historic England will appoint following a competitive tendering exercise. Accordingly, assembly of the Order Land is of critical importance and a pre-requisite to Historic England being able to ‘go to market’ and invite tender responses in respect of this unique development opportunity.
- 1.18 The fourth and final stage of the redevelopment project is dependent on the success of the third. Historic England plan to dispose of the Order Land to their appointed development partner on terms which will see reinvestment of a pre-agreed proportion of the profit generated by the delivery of the Scheme into the ongoing maintenance, repair and preservation of the complex of historic buildings comprised within the Flaxmill. The site’s redevelopment represents a unique regeneration opportunity. In order to realise the plethora of public benefits which the Flaxmill Maltings project has the potential to deliver, it is essential that this final stage of development is reached, implemented and completed. The Scheme is vital to ensuring the

overall success of the Flaxmill's regeneration. Moreover, it will secure the site's long-term and sustainable future in order that its legacy may be safeguarded and continue for the benefit of all, including the local and wider communities and visitors to the town of Shrewsbury.

2 THE ORDER LAND

Description: Location

- 2.1 The Order Land is situated in Ditherington approximately one mile to the north of Shrewsbury Town Centre and is located within the Shrewsbury Town Centre Conservation Area.
- 2.2 The Order Land is part bounded by the Crewe to Shrewsbury railway line to the north west and Spring Gardens, a busy main road, to the south east. Residential properties lie immediately to the north west and south west of the Order Land and on the opposite side of Spring Gardens to the south east. The Order Land extends to an area of circa 1.74 hectares.
- 2.3 The Order Land is made up of thirteen land parcels, comprising as follows:
 - 2.3.1 **Plot 1:** 16,806 square metres of land, and outbuildings and construction site, including underground electricity cables, underground gas main, underground water main, and underground telecommunication cables, part of Shrewsbury Flaxmill Maltings, and site of former premises known as: Rexel Senate building, Midlands Social Club, and former Arriva bus depot, situated between Spring Gardens, Marshalls Court and the Shrewsbury to Crewe railway line.
 - 2.3.2 **Plot 2:** 58 square metres of land, including underground electricity cables, underground water main, and underground gas main, situated to the north of the junction with Marshalls Court and Spring Gardens, adjoining adopted highway known as Spring Gardens (A5191).
 - 2.3.3 **Plot 3:** 25 square metres of land, including underground electricity cables, underground water main, and underground gas main, forming part of adopted highway known as Spring Gardens (A5191), situated to the north of the junction with Marshalls Court and Spring Gardens.
 - 2.3.4 **Plot 4:** 28 square metres of land, including underground electricity cables, underground water main, and underground gas main, situated to the south west of 15 Haughmond Square, Shrewsbury, SY1 2TA, including adopted highway known as Spring Gardens (A5191).
 - 2.3.5 **Plot 5:** 58 square metres of land, ground floor commercial premises, and residential flat above, including underground electricity cables, and underground gas main, known

as 15 Haughmond Square, Spring Gardens, Shrewsbury, SY1 2TA.

- 2.3.6 **Plot 6:** 76 square metres of land, including underground electricity cables, and underground gas main, situated to the rear and to the side of 15 Haughmond Square, Shrewsbury, SY1 2TA.
- 2.3.7 **Plot 7:** 181 square metres of land, commercial premises, and residential flat above, including underground electricity cables, underground gas main, and underground water main, known as 1 Haughmond Square, Spring Gardens, Shrewsbury, SY1 2TA.
- 2.3.8 **Plot 8:** 56 square metres of land, including underground electricity cables, and underground gas main, situated to the rear of 1 Haughmond Square, Spring Gardens, Shrewsbury, SY1 2TA.
- 2.3.9 **Plot 9:** 1 square metre of land, including underground electricity cables, situated on the north west side of Spring Gardens (A5191), fronting 52 Spring Gardens, Shrewsbury, SY1 2ST and to the east of 1 Spring Gardens, Shrewsbury, SY1 2TA.
- 2.3.10 **Plot 10:** 11 square metres of land, including underground electricity cables, situated on the north west side of Spring Gardens (A5191), fronting 52 Spring Gardens, Shrewsbury, SY1 2ST and to the east of 1 Spring Gardens, Shrewsbury, SY1 2TA, including adopted highway known as Spring Gardens (A5191).
- 2.3.11 **Plot 11:** 149 square metres of land and adopted highway (footway) known as Spring Gardens (A5191), including underground electricity cables and underground gas main, situated on the northwest side of Spring Gardens (A5191) fronting 60 Spring Gardens, SY1 2TE, including adopted highway known as Spring Gardens (A5191).
- 2.3.12 **Plot 12:** 4 square metres of land, including underground electricity cables and underground water main, situated to the north west of Spring Gardens (A5191), including adopted highway known as Spring Gardens (A5191).
- 2.3.13 **Plot 13:** 1 square metre of land, including underground electricity cables, situated to the north west of Spring Gardens (A5191) opposite Frank Partner & Son Funeral Directors, Shrewsbury, SY1 2TF, including adopted highway known as Spring Gardens (A5191).

Description: Ownership & Use

- 2.4 The majority of the Order Land is already within the ownership of Historic England. However, delivery of the Flaxmill's redevelopment in full, and, in particular, the implementation of the Scheme as the third phase of the Flaxmill Maltings project (see **paragraph 1.17 above**), requires the acquisition of a number of privately owned, third party interests. These interests

are primarily comprised within Plots 5, 6, 7 and 8 – the Haughmond Square Properties.

- 2.5 The freehold owner of no. 1 Haughmond Square (comprising ground floor commercial premises, residential accommodation above, and yard to the rear) is [REDACTED]. The commercial premises are leased to [REDACTED], which he operates as the 'Spring Garden' Chinese takeaway. Mr Tsang occupies the residential flat above the commercial premises along with [REDACTED].
- 2.6 Turning to no. 15 Haughmond Square (comprising ground floor commercial premises, residential accommodation above, and yard to the rear), the ground floor of this property also operates as a hot food takeaway; in this instance the 'Chilli Spice' Indian takeaway. [REDACTED] [REDACTED] is the business owner and lessee to [REDACTED], the freehold owner of no. 15 Haughmond Square. The first floor residential flat is separately let to [REDACTED] [REDACTED] [REDACTED]
- 2.7 The Haughmond Square Properties are not listed, but as with the whole of the Order Land they sit within the Shrewsbury Town Centre Conservation Area. They are in average condition and have each been the subject of ad-hoc, ill-considered and poor quality works/repairs over the years, including inappropriate fenestration, low-grade shop fronts and unsightly extraction units. The rear yards to both properties are in a semi-derelict state, being overgrown with vegetation and strewn with rubbish and fly-tipped material.
- 2.8 In addition to the third party interests held in the Haughmond Square Properties, the Council also wishes to acquire all private rights, covenants and other qualifying interests by which the Order Land is burdened, details of which are recorded in the Order Schedule. Upon implementation of the Scheme, the effect of the Order will be to override the aforesaid burdens, thereby ensuring that there are no legal impediments to its delivery.
- 2.9 The balance of the Order Land comprises land in front of and to the south east of the Main Mill. This land, together with land to the north east, has been cleared of all buildings by Historic England in order to ready it for development. In addition to the Haughmond Square Properties, the Grade 2* listed Apprentice House is proposed to be retained. The Apprentice House has been vacant since 1987 and is awaiting conversion to residential use as part of the Scheme.

Negotiations with Affected Parties

- 2.10 In order to ensure certainty of the Council's ability to assemble the land required to implement the Scheme within a reasonable timeframe, thereby unlocking the successful delivery of the penultimate and final stages of the Flaxmill Maltings project, and realisation of the objective to comprehensively redevelop and regenerate this site of significant historic and architectural importance, the Council has taken the necessary steps to make the Order.

- 2.11 In doing so, the Council has had regard to paragraph 2 of the CPO Guidance which states that whilst compulsory acquisition is intended as a measure of last resort to secure the assembly of all of the land required for the implementation of a scheme or project, it may often be sensible for the acquiring authority to initiate formal procedures and, in parallel, to continue to engage in meaningful negotiations with affected parties.
- 2.12 Negotiations to acquire the third party interests comprised in no. 1 Haughmond Square are at an advanced stage. Heads of terms to acquire both the freehold and leasehold interests in the property have been agreed and solicitors have been instructed to prepare and negotiate the legal agreements required to document the same. Alongside and in parallel with the acquisition of no. 1 Haughmond Square, options for the relocation and re-housing of [REDACTED] are being actively explored.
- 2.13 Conversely, very little, if no, progress has been made towards securing the acquisition of the third party interests comprised in no. 15 Haughmond Square. To date, [REDACTED] has been unwilling to engage in any meaningful discussion with the Council and/or Historic England and has strongly objected to the initiation of any direct communication with this tenants [REDACTED]. The formal requisitioning process referred to in **paragraph 1.5 above** has elicited responses [REDACTED]. Therefore, the nature of their respective interests in no. 15 Haughmond Square is clear. However, negotiations to acquire these interests by agreement are considered to be at an impasse with little prospect of being moved forward in a constructive and timely manner. As envisaged by the CPO Guidance, it is hoped that the making of the Order will serve to focus minds and to impress upon the parties the seriousness of the Council's intent and the imperative to assemble all of the land required to deliver the Scheme.
- 2.14 The Council will continue to treat with affected parties, both by way of direct communication where this is sought, and via the ongoing consultation and attempts at engagement being conducted by Historic England, with a view to acquiring their interests by agreement. However, it is clear that use of the Council's powers of compulsory acquisition is needed to ensure that the Scheme can be delivered in full and within a reasonable timeframe.

3 THE SCHEME

- 3.1 As previously stated, the Scheme is an integral part of a wider redevelopment project being undertaken at the Flaxmill in order to bring the Main Mill and associated buildings back into beneficial use.
- 3.2 Planning permission for the redevelopment of the Flaxmill (comprising an outline planning permission (ref. 10/03237/OUT) and a detailed planning permission and listed building consent (ref. 10/03230/FUL and ref. 10/03233/LBC respectively) for a first phase of development) was

first obtained in November 2010 following a masterplan study (undertaken in 2004) which identified the opportunity to greatly improve the site and surrounding environment based upon the acquisition and sympathetic redevelopment of neighbouring sites (together “**the masterplan consents**”). The masterplan consents have now expired.

- 3.3 A series of planning permissions and listed building consents, obtained subsequent to the masterplan consents, have been implemented by Historic England. In particular, the Office (now Smithy) and Stable buildings (referenced in **paragraph 1.15 above**) have been renovated to provide a visitor centre (pursuant to planning permission ref. 12/04435/FUL and listed building consent ref. 12/04436/LBC) and the repair and restoration of the Main Mill and Kiln is underway and nearing completion. As previously stated in **paragraph 1.16 above**, these repair and restoration works constitute a second stage of development (referred to hereinafter as “**the stage 2 project**”), consent for which was obtained on 3 November 2016 (in the form of planning permission ref. 16/02872/FUL and listed building consent ref. 16/02873/LBC).
- 3.4 The detailed planning permission for the “stage 2 project” comprises the following:
- 3.4.1 repair and restoration of the Main Mill and Kiln and the reopening of windows to all floors of the Main Mill;
 - 3.4.2 opening of the ground floor of the Main Mill and North Engine house to the public, the main visitor space, with an interpretation, learning space (consisting of an engaging and interactive exhibition to learn about the history and significance of the Flaxmill) and a café;
 - 3.4.3 restoration of four upper floors of the Main Mill to provide commercial space (offices and creative light industry) for a maximum of c.330 people, the entrance to which will be taken from the Kiln;
 - 3.4.4 provision of services, utilities and access from the upper floors of the North and South Engine houses;
 - 3.4.5 repair and restoration of Jubilee Tower (subject to the requisite consents being obtained, to be made available for special tours to visiting members of the public, including at roof level); and
 - 3.4.6 fitting out of the Kiln with two 13-person internal lifts and the provision of circulation space for commercial tenants and level access to all floors.
- 3.5 The “stage 2 project” also includes the creation of a car parking area comprising 94 spaces intended for use by visitors to the Flaxmill (the Main Mill and Kiln), together with users of the

proposed commercial space. A new vehicular roadway leading north from Marshalls Court to the other side of the mainline railway (Shrewsbury to Crewe) and a combined cycle and pedestrian route will provide access to the Flaxmill from the new car park.

- 3.6 The area of land comprising the new car park, roadway and combined cycle and pedestrian route is known as the 'Railway Triangle'. The Railway Triangle has been the subject of a previous compulsory purchase order which was confirmed by the Secretary of State on 7 April 2021. Following the confirmation of this CPO, the Council has implemented its compulsory acquisition powers via the making of a General Vesting Declaration ("**GVD**"). The land, subject of the GVD, vested in the Council on 3 November 2021 and has been transferred to Historic England. The transfer is in the process of being registered at HM Land Registry.
- 3.7 As explained in **paragraph 1.17 above**, the Scheme is to comprise a third phase of development at the Flaxmill. Consent for the Scheme was granted by the Council on 10 May 2021 ("**the 2021 Permission**") (which consent is a renewal planning permission, the original being the outline masterplan consent, ref. 10/03237/OUT; now expired).
- 3.8 The 2021 Permission grants planning permission in outline for the residential development of the Order Land, incorporating elements of commercial, business and service uses (i.e. Class E uses), with all matters reserved, save for access. The 2021 Permission identifies a quantum of development (with the illustrative masterplan showing 120 residential dwellings and two commercial units, plus the retained, but newly refurbished, Haughmond Square Properties) which the application site (that being the same as the Order Land) is capable of accommodating, and in doing so sets the site's capacity. Further, the change of use of the Apprentice House (Grade 2* listed) to residential use is authorised, as well as the change of use of the ground floor of the Haughmond Square Properties to a mixed "Class E" use.
- 3.9 It will be necessary for reserved matters approval in respect of the scale, layout and appearance of the outline elements of the Scheme to be obtained. As regards the main site access and egress point (which is taken from Spring Gardens and provides access to the northern and western parts of the Flaxmill), this has been consented separately (under planning permission ref. 19/02769/FUL) and is currently in the course of construction.
- 3.10 Planning permission for any external alterations and/or extensions to the Haughmond Square Properties will also need to be applied for separately where they constitute development. Any external and internal works required to convert the Apprentice House to residential use may also require planning permission and listed building consent.
- 3.11 The applications referred to in **paragraphs 3.9 and 3.10 above** will be made in due course by the private sector development partner who will be appointed by Historic England to deliver the Scheme.

- 3.12 An illustrative masterplan drawing of the Scheme is at **Appendix 3**.
- 3.13 The 2021 Permission presents an illustrative scheme, intended to demonstrate how the maximum quantum of development applied for can be accommodated in an acceptable manner. The primary use of the application site will be residential (a mixture of house types and tenures is considered suitable), with a small number of commercial units (suitable for use as local shops and/or cafes, a gym and lifestyle centre or other health and beauty businesses) located at key, visually prominent positions within the site, strategically placed on the Spring Gardens frontage, where there will be passing traffic and footfall. The illustrative scheme shows the Haughmond Square Properties retained with the potential to form combined live/work units.
- 3.14 The illustrative scheme is divided into four character areas or zones, namely: the former canal (open space provision); Spring Gardens South (where the commercial units, including the retained Haughmond Square Properties, are to be located); Spring Gardens North and Apprentice House Square (where the Apprentice House will be the focus). Within the Spring Gardens South character area, the illustrative scheme demonstrates how the Haughmond Square Properties would again appear as 'gate posts' forming an appropriate entrance, indeed the community gateway, to the historic core of the wider Flaxmill, and serving as the threshold to a reinstated Haughmond Square – historically the location of a cluster of small workers cottages which have long since been demolished. Indeed, in their resumed role as 'gate posts', the Haughmond Square Properties will frame a key view of the Grade 2 listed Kiln – the hub of the historic mill complex – and of Jubilee Tower alongside.
- 3.15 The recreation of Haughmond Square is reliant on the removal of the modern extension and lean-to structures which have previously been added to the side and rear of the Haughmond Square Properties and which occupy part of the land on which the new square is intended to sit. The refurbishment of the Haughmond Square Properties as part of the Scheme will rebuild the relationship and physical connection between the buildings with the surrounding public realm, and once occupied will bring activity to the area.
- 3.16 As previously stated, the Apprentice House, which will be located at the centre, being the focal point, of the Apprentice House Square character area, is proposed to be converted to residential use. The illustrative scheme shows the building divided into ten residential units and as a clearly legible, integral part of the complex of historic buildings at the Flaxmill.
- 3.17 Although not pre-determined, the 2021 Permission envisages that any phasing of development will follow an anti-clockwise direction, starting with development in the Spring Gardens South character area, followed by Spring Gardens North, and concluding with the development of the Apprentice House Square character area.
- 3.18 The Order Land comprises the minimum land take required to implement the Scheme.

4 NEED FOR THE ORDER AND THE DELIVERY OF THE SCHEME

- 4.1 The comprehensive redevelopment of the Flaxmill in its totality will give rise to the following social, economic and environmental benefits:
- 4.1.1 the delivery of a sustainable heritage-led redevelopment of a Grade 1 listed Mill complex of international significance;
 - 4.1.2 the creation of high quality public realm connecting the complex of buildings at the Flaxmill;
 - 4.1.3 the establishment of a major new visitor attraction which will play a central role in preserving and championing the industrial past of the Flaxmill, educating the site's visitors of its historical, architectural and international significance. It is anticipated that the Flaxmill, once restored, will attract in the order of 20,750 visitors to Shrewsbury per year;
 - 4.1.4 the provision of high quality commercial workspace (office and creative light industrial accommodation) for a maximum of c.330 people;
 - 4.1.5 the creation, across the entirety of the Flaxmill, of circa 1,000 new jobs (taking account of the construction and operational phases of the redevelopment). This includes six Historic England roles (Project Lead, Manager, Co-ordinator, Public Engagement and Promotions Manager, Marketing Officer and the Sector Skills Advisor) and four Friends roles (Manager, Development Officer, Volunteer Co-ordinator and Administration Assistant). As the "stage 2 project" nears completion, Historic England staffing roles will change, with Historic England looking to appoint Estates and Facilities Managers for when the Flaxmill is occupied and opens fully to the public;
 - 4.1.6 a permeable development which is readily accessible to both pedestrians and cyclists, with a vehicle-free reinstated towpath following the line of the former Shrewsbury and Newport Canal. This towpath will form the northern end of the 'low line' – a cycle and pedestrian route that will connect the Flaxmill to the town centre via Castlefields, being an integral part of the Shrewsbury 'Northern Corridor' and the 'Big Connection' / 'Shrewsbury Connect' project (see **Appendix 4** which provides further details of the planning policy context for the Scheme and the Flaxmill's regeneration); and
 - 4.1.7 the contribution of approximately £5.5 million GVA to the local economy, generated by the delivery of circa 120 new-build residential units as part of the Scheme.
- 4.2 Clearly, the Scheme is a key piece in the jigsaw of the Flaxmill Maltings project. It will secure the optimal and effective use of the whole of the Order Land and will deliver much needed

housing on an existing brownfield site within a sustainable location. The Order Land, as part of the wider Flaxmill, is an allocated housing site under Policy S16.1a (SHREW 198) of the Site Allocations and Management of Development (SAMDev) Plan. Broad policy support for the comprehensive regeneration of the Flaxmill underlies this allocation, with SAMDev Policy S16 promoting the effective re-use of the site through its redevelopment for a mix of residential, commercial and community uses; delivered as part of improvements to the 'Northern Corridor' of Shrewsbury's Big Town Plan (and Masterplan Vision) which sets out a co-ordinated plan for the economic regeneration of Shrewsbury itself. The Northern Corridor, within which the Flaxmill sits, is a key component of the Big Town Plan (for further details, see **Appendix 4**).

- 4.3 Further, the Scheme will have the effect of preserving the historic fabric and significance of the Grade 2* listed Apprentice House. The Scheme will breathe new life into this vacant building via its residential conversation.
- 4.4 As stated in **paragraph 1.17 above**, the Scheme is vital to ensuring the overall success of the Flaxmill's regeneration in full. If the fourth and final stage of the redevelopment project is to be realised, it is incumbent on Historic England to succeed in partnering with a private sector developer who will then take forward delivery of the Scheme. Further, it is imperative that the Scheme generates a healthy return such that there are sufficient funds available to reinvest in the ongoing maintenance, repair and preservation of the complex of historic buildings at the Flaxmill.
- 4.5 The Haughmond Square Properties sit at 'front and centre' of the Scheme. As such, their acquisition and refurbishment will be a key component in the Scheme's success. In particular, the unsightly modern extension and lean-to structures added to the side and rear of the buildings are required to be removed and the 19th century elevations restored in order that the Haughmond Square Properties make a positive contribution to place-making for the benefit of the local community and the historic environment within which they sit. The financial appraisals undertaken in respect of the Scheme indicate that a failure to acquire the Haughmond Square Properties will result in a marked reduction in the residual value of the Scheme, which will have an undermining effect on Historic England's disposal and redevelopment strategy for the Order Land and the overall viability of the Flaxmill Maltings project.
- 4.6 Accordingly, the Scheme will result in a number of very specific public benefits, both in its own right, and as an integral and 'enabling' part of the wider regeneration objective which is driving the redevelopment plans for the Flaxmill.

5 JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS

- 5.1 Account has been taken by the Council of paragraphs 12-15 of the CPO Guidance which set out the fundamental principles that a confirming minister should consider when deciding

whether or not to confirm a compulsory purchase order.

Intended use of the Order Land and the consideration of Alternatives

- 5.2 Paragraph 13 of the CPO Guidance confirms that whilst a confirming minister will not require a particular degree of justification for any specific order:

“If an acquiring authority does not have a clear idea of how it intends to use the land which it is proposing to acquire; and cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale, it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making”.

- 5.3 The Council has a very clear idea of how it intends to use the Order Land, the detail of which is set out in **Section 3**. Further, and as demonstrated below, the necessary resources (and consents) are in place to enable the Scheme and the wider redevelopment of the Flaxmill to be delivered within a reasonable timeframe.

- 5.4 Turning to the consideration of alternatives, the ‘do nothing’ option or the delivery of an alternative development proposal which excludes the acquisition and refurbishment of the Haughmond Square Properties are not considered credible, nor viable.

- 5.5 As explained in the Introduction to this Statement, as well as **Section 4**, the Scheme constitutes a penultimate and crucial ‘enabling’ stage in the successful delivery of the Flaxmill Maltings project. The Council and Historic England have gone through a deliberative process to identify the key component parts of the Scheme, with the retention and refurbishment of the Haughmond Square Properties being one such part, with a view to maximising the Scheme’s appeal as an attractive redevelopment opportunity to the private sector developer market and the value of the return which will be generated by its delivery. This has been done in order to make certain, so far as possible, that the fourth and final stage of the Flaxmill Maltings project will be reached, implemented and completed, thereby ensuring the overall success of the Flaxmill’s regeneration.

- 5.6 Accordingly, it is considered that the redevelopment of the Order Land pursuant to the Scheme, will secure the long-term and sustainable future of the Flaxmill in order that it may have a lasting legacy and that there is longevity to the reaping of the benefits generated.

Impediments to the Scheme

Resource and Funding Implications of the Scheme

- 5.7 The funding for the redevelopment of the Flaxmill is secured in the main and has been obtained from a variety of sources. The National Lottery Heritage Fund, Historic England, The Marches Local Enterprise Partnership, the Council and the European Regional Development Fund are the primary sources of secured funding – circa £30,650,148.
- 5.8 Alongside this, Historic England have a fundraising target of £1,000,000, against which £965,000 has already been raised with further opportunities identified via its Philanthropy Team. It is anticipated that these further opportunities will be secured by the end of the construction period in the Autumn 2022. The income and volunteer time of the Friends must also be factored in and equates to circa £1,160,955 of additional funding.
- 5.9 Further funding in the order of £1,000,000 has been obtained via the Heritage Stimulus Fund and committed in order to enable the carrying out of essential works at the Flaxmill during the COVID-19 pandemic.
- 5.10 As regards acquisition of the Haughmond Square Properties, the requisite funding has been ringfenced by Historic England and is available to be drawn down at the point at which agreement over their purchase is agreed or authorised via the Order. As such, the compulsory acquisition of these third party interests via the Order can be completed within a reasonable timeframe. This is a key step in unlocking a third and crucial stage of development at the Flaxmill and in enabling Historic England to pursue its disposal and redevelopment strategy for the Order Land.

Planning Permission and Scheme Delivery

- 5.11 Paragraph 15 of the CPO Guidance confirms that, in addition to demonstrating that there are no funding related impediments to the delivery of the scheme underpinning a compulsory purchase order, an acquiring authority will also need to be able to show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation.
- 5.12 Any need for planning permission or other consent or licence is amongst the examples given by the CPO Guidance as to what may constitute a legal impediment. As confirmed in **Section 3**, planning permission for the Scheme (part in outline; part detailed) is in place. Further details of the Scheme's compliance with planning policy are set out in **Appendix 4**.
- 5.13 The reserved matters approvals required in respect of the outline elements of the Scheme will be applied for and obtained in due course following the disposal of the Order Land by Historic

England to a private sector development partner who will then take forward the Scheme. In building out the Scheme, strict adherence to design criteria, materials and sustainability requirements, set by Historic England, will be insisted upon to ensure quality. Further, the intention is for a pre-agreed proportion of the profit generated by the development of the Order Land to be reinvested in the ongoing maintenance repair and preservation of the complex of historic buildings at the Flaxmill.

- 5.14 Sufficient certainty over acquisition of the Haughmond Square Properties is a pre-requisite of Historic England 'going to market' and commencing the competitive tendering process to identify a private sector development partner. Subject to this, there is no reason why delivery of the Scheme could not progress at pace.
- 5.15 Failing an agreement to acquire the Haughmond Square Properties, it will be necessary to rely upon the Order to provide the requisite certainty. Assuming that the Secretary of State for Levelling Up, Housing and Communities is minded to confirm the Order, the Council will take immediate steps to implement the same. The land assembly process will be completed as soon as possible once the statutory minimum period of 3 months following the Order becoming operative has been observed and the requisite notices have been served on affected landowners. The competitive tendering process in respect of the third stage of development at the Flaxmill is proposed to be run in parallel such that the appointment by Historic England of its private sector development partner would be completed within the same timeframe.

Demonstrating a compelling case in the public interest

- 5.16 Paragraph 12 of the CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. Furthermore, the CPO Guidance directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights ("**the Convention**") in order that they can be sure that the purposes for which a compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.
- 5.17 The Human Rights Act 1998 incorporates the rights set out in the Convention into domestic British law – section 6 prohibits public authorities from acting in a way which is incompatible with the Convention and the rights it protects.
- 5.18 The following articles of the Convention are of particular relevance and are engaged in the process of making a compulsory purchase order:
- 5.18.1 Article 1 of the First Protocol provides as follows: *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions*

shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”.

- 5.18.2 Article 6 provides that in determining their civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 5.18.3 Article 8 protects private and family life, home and correspondence. No public authority can interfere with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 5.18.4 Article 14 requires that all of the rights and freedoms set out in the Convention must be protected and applied without discrimination. In particular, the enjoyment of the said rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
- 5.19 Each of the rights set out within the above-mentioned articles are qualified such that they may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Furthermore, within the context of Article 1 of the First Protocol, the European Court of Human Rights has recognised that regard must be had to the fair balance which is required to be struck between the competing interests of the individual and the community as a whole.
- 5.20 There are two dwellings included within the Order Land, namely the first floor residential accommodation located above the takeaway premises which operate from the Haughmond Square Properties. Therefore, Article 8 of the Convention is engaged.
- 5.21 As explained in **Section 2**, [REDACTED] [REDACTED] is resident of the first floor flat [REDACTED], whereas [REDACTED] occupies the first floor residential accommodation at no. 15 Haughmond Square [REDACTED]. The re-housing options available to the affected parties are being actively explored and the Council is prepared to lend support in this regard via its Housing Team.
- 5.22 As regards Article 1 of the First Protocol, consideration has been given to the individual rights of those affected by the Order and the wider public interest, together with the fair balance to be struck between these competing interests in the delivery of the Scheme. As set out in **Section**

4, the Scheme will give rise to a number of very significant public benefits, both in its own right, and as an integral part of the wider redevelopment proposals for the Flaxmill. Given these benefits and the imperative to secure their delivery, the Council considers that the making and subsequent confirmation of the Order would be legitimate, proportionate and justified, such that the Order would not constitute an unlawful interference with the property rights of those affected.

5.23 Furthermore, the statutory procedures relating to the making of the Order, which include a right to object, for any objection to be considered by an independent and impartial inspector and, where necessary, to be heard through the public inquiry process, together with the right to pursue a legal challenge to a confirmed compulsory purchase order, made under the Acquisition of Land Act 1981 and on the relevant statutory grounds, satisfy the requirements of Article 6. Affected persons are also entitled to claim compensation, proportionate to any losses incurred, where their interests within the Order Land have been acquired or where possession of their land has been disturbed as a consequence of the exercise of the Council's powers of compulsory acquisition.

5.24 Turning finally to Article 14 of the Convention, this article is based on the core principle that all of us, no matter who we are, enjoy the same human rights and should have equal access to them. However, it should be noted that the protection against discrimination enshrined in the Convention and enacted into UK law under the Human Rights Act 1998 is not 'free-standing'. Therefore, to rely on this right, a person must demonstrate that discrimination has affected their enjoyment of one or more of the other rights in the Convention.

5.25 The protections and procedures summarised above will not be exercised in a discriminatory manner. By way of example, the Council and Historic England are aware that English is not spoken as a first language by [REDACTED]. [REDACTED] Accessible formats and translations have been offered for all communications with [REDACTED] and discussions, in the main, have been conducted via his sister who is a fluent English speaker. Further, Historic England has sought to identify a [REDACTED] speaking solicitor to act on [REDACTED] behalf. Accordingly, it is not considered that the making and pursuance of the Order by the Council will fall foul of Article 14. The more general protection against discrimination which is afforded by the Equality Act 2010 is addressed in **Section 7** below.

5.26 In the absence of the Order, there is no certainty that the Council will be able to assemble the land required to implement the Scheme, thereby jeopardising the delivery of the Flaxmill's redevelopment in full and its associated public benefits. Accordingly, the Council considers there is a compelling case in the public interest for the compulsory acquisition of the Order Land and that, in making the Order, there would be no unlawful interference with the Convention rights set out above.

When should compulsory purchase powers be used?

5.27 Paragraph 2 of the CPO Guidance states that:

“The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.

Compulsory purchase is intended as a last resort to secure the assembly of all of the land needed for the implementation of projects”.

5.28 The Scheme cannot be delivered, and its benefits realised, unless the entirety of the Order Land is within the control of the Council (and subsequently Historic England). Whilst significant progress has been made towards this end, there remain a small number of critical interests which must be acquired in order to complete the land assembly process. The Council is making the Order as a measure of last resort in order to achieve this objective and to enable implementation of the Scheme in full, and in a certain and timely manner.

5.29 The Council will continue to seek to acquire the remaining third party owned land parcels and interests within the Order Land by agreement. These negotiations can and will be taken forward in parallel with the compulsory acquisition process.

6 SPECIAL CONSIDERATIONS AFFECTING THE ORDER LAND

Historic Environment

6.1 The Order Land falls within the Shrewsbury Town Centre Conservation Area which includes the whole of the historic centre of the town. It is not considered that the Scheme will negatively impact on the setting of the Conservation Area, nor shall it compromise or offend against the Council’s duty in exercise of its planning function to preserve and enhance the character or appearance of the Conservation Area. Both of these considerations were addressed during the determination of the 2021 Planning Permission.

6.2 The only listed structure within the Order Land is the Apprentice House (Grade 2* listed) which is proposed to be retained as part of the Scheme and converted to residential use. However, the adjacent land at the Flaxmill comprises the following complex of listed buildings and structures: the Main Mill (Grade 1 listed); the Cross Mill (Grade 1 listed); the Warehouse (Grade 1 listed); the Kiln (Grade 2 listed); the Dye / Stove House (Grade 2* listed); and the Stable and Office (now Smithy) (Grade 2 Listed).

- 6.3 In its consultation response to the application for the 2021 Permission, Historic England (in its role as statutory consultee) concluded that the overall Scheme proposals have been developed with regard for the significant complex of listed buildings and structures at the Flaxmill and that the proposals can provide appropriate development within the settings of the said buildings and structures that will not negatively affect their significance, whilst ensuring that key views will be preserved and enhanced. Whilst the new buildings to be delivered as part of the Scheme depart from the historic development pattern in the area, they offer an appropriate response to the historic significance of the Flaxmill (of which the Order Land forms part).

Special Category Land (Section 18, CPO Guidance)

- 6.4 So far as the Council is aware, no part of the Order Land is owned by another local authority, held by the National Trust inalienably or forms part of a common, open space or fuel or field garden allotment.

Crown Land (Section 20, CPO Guidance)

- 6.5 No part of the Order Land is owned by the Crown, nor is it subject to a Crown interest.

7 EQUALITY

- 7.1 Paragraph 6 of the CPO Guidance states that:

“All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers (eg powers of entry) these acquiring authorities must have regard to the effect of any differential impacts on groups with protected interests.”

- 7.2 Therefore, in making the Order, the Council has a statutory duty under section 149 of the Equality Act 2010 (“**the 2010 Act**”) to have due regard to the need to:

- 7.2.1 Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- 7.2.2 Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- 7.2.3 Foster good relations between persons who share a ‘relevant protected characteristic’ (age, disability, gender reassignment, pregnancy & maternity, race, religion or belief, sex & sexual orientation, and marriage & civil partnership) and persons who do not share it.

- 7.3 These are sometimes referred to as the three aims of the general equality duty. The 2010 Act helpfully explains that having due regard for advancing equality involves:
- 7.3.1 Removing or minimising disadvantages suffered by people due to their protected characteristics;
 - 7.3.2 Taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and
 - 7.3.3 Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 7.4 The redevelopment of the Flaxmill is part of the Council's ongoing plan for Shrewsbury as a historical and cultural destination for tourists. The proposed learning centre and interactive exhibition (see **paragraph 3.4.2 above**) will facilitate opportunities for interaction between local, national and international visitors, local residents and employees of the Flaxmill. This will create an environment that will encourage good relations between those who share a protected characteristic and those who do not. In promoting a local heritage site, participation from all groups, including protected groups, will be encouraged.
- 7.5 Notably, the concept of private life (the protection of which is captured within Article 8 of the Convention (see **paragraph 5.16** onwards)) includes a person's right to develop their personal identity and to forge friendships and other relationships. This includes a right to participate in essential economic, social, cultural and leisure activities. By taking steps to secure the implementation of the Scheme and the coming to fruition of the wider regeneration opportunity which the Flaxmill embodies, the Council is supporting the enjoyment of this fundamental right – the right to a private life, including a person's ability to participate in society.
- 7.6 Furthermore, the redevelopment of the Flaxmill and the surrounding area is part of the Council's ongoing plan to promote Shrewsbury as a business investment location, with additional employment opportunities, the framework for which is set out in the Shrewsbury Big Town Plan (and Masterplan Vision) (for further details, see **Appendix 4**). All offers of employment will be made having due regard to the duties contained in the 2010 Act.
- 7.7 The Council's decision to make the Order has been subject to an Equality, Social Inclusion and Health Impact Assessment ("**ESHIA**"). The ESHIA assessed the impact of the Order (and delivery of the Scheme) on the different groups of persons who will be affected by it and considered whether the Order could produce disadvantage or enhance opportunity for any such group or person with a protected characteristic.
- 7.8 Focusing in particular on the acquisition of the Haughmond Square Properties, and the impact such acquisition will have on the owners of each takeaway business, their families and

employees, the ESHIA concluded that the Order is likely to have a negative impact, albeit the level of impact is anticipated to be low, on the grouping of Race. This is acknowledged notwithstanding the entitlement of the affected persons to compensation and the support on offer as regards the identification of suitable commercial relocation premises and re-housing options. The additional support being made available to [REDACTED], the leaseholder/business owner of the Chinese takeaway at no. 1 Haughmond Square (see **paragraph 5.25 above**), present as positive ongoing efforts to mitigate the negative impact which the ESHIA has identified in respect of Race.

7.9 The impact of the Order (and delivery of the Scheme) on other protected groups was found, in the main, to be neutral (meaning no impact). Further, the ESHIA identified neutral to positive impacts in equality terms for local people in the groupings of Age, Disability and Sex for whom employment opportunities will be closer to where they live. Further, positive impacts in equality terms (assessed as medium in scale), as well as on health and wellbeing, will be experienced through the promotion of Social Inclusion – a tenth protected grouping for the purposes of the ESHIA which is intended to encompass vulnerable individuals and households, i.e. low income families and individuals – and the provision of physical access to the Flaxmill’s listed buildings and the intellectual and educational opportunities which the visitor facility will offer as part of a fully repurposed and regenerated site.

7.10 Accordingly, in promoting the wider Flaxmill redevelopment proposals and, latterly, in formulating the Order, full regard has been had to the Council’s statutory obligations under the 2010 Act and, in particular, its duty under section 149. These obligations will be kept under review throughout the compulsory acquisition process noting the particular needs and characteristics of the parties affected, to ensure that no person with a protected characteristic or from a protected group is left at a disadvantage.

8 EASEMENTS, RIGHTS ETC

8.1 It is intended that a GVD(s) will be made by the Council in respect of the Order Land in the event that the Order is confirmed by the Secretary of State for Levelling Up, Housing and Communities. It is also the intention of the Council that all easements, covenants, rights and other interests in the land included in any such GVD shall be acquired and/or overridden and compensation paid to those who formerly held the benefit of such easement, right etc.

8.2 Any mortgages or rent charges are to be dealt with in accordance with sections 14-17 and section 18 of the Compulsory Purchase Act 1965.

9 OTHER CONSENTS REQUIRED

9.1 No other consents are required to be obtained in connection with the Order.

10 COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007

- 10.1 This Statement is not intended to be a statement of case under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and the Council reserves the right to alter or expand it as necessary for the purpose of Rule 7.

11 INSPECTION OF DOCUMENTS

- 11.1 Arrangements will be made for a copy of the Order, the Order Schedule, the Order Map and other supporting documents (see **Section 12**) to be deposited at the Council's offices at Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND. The documents will be made available electronically via the Council's website. It will also be possible for hard copies to be provided upon request.

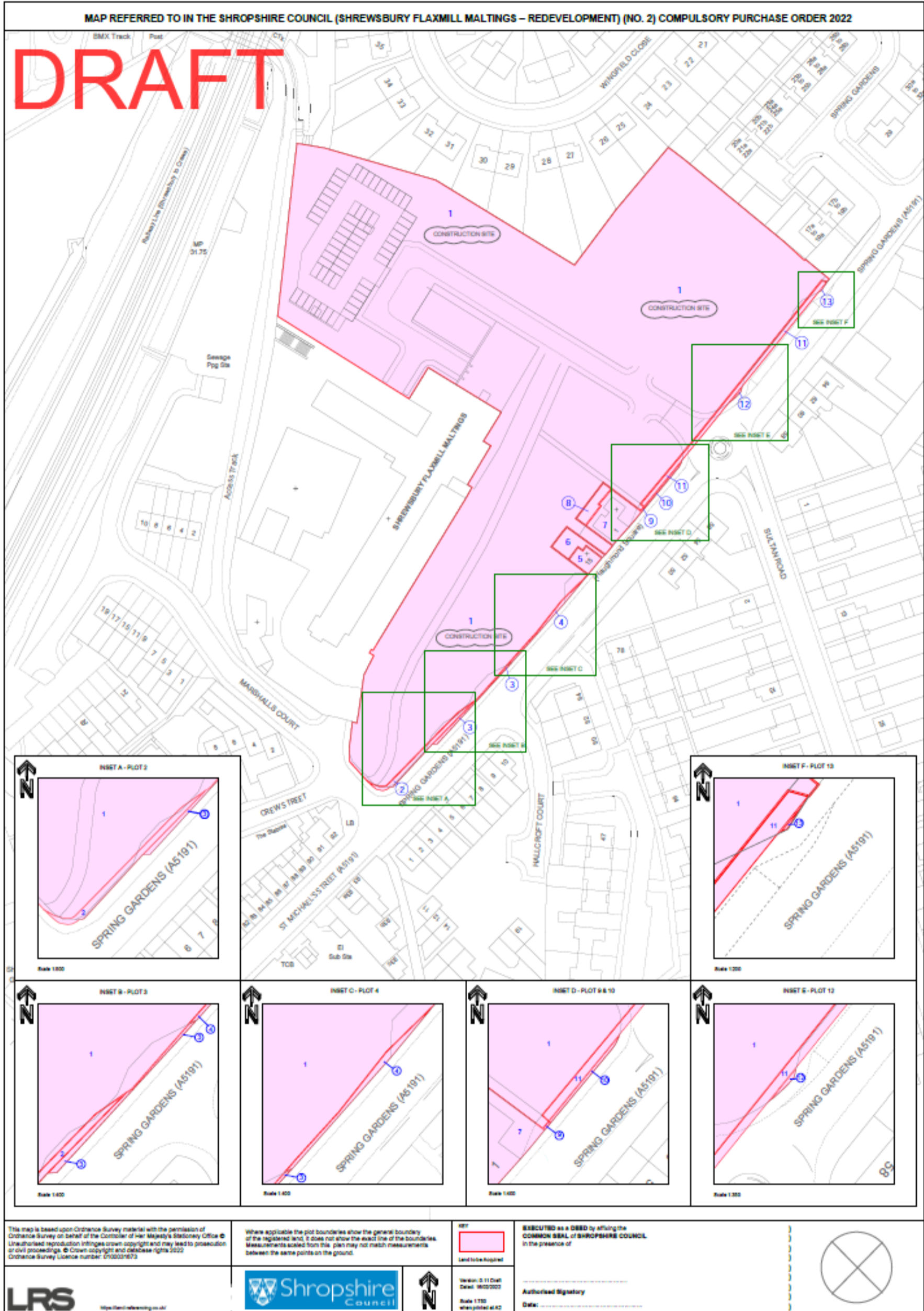
12 INQUIRY DOCUMENTS

- 12.1 The following documents may be referred to or put in evidence in the event of an inquiry:
- 12.1.1 Shropshire Council Cabinet Report dated [INSERT] and Minutes
 - 12.1.2 Planning Permission ref. 20/05065/OUT (dated 10 May 2021)
 - 12.1.3 Shropshire Council Core Strategy (adopted February 2011)
 - 12.1.4 Site Allocations Management of Development Plan (adopted December 2015)
 - 12.1.5 Shrewsbury Big Town Plan (2018)
 - 12.1.6 Shrewsbury Big Town Plan: Masterplan Vision (Draft for Consultation; January 2021)
 - 12.1.7 Guidance on Compulsory purchase process and The Crichel Down Rules (July 2019)

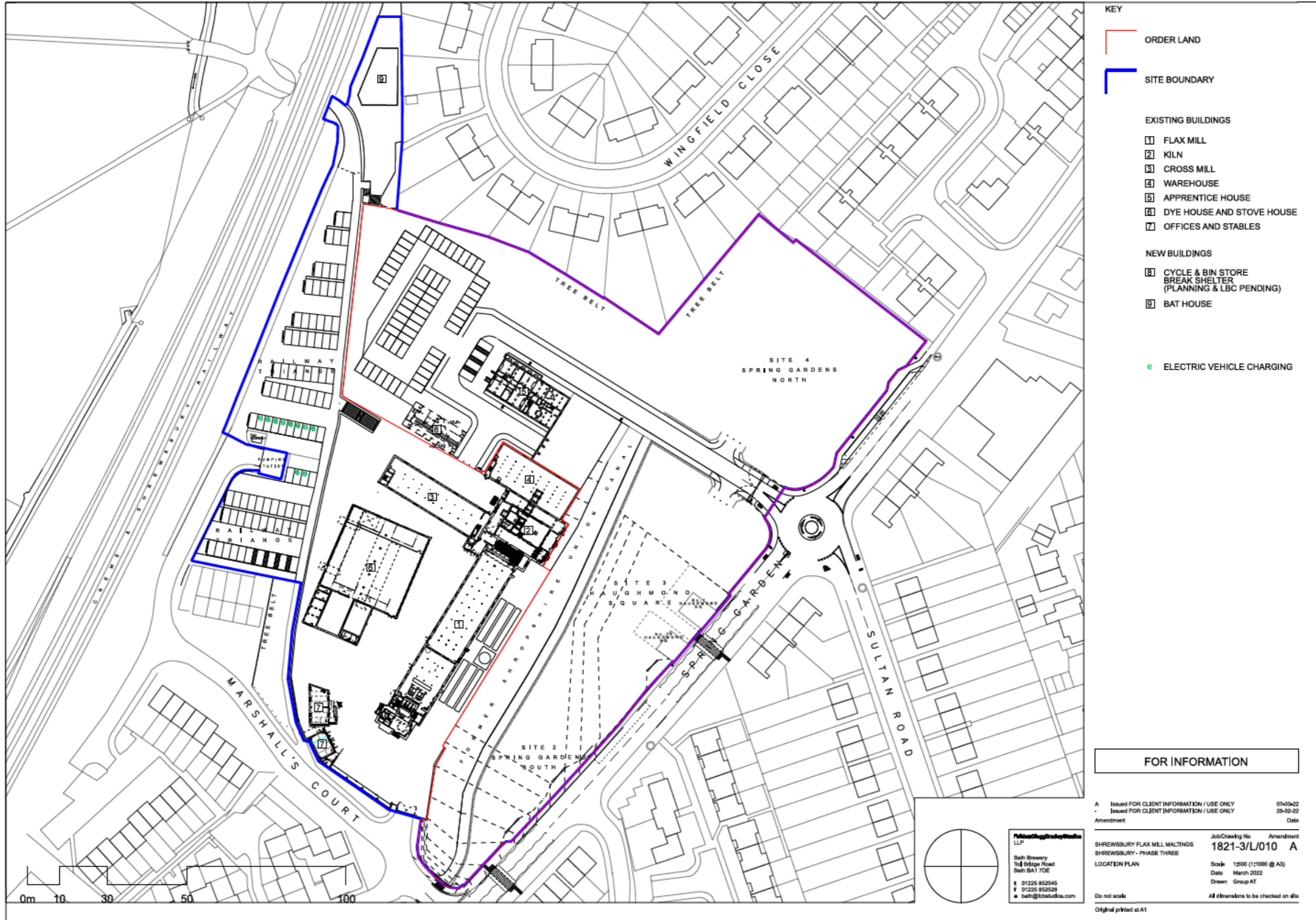
13 CONCLUSION

- 13.1 In conclusion, for the reasons set out in this Statement, the Council considers that there is a compelling case in the public interest for the compulsory acquisition of the interests referred to in the Order and the Order Schedule.

APPENDIX 1 – ORDER MAP



APPENDIX 2 – LOCATION PLAN



APPENDIX 3 – ILLUSTRATIVE MASTERPLAN DRAWING: THE SCHEME



Masterplan layout

APPENDIX 4 – PLANNING POLICY CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004

The 2004 Act requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless there are material considerations which indicate otherwise.

The Development Plan for Shropshire consists of the Core Strategy 2011 and the Site Allocations and Management of Development Plan (SAMDev Plan).

Shropshire Council Core Strategy (Adopted February 2011)

The relevant Core Strategy policies that support the making of the Order are as follows:

CS2: Shrewsbury Development Strategy

Policy CS2 provides “A comprehensive and co-ordinated approach will be pursued to the planning and development of Shrewsbury” and goes on to state: “The approach...will enable the town to achieve a significant level of housing and economic growth linked with infrastructure improvements, whilst protecting and enhancing the town’s role, character and the unique qualities of its historic built and natural environment”. The third paragraph of Policy CS2 also makes specific reference to the Flaxmill Maltings as follows: “The Shrewsbury North Corridor will be improved in accordance with the aims of the Northern Corridor Regeneration Framework, with the restoration and redevelopment of the Ditherington Flax Mill site and the enhancement of major existing commercial, employment and mixed used areas a priority.”

The proposed development of the Order Land will complement and support the adjoining Flaxmill redevelopment and will comprise a mixed-use scheme, which will predominantly consist of residential properties, with ancillary commercial units (with the intention being that those units will accommodate local shops and premises for a gym or other health and beauty businesses). In accordance with Policy CS2, the redevelopment of the Order Land and the wider Flaxmill will create a sustainable, economically viable and vibrant new community, whilst also being suitably positioned so as to link to the existing adjacent residential neighbourhoods.

Policy CS2 also identifies Shrewsbury as the main focus for all new residential development. The Order Land is located in an established residential area, within the urban development boundary of Shrewsbury, and is in close proximity to Shrewsbury town centre. The Order Land is also positioned near to existing services, facilities and employment provision in the locality. Further, Shrewsbury town centre is capable of being accessed from the Order Land by other modes of transport besides the private car. In accordance with Policy CS2, the scheme underpinning the Order (the “**Scheme**”) and the wider redevelopment proposals for the Flaxmill Maltings represent sustainable development that would make effective use of an otherwise redundant brownfield site.

CS6: Sustainable Design and Development Principles

Policy CS6 requires development to be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness, and which mitigates and adapts to climate change. The policy states that this will be achieved by ensuring development “*protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character*”. The Scheme includes a listed building (the Apprentice House) within a conservation area with other significant listed buildings nearby (i.e. being a group of buildings and structures within the adjoining land at the Flaxmill which relate to the original Flaxmill operation and subsequently the Maltings business). The illustrative layout of the Scheme and the proposed quantum of development would complement and be sensitive to the existing site context. Further, the detailed proposals for the Order Land will be progressed to secure the delivery of a development which is appropriate having

regard to the setting of the complex of listed buildings at the Flaxmill, and which will preserve and enhance the character and historical significance of those buildings.

The Scheme proposes the change of use of the Apprentice House, a Grade II listed building which is currently vacant. In accordance with Policy CS6, the re-purposing of the Apprentice House to residential use will better help preserve the historic fabric and significance of the building, and in doing so, will ensure its future/long-term maintenance and preservation.

Policy CS6 also requires new development to contribute to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development “*creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*”. There are already existing residential properties close to the northern boundary of the Order Land. Owing to the siting and scale of the proposed housing within the Scheme, it will not result in overlooking or a loss of privacy for any in-situ residential properties and neither would the Scheme adversely impact (i.e. with regard appearing obtrusive or overbearing) the outlook of those properties.

CS8: Facilities, Services and Infrastructure Provision

Policy CS8 is concerned with the development of sustainable places in Shropshire and promotes the timely provision of additional facilities, services and infrastructure to meet identified needs whether arising from new developments or existing community need, in locations that are appropriate and accessible.

Outline planning permission reference 20/05065/OUT (the “**Outline Permission**”) identifies two locations where new commercial units would be constructed on the Order Land and provide additional facilities for the users of both the redeveloped Flaxmill, including the new residential dwellings to be delivered through the consented Scheme. Both commercial units would be located on the main road frontage of Spring Gardens. One unit would be located at the southern tip of the Order Land where important views of the historic mill complex are revealed at the point where the former canal landscape meets the main road. A shop, café or other commercial use in this position would benefit from the prominent location, as well as the views across the canal to the Main Mill. The second commercial unit would be set on the corner of Spring Gardens and the new access road. This is another key, gateway location, adjacent to the new roundabout.

As noted above, a range of existing facilities and services are accessible from the Order Land with the latter benefiting from good public transport links and a location which is in proximity of Shrewsbury town centre.

CS17: Environmental Networks

Policy CS17 requires development to protect and enhance the local character of the built and historic environment. As explained above, the detailed proposals for the Order Land will be developed so as to complement and enhance the setting of the existing complex of listed buildings at the Flaxmill and the wider conservation area designation.

With regards to the Scheme, the quantum, location and scale of the proposed residential dwellings and commercial units have been specifically arranged so as to acknowledge and promote the exceptional national and international significance of the Flaxmill’s heritage. The following guiding principles for the proposed development have already been identified and established:

- the core of historic buildings should be visually prominent, particularly from Spring Gardens, Marshalls Court and the railway;
- the line of the canal should form the immediate setting of the Main Mill seen from Marshalls Court;
- the skyline and upper floors of the core group of historic buildings should dominate views from Spring Gardens and the railway;
- the Jubilee Tower should be the central landmark of the Flaxmill, visible from as many points within and in the immediate vicinity of the site as possible;

- a re-created Haughmond Square will form an appropriate entrance to the Flaxmill, framing a key view of the Malt Kiln and Jubilee Tower; and
- the Apprentice House should be clearly legible as an integral element of the existing complex of historic buildings at the Flaxmill.

The layout, scale and massing of the development, subject of the Outline Permission, demonstrates how the consented Scheme will successfully address all of the above priorities.

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

The relevant SAMDev Plan Policies that support the making of the Order are as follows:

MD2: Sustainable Design

Policy MD2 builds on Policy CS6 (as set out above), providing additional detail on how sustainable design is to be achieved in order that development contributes to and respects locally distinctive or valued character and existing amenity value.

MD12: Natural Environment

Policy MD12 sets out in detail the level of protection offered to Shropshire's natural assets and further builds on Policies CS6 and CS17 (as set out above).

MD13: Historic Environment

Policy MD13 builds on Policies CS6 and CS17 (as set out above) and provides specific guidance on the protection of Shropshire's historic environment, including the requirements that need to be met for those development proposals which are likely to have an impact on the significance, including the setting, of a heritage asset.

The detailed proposals for the Scheme will be developed within the framework established by the Outline Permission and will evolve and be finalised in line with Policies MD2, MD12 and MD13.

S16: Shrewsbury Area Settlement Policy

Policy S16 is Shrewsbury specific and incorporates several references to the Flaxmill. The comprehensive regeneration of the Flaxmill, of which the redevelopment of the Order Land forms a key part, is specifically identified and draws significant support from this policy.

Policy S16B(i) refers in terms to the Shrewsbury Northern Corridor and provides that development proposals should have regard to the priorities of the restoration and redevelopment of the Ditherington Flaxmill to provide a sustainable and complementary mix of retail, community, employment and residential uses. The Scheme and the wider redevelopment proposals for the Flaxmill Maltings are in consonance with this guiding principle.

Policy S16 establishes the principle of residential development on the wider Flaxmill (which includes the Order Land) it being an allocated housing site under Policy S16.1a (SHREW198) with the following Development Guidelines:

"Mixed use development to have regard to the adopted masterplan for the redevelopment of the Flaxmill and adjoining land and buildings, to include approximately 120 dwellings. The redevelopment will comprise of the repair and reuse of historic buildings to create workspace and associated cultural activities, new retail/commercial office and residential development, associated access, landscaping and car parking, with demolition of non-listed buildings".

Accordingly, the making of the Order will assemble the land required to facilitate and unlock the completion and successful delivery of the comprehensive plan-led redevelopment of the Flaxmill Maltings, as specifically identified in the Council's allocations policy.

Further, at paragraph 4.157 of the SAMDev Plan, the following is said: *“the Flax Mill site is a major regeneration opportunity in the Shrewsbury North Corridor, with an element of new build housing, conversion of buildings to residential use being a key component of the overall master plan of the area”*.

Paragraph 4.170 also makes reference to the Flaxmill in the following terms: *“the provision of affordable and specialist housing; and economic development and regeneration (including the Ditherington Flax Mill)”*. The redevelopment of the Flaxmill Maltings is central to proposals for economic development and regeneration in the Northern Corridor/Ditherington area of Shrewsbury. Therefore, the making of the Order will contribute towards the achievement of the Council’s objectives in this regard.

Shrewsbury Big Town Plan (2018)

The Shrewsbury Big Town Plan identifies the Flaxmill as forming an integral part of a key corridor and regeneration opportunity:

“The Big Connection is an illustration of how all these principles can come together in the Big Town Framework Plan. The Big Connection is the biggest regeneration opportunity in Shrewsbury. Each area is different, and each has its own character, but taken together, these areas form a large corridor of opportunity running from the West End up to the Flaxmill.”

Reference is made in the Plan to a low line green movement corridor connecting the route of the former canal and the Flaxmill with other improvements to the Northern Corridor.

“The proposals for the redevelopment of the Flaxmill are illustrated here. Its connection with the rest of the town forms part of the Northern Corridor project. This is likely to include improved streetscape and public realm along Castle Foregate and St Michaels Street. The proposal will include landscape enhancement and improvements to the pedestrian and cycle link that follows the former route of the canal. We have named this route the “low line” in deference to New York’s High Line project that follows the former elevated rail route.”

The Flaxmill is a central component of the regeneration proposals for the Northern Corridor and will provide an important link to the above-mentioned green corridor. The making of the Order will contribute towards, and assist in, bringing these proposals to fruition.

Shrewsbury Big Town Plan: Masterplan Vision (January 2021)

The Shrewsbury Big Town Plan: Masterplan Vision (January 2021) comprises a range of ambitious and bold opportunities for Shrewsbury, and the “Masterplan Vision” identifies how the town could evolve over the next two decades.

Six character areas are identified and provide the focus for the Masterplan. The Flaxmill (building upon the previously identified “Big Connection” as per the Shrewsbury Big Town Plan) is specifically referred to as being within one of the character areas: “the Northern Corridor leading to Flaxmill Maltings”.

The Masterplan places importance and significant emphasis on connecting the Flaxmill to Shrewsbury town centre and states that *“we must ensure that Flaxmill Maltings is a key aspect of the vision connecting the Northern Corridor of Shrewsbury and town centre”*. The vision of the Masterplan in this regard is articulated as follows:

“The Northern Corridor will see the successful implementation of the SBTP (2018) ‘Big Connection’ concept linking Flaxmill Maltings to the town centre. The improvement of the existing green infrastructure will provide the catalyst to regenerate large areas of underutilised industrial land integrating the existing neighbourhoods of Castlefields and Herongate to the town centre”.

The Masterplan concludes by outlining a series of key “Next Steps”, together with indicative timescales for the delivery and implementation of the same. The Flaxmill is identified as a “strategic development project” in respect of which the following milestones are highlighted: (i) between 2022 to 2024: *“Flaxmill*

Maltings - later phase(s) wider masterplan proposals to provide residential uses and further commercial space"; and (ii) between 2024 to 2025: *"Flaxmill Maltings: commencing delivery of later phases"*.

The Order will serve as a tool for securing the certain delivery of a comprehensively regenerated Flaxmill Maltings and, in doing so, the realisation of a strategic development project within Shrewsbury and a crucial element of the Masterplan Vision.

DRAFT

Shropshire Council
Equality, Social Inclusion and Health Impact Assessment (ESHIA)
Initial Screening Record 2021-2022

A. Summary Sheet on Accountability and Actions

Name of proposed service change
Shropshire Council (Shrewsbury Flaxmill Maltings – Redevelopment) (No. 2) Compulsory Purchase Order 2022.

Name of lead officer carrying out the screening
Andy Wigley, Interim Policy & Environment Manager

Decision, review, and monitoring

Decision	Yes	No
Initial (part one) ESHIA Only?	✓	
Proceed to Full ESHIA or HIA (part two) Report?		✓

If completion of an initial or Part One assessment is an appropriate and proportionate action at this stage, please use the boxes above. If a Full or Part Two report is required, please move on to full report stage once you have completed this initial screening assessment as a record of the considerations which you have given to this matter.

Actions to mitigate negative impact or enhance positive impact of the service change in terms of equality, social inclusion, and health considerations
<p>Historic England have requested the Council to use its compulsory purchase powers under 226 (1) (a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) and the Acquisition of Land Act 1981 to acquire thirteen parcels of land comprising land, outbuildings and construction site, part of the Flaxmill and site of former premises known as Rexel Senate building, Midlands Social Club and former Arriva bus depot, situated between Spring Gardens (A5191), Marshalls Court and the Shrewsbury to Crewe railway line. It includes two unlisted 19th century buildings - Nos 1 and 15 Haughmond Square and the associated land - situated along the St Michaels Street road frontage that are currently being used as hot food takeaway premises (Chilli Spice and Spring Garden) with residential flats above.</p> <p>1 and 15 Haughmond Square are located on the edge of an area rated in 2019 as being in the 4th most deprived National Decile in Index of Multiple Deprivation, whilst the area immediately to the north was rated as being in the 2nd most deprived National Decile.</p> <p>Historic England is currently making every effort to acquire the Order Land by private</p>

agreement. However, in the event that these negotiations fail, Historic England has requested that the Council uses its CPO powers. The Government's Guidance on compulsory purchase process and the Crichel Down Rules (July 2019) (hereafter referred to as the CPO Guidance) makes it clear that it is the Secretary of State's policy to only use this power in exceptional circumstances. However, Officers consider that, in order to deliver the substantial public benefits that the approved redevelopment of the Shrewsbury Flaxmill Maltings site will bring, a CPO would be justified under the terms set out in the Guidance.

The acquisition and subsequent redevelopment of 1 and 15 Haughmond Square will result in the loss of two hot food takeaways. These are an Indian takeaway and a Chinese Takeaway respectively. Whilst provision will remain for the local community through a number of other existing hot food takeaways within walking distance, c400m to the north-east, c500m to the south-west, and c800m to the south-west, it will need to be recognised that there will be a potential negative impact with regard to the grouping of Race, for the proprietors and their families and workers affected, notwithstanding the mitigation action of financial compensation.

The redevelopment of the Main Mill at the Flaxmill will include the provision of a publicly accessible café and visitor facility on the ground floor which will be operated by the Friends of the Flaxmill group (which includes many local residents), provide employment opportunities for local residents and encourage social inclusion. It will also create further employment opportunities will by providing commercial space (offices and creative light industry) for a maximum of c.330 people. The upper floors will be accessed from the Kiln, which will provide circulation space for commercial tenants and will house two 13-person internal lifts and level access to all floors. If this redevelopment is achieved, the equality impacts may be anticipated as positive for the groupings of Age and Disability, as well as our tenth grouping in Shropshire, of Social Inclusion. This is an additional grouping that we use in order to ensure that we are thinking about individuals and households that we may describe as vulnerable due to circumstances, eg those living in low income households, young people leaving care, etc.

Likewise, the master plan development of the wider Flaxmill site as a whole will revitalise the area with new commercial activity which will provide employment opportunities and economic growth. Outline planning permission has been granted for up to 120 residential dwellings and two commercial units, plus the retained, but newly refurbished, 1 and 15 Haughmond Square Properties) which the application site is capable of accommodating, and in doing so sets the site's capacity. Further, the change of use of the Apprentice House (Grade 2* listed) to residential use is authorised, as well as the change of use of the ground floor of the Haughmond Square Properties to a mixed commercial use.

Overall, there will therefore be positive equality impacts anticipated for local people in the groupings of Age, Disability, and Sex, for whom employment opportunities will be closer to where they live. There will also be likely to be positive impacts with regard to promoting Social Inclusion, through the provision of physical access to the listed buildings and the intellectual access and educational opportunities provided by the visitor facility.

Actions to review and monitor the impact of the service change in terms of equality, social inclusion, and health considerations

The CPO Guidance directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights (hereafter the Convention) in order that they can be sure that the purposes for which a compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.

There are two dwellings included within the Order Land, namely the first floor residential accommodation located above the takeaway premises which operate from the Haughmond Square Properties. Therefore, Article 8 of the Convention, which protects private and family life, home and correspondence, is engaged. Both of the first residential flats above the takeaways at both properties are let to tenants. The re-housing options available to the affected parties are being actively explored and the Council is prepared to lend support in this regard via its Housing Team.

The statutory procedures relating to the making of the Order, which include a right to object, for any objection to be considered by an independent and impartial inspector and, where necessary, to be heard through the public inquiry process, together with the right to pursue a legal challenge to a confirmed compulsory purchase order, made under the Acquisition of Land Act 1981 and on the relevant statutory grounds.

The Council and Historic England are aware that English is not spoken as a first language one of the leaseholder/owner one of the takeaway businesses. Accessible formats and translations have been offered for all communications with them and, in the main, have been conducted via a relative who is a fluent English speaker. Further, Historic England has sought to identify a solicitor who speaks their first language to act on their behalf. These actions present as positive ongoing efforts in terms of mitigating negative impacts on grounds of Race.

The redevelopment of the Flaxmill is part of the Council's ongoing plan for Shrewsbury as a historical and cultural destination for tourists. The proposed learning centre and interactive exhibition will facilitate opportunities for interaction between local, national and international visitors, local residents and employees of the Flaxmill. This will create an environment that will encourage good relations between those who share a Protected Characteristic as defined by the Equality Act 2010, and those who do not. In promoting a local heritage site, participation from across groupings, including our tenth category of Social Inclusion, will be encouraged.

The Council has actively consulted with the community and other interested parties over the successive applications for planning permission and listed building consent to redevelop and regenerate the site. Historic England has opened the site periodically and actively engaged with the local community through a formally constituted Friends of the Flaxmill group. Comments received from the community have been taken into account when regulatory decisions have been taken through the planning process.

The compulsory purchase process will be authorised by Shropshire Council's

Cabinet and will include opportunities for residents and members of the public to make representations to the Council.

The elected member for the local ward is actively involved with the Shrewsbury Flax Mill Maltings master plan redevelopment and chairs the Friends of the Flaxmill group.

Associated ESHIAs

Shropshire Local Plan Review ESIIAs

Shropshire Economic Growth Strategy ESIIA

Vibrant Shropshire - Independent by Nature (Cultural Strategy) ESIIA

Actions to mitigate negative impact, enhance positive impact, and review and monitor overall impacts in terms of any other considerations. This includes climate change considerations

Climate change

Whilst the acquisition of additional properties as part of the land assembly process itself has limited implications for climate change, detailed project planning for the redevelopment of the Flaxmill site, which through the conservation and conversion of the nationally important historic buildings will retain embodied energy they contain, will be expected to take into account opportunities to incorporate:

- i. Measures to improve the energy efficiency of the buildings and reduce the need for travel;
- ii. The generation of renewable energy on site;
- iii. Measures to capture and store carbon emissions, including through tree planting and landscaping on site;
- iv. Design measures or features which will improve the resilience of the site to the impact of more extreme temperatures or rainfall events

Health and well being

Alongside the encouragement given through the design proposal for use of public transport, there are anticipated benefits in terms of encouraging local people to walk or cycle to the site. This can be maximised through efforts to ensure that there are accessible routes to and around the site which will be perceived as safe by pedestrians, eg use of lighting, as well as clear signage. There are additional positive impacts in terms of the accessibility of the building itself and its café and visitor facility, with the recognised positive mental well being impacts that may be accrued from employment opportunities and from leisure and cultural opportunities.

Economic and societal/wider community

The acquisition and subsequent regeneration of the land in question will give rise to a number of very significant public benefits, both in its own right, and as an integral part of the wider redevelopment proposals for the Flaxmill. Given these benefits and the imperative to secure their delivery, the Council considers that the making and subsequent confirmation of the Order would be legitimate, proportionate and justified, such that the Order would not constitute an unlawful interference with the property rights of those affected.

The compulsory purchase process will provide financial compensation to the owners of 1 and 15 Haughmond Square, including the owners of the two hot food takeaway businesses.

The provision of high quality employment opportunities through the redevelopment of the Shrewsbury Flaxmill Maltings buildings supports all three key objectives of the Economic Growth Strategy for Shropshire 2017–2021.

Scrutiny at Part One screening stage

People involved	Signatures	Date
<i>Lead officer carrying out the screening</i> Dr Andy Wigley, Interim Policy & Environment Manager		16 th March 2022
<i>Any internal service area support*</i>		16 th March 2022
<i>Any external support**</i> Mrs Lois Dale, Rurality and Equalities Specialist		16 th March 2022

**This refers to other officers within the service area*

***This refers to support external to the service but within the Council, e.g., the Rurality and Equalities Specialist, the Feedback and Insight Team, performance data specialists, Climate Change specialists, and Public Health colleagues*

Sign off at Part One screening stage

Name	Signatures	Date
<i>Lead officer's name</i> Dr Andy Wigley, Interim Policy & Environment Manager		16 th March 2022

Accountable officer's name		
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**This may either be the Head of Service or the lead officer*

B. Detailed Screening Assessment

Aims of the service change and description

Shrewsbury Flaxmill Maltings (the Flaxmill) is an internationally important site that reflects a time when Shropshire led the way in engineering innovation. It comprises 8 listed buildings, including the Main Mill (listed at Grade I), which was built in 1797 and, as the world's first iron framed building, is the forerunner of the modern skyscraper. The site operated as a flaxmill from 1797 – 1897, and then as a maltings until its closure in 1987. The whole of the site was of great local significance as the economic and social driver for the northward expansion of Shrewsbury, facilitated by the Shrewsbury and Newport Canal.

From 1987 – 2004 there were various failed attempts to regenerate the Flaxmill but continued vandalism and neglect resulted in it being placed on the Heritage at Risk Register. Historic England (then English Heritage) acquired the freehold of the Flaxmill site in 2005 in order to halt its further decline. Planning permission and listed building consent was obtained by Historic England in November 2016 for a programme of works to repair and restore the Main Mill and Kiln. This will provide a ground floor interpretation, learning space and cafe (to be managed by the The Friends of the Flaxmill Maltings – a community based organisation) and the restoration of the four upper floors of the Flaxmill to create a commercial workspace. These works are now at an advanced stage and are on track to be completed by the end of May 2022.

In May 2021 Historic England also gained outline planning permission for a redevelopment of the wider site around the Flaxmill. This comprises residential development and commercial, business and service uses, together with planning permission for a change use of the ground floor of 1 and 15 Haughmond Square (hereafter the Haughmond Square Properties) to a mixed use, and associated alterations and change of use of the Apprentice House, on the main site itself, to residential use. This scheme is vital to ensuring the overall success of the Flaxmill site's regeneration. Moreover, it will secure the site's long-term and sustainable future in order that its legacy may be safeguarded and continue for the benefit of all, including the local and wider communities and visitors to the town of Shrewsbury. It is envisaged that it will be undertaken by a private sector development partner whom Historic England will appoint following a competitive tendering exercise. Assembly of the land on the wider Flaxmill site is therefore of critical importance and a pre-requisite to Historic England being able to 'go to market' and invite tender responses

in respect of this unique development opportunity.

In order to facilitate the full delivery of this development, Historic England is currently making every effort to acquire the Order Land by private agreement. However, in the event that these negotiations fail, Historic England has requested that the Council uses its CPO powers under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) to acquire the Order Land and, subject to the confirmation of the Order by the Secretary of State, to transfer it to them.

The Flaxmill site and the adjoining Order Land, including 1 and 15 Haughmond Square, is allocated for mixed uses in the Site Allocations and Management of Development (SAMDev) Plan (Policy S16.1a: SHREW198), including for approximately 120 dwellings.

Intended audiences and target groups for the service change

People who live and work in the locality
People who will have more opportunity to live and work in the locality if the redevelopment of the Flaxmill is fully achieved.
Portfolio Holder, Local Shropshire Council councillors, Shrewsbury Town Councillors.
Local businesses
Forthcoming commercial tenants of the Shrewsbury Flaxmill Maltings buildings
Friends of the Flaxmill Maltings
Historic England and Agents
DCMS

Evidence used for screening of the service change

[Index of Multiple Deprivation \(IMD\) 2019](#)
[Shropshire Site Allocations and Management of Development \(SAMDev\) Plan Economic Growth Strategy for Shropshire 2017–2021](#)
[Submission draft of the Shropshire Local Plan \(Local Plan Review\)](#)
[Government Guidance on Compulsory purchase process and the Crichel Down Rules](#)

Specific consultation and engagement with intended audiences and target groups for the service change

Engagement ongoing with elected Members
Authorisation for the use of the Council's compulsory purchase powers through a Cabinet report and decision, currently targeted for 6 April 2022.
All of the planning applications relating to the site have been subject to public consultation and
Historic England have undertaken a range of public engagement activities, in

partnership with the Friends of the Flaxmill Group throughout the redevelopment of the Shrewsbury Flaxmill Maltings site.
 Historic England's agents have engaged with the owners of the properties to seeking voluntary acquisition.
 The compulsory purchase process itself will involve consultation with the property owners. Notice of the making of the CPO will be published in the local press and site notices will be erected. .

Initial equality impact assessment by grouping (Initial health impact assessment is included below)

Please rate the impact that you perceive the service change is likely to have on a group, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

Protected Characteristic groupings and other groupings in Shropshire	High negative impact <i>Part Two ESIIA required</i>	High positive impact <i>Part One ESIIA required</i>	Medium positive or negative impact <i>Part One ESIIA required</i>	Low positive, negative, or neutral impact (please specify) <i>Part One ESIIA required</i>
<u>Age</u> (please include children, young people, young people leaving care, people of working age, older people. Some people may belong to more than one group e.g., a child or young person for whom there are safeguarding concerns e.g., an older person with disability)				√ neutral to positive
<u>Disability</u> (please include mental health conditions and syndromes; hidden disabilities including autism and Crohn's disease; physical and sensory disabilities or impairments; learning disabilities; Multiple Sclerosis; cancer; and HIV)				√ neutral to positive
<u>Gender re-assignment</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				√ neutral
<u>Marriage and Civil Partnership</u> (please include associated aspects: caring responsibility, potential for bullying and harassment)				√ neutral
<u>Pregnancy and Maternity</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				√ neutral

<p>Race (please include ethnicity, nationality, culture, language, Gypsy, Traveller)</p>				<p>√ negative for two business owners, one property owner and one tenant but they will be entitled to financial compensation through the CPO process. Both tenants residential will be provided with support by the Council's Housing Team if required.</p>
<p>Religion and belief (please include Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Nonconformists; Rastafarianism; Shinto, Sikhism, Taoism, Zoroastrianism, and any others)</p>				<p>√ neutral</p>
<p>Sex (this can also be viewed as relating to gender. Please include associated aspects: safety, caring responsibility, potential for bullying and harassment)</p>				<p>√ neutral to positive</p>
<p>Sexual Orientation (please include associated aspects: safety; caring responsibility; potential for bullying and harassment)</p>				<p>√ neutral</p>
<p>Other: Social Inclusion (please include families and friends with caring responsibilities; households in poverty; people for whom there are safeguarding concerns; people you consider to be vulnerable; people with health inequalities; refugees and asylum seekers; rural communities; veterans and serving members of the armed forces and their families)</p>			<p>√ positive (Facilitation of economic regeneration through delivery of Shrewsbury Flaxmill Maltings master plan)</p>	

Initial health and wellbeing impact assessment by category

Please rate the impact that you perceive the service change is likely to have with regard to health and wellbeing, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

Health and wellbeing: individuals and communities in Shropshire	High negative impact <i>Part Two HIA required</i>	High positive impact	Medium positive or negative impact	Low positive negative or neutral impact (please specify)
<p>Will the proposal have a <i>direct impact</i> on an individual's health, mental health and wellbeing?</p> <p>For example, would it cause ill health, affecting social inclusion, independence and participation?</p> <p>.</p>				<p>√ neutral</p>
<p>Will the proposal <i>indirectly impact</i> an individual's ability to improve their own health and wellbeing?</p> <p>For example, will it affect their ability to be physically active, choose healthy food, reduce drinking and smoking?</p> <p>.</p>				<p>√ neutral</p>
<p>Will the policy have a <i>direct impact</i> on the community - social, economic and environmental living conditions that would impact health?</p> <p>For example, would it affect housing, transport, child development, education, employment opportunities, availability of green space or climate change mitigation?</p> <p>.</p>			<p>√ positive (Facilitation of economic regeneration through delivery of Shrewsbury Flaxmill Maltings master plan, which will regenerate a range of previously derelict Listed buildings, through the provision of employment opportunities, new homes,</p>	

			public open space, education and interpretation facilities and access linkages)	
<p>Will there be a likely change in <i>demand</i> for or access to health and social care services?</p> <p>For example: Primary Care, Hospital Care, Community Services, Mental Health, Local Authority services including Social Services?</p>				√ neutral

Identification of likely impact of the service change in terms of other considerations including climate change and economic or societal impacts

Economic and Societal Impacts

The redevelopment of Main Mill at the Flaxmill will include the provision of a publicly accessible café and visitor facility on the ground floor which will be operated by the Friends of the Flaxmill group (which includes many local residents), provide employment opportunities for local residents and encourage social inclusion. It will also create further employment opportunities by providing commercial space (offices and creative light industry) for a maximum of c.330 people. The upper floors will be accessed from the Kiln, which will provide circulation space for commercial tenants and will house two 13-person internal lifts and level access to all floors.

Likewise, the master plan development of the wider Flaxmill site as a whole will revitalise the area with new commercial activity which will provide employment opportunities and economic growth. Outline planning permission has been granted for up to 120 residential dwellings and two commercial units, plus the retained, but newly refurbished, 1 and 15 Haughmond Square Properties) which the application site is capable of accommodating, and in doing so sets the site's capacity. Further, the change of use of the Apprentice House (Grade 2* listed) to residential use is authorised, as well as the change of use of the ground floor of the Haughmond Square Properties to a mixed commercial use.

Human Rights

The draft Statement of Reasons includes the following section to demonstrate the compelling public interest for the undertaking the CPO: -

Demonstrating a compelling case in the public interest

Paragraph 12 of the CPO Guidance states that a compulsory purchase order should only be made where there is a compelling case in the public interest. Furthermore, the CPO Guidance directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights (“**the Convention**”) in order that they can be sure that the purposes for which a compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected.

The Human Rights Act 1998 incorporates the rights set out in the Convention into domestic British law – section 6 prohibits public authorities from acting in a way which is incompatible with the Convention and the rights it protects.

The following articles of the Convention are of particular relevance and are engaged in the process of making a compulsory purchase order:

Article 1 of the First Protocol provides as follows: *“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”*.

Article 6 provides that in determining their civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 protects private and family life, home and correspondence. No public authority can interfere with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 14 requires that all of the rights and freedoms set out in the Convention must be protected and applied without discrimination. In particular, the enjoyment of the said rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Each of the rights set out within the above-mentioned articles are qualified such that they may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. Furthermore, within the context of Article 1 of the First Protocol, the European Court of Human Rights has recognised that regard must be had to the fair balance which is required to be struck between the competing interests of the individual and the community as a whole.

There are two dwellings included within the Order Land, namely the first floor residential accommodation located above the takeaway premises which operate from the Haughton Square Properties. Therefore, Article 8 of the Convention is engaged.

Guidance Notes

1. Legal Context

It is a legal requirement for local authorities to assess the equality and human rights impact of changes proposed or made to services. It is up to us as an authority to decide what form our equality impact assessment may take. By way of illustration, some local authorities focus more overtly upon human rights; some include safeguarding. It is about what is considered to be needed in a local authority's area, in line with local factors such as demography and strategic objectives as well as with the national legislative imperatives.

Carrying out these impact assessments helps us as a public authority to ensure that, as far as possible, we are taking actions to meet the general equality duty placed on us by the Equality Act 2010, and to thus demonstrate that the three equality aims are integral to our decision making processes.

These are: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations.

These screening assessments for any proposed service change go to Cabinet as part of the committee report, or occasionally direct to Full Council, unless they are ones to do with Licensing, in which case they go to Strategic Licensing Committee.

Service areas would ordinarily carry out a screening assessment, or Part One equality impact assessment. This enables energies to be focussed on review and monitoring and ongoing evidence collection about the positive or negative impacts of a service change upon groupings in the community, and for any adjustments to be considered and made accordingly.

These screening assessments are recommended to be undertaken at timely points in the development and implementation of the proposed service change.

For example, an ESHIA would be a recommended course of action before a consultation. This would draw upon the evidence available at that time, and identify the target audiences, and assess at that initial stage what the likely impact of the service change could be across the Protected Characteristic groupings and our tenth category of Social Inclusion. This ESHIA would set out intended actions to engage with the groupings, particularly those who are historically less likely to engage in

public consultation eg young people, as otherwise we would not know their specific needs.

A second ESHIA would then be carried out after the consultation, to say what the feedback was, to set out changes proposed as a result of the feedback, and to say where responses were low and what the plans are to engage with groupings who did not really respond. This ESHIA would also draw more upon actions to review impacts in order to mitigate the negative and accentuate the positive. Examples of this approach include the Great Outdoors Strategy, and the Economic Growth Strategy 2017-2021

Meeting our Public Sector Equality Duty through carrying out these ESHIAs is very much about using them as an opportunity to demonstrate ongoing engagement across groupings and to thus visibly show we are taking what is called due regard of the needs of people in protected characteristic groupings

If the screening indicates that there are likely to be significant negative impacts for groupings within the community, the service area would need to carry out a full report, or Part Two assessment. This will enable more evidence to be collected that will help the service area to reach an informed opinion.

In practice, Part Two or Full Screening Assessments have only been recommended twice since 2014, as the ongoing mitigation of negative equality impacts should serve to keep them below the threshold for triggering a Full Screening Assessment. The expectation is that Full Screening Assessments in regard to Health Impacts may occasionally need to be undertaken, but this would be very much the exception rather than the rule.

2. Council Wide and Service Area Policy and Practice on Equality, Social Inclusion and Health

This involves taking an equality and social inclusion approach in planning changes to services, policies, or procedures, including those that may be required by Government.

The decisions that you make when you are planning a service change need to be recorded, to demonstrate that you have thought about the possible equality impacts on communities and to show openness and transparency in your decision-making processes.

This is where Equality, Social Inclusion and Health Impact Assessments (ESHIA) come in. Where you carry out an ESHIA in your service area, this provides an opportunity to show:

- What evidence you have drawn upon to help you to recommend a strategy or policy or a course of action to Cabinet.
- What target groups and audiences you have worked with to date.

- What actions you will take in order to mitigate any likely negative impact upon a group or groupings, and enhance any positive effects for a group or groupings; and
- What actions you are planning to review the impact of your planned service change.

The formal template is there not only to help the service area but also to act as a stand-alone for a member of the public to read. The approach helps to identify whether or not any new or significant changes to services, including policies, procedures, functions, or projects, may have an adverse impact on a particular group of people, and whether the human rights of individuals may be affected.

This assessment encompasses consideration of social inclusion. This is so that we are thinking as carefully and completely as possible about all Shropshire groups and communities, including people in rural areas and people or households that we may describe as vulnerable.

Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in what are described as the nine 'protected characteristics' of groups of people in our population, e.g., Age. Another specific vulnerable grouping is veterans and serving members of the Armed Forces, who face particular challenges with regard to access to Health, to Education, and to Housing.

We demonstrate equal treatment to people who are in these groups and to people who are not, through having what is termed 'due regard' to their needs and views when developing and implementing policy and strategy and when commissioning, procuring, arranging, or delivering services.

When you are not carrying out an ESHIA, you still need to demonstrate and record that you have considered equality in your decision-making processes. It is up to you what format you choose.-You could use a checklist, an explanatory note, or a document setting out our expectations of standards of behaviour, for contractors to read and sign. It may well not be something that is in the public domain like an ESHIA, but you should still be ready for it to be made available.

Both the approaches sit with a manager, and the manager has to make the call, and record the decision made on behalf of the Council. Help and guidance is also available via the Commissioning Support Team, either for data, or for policy advice from the Rurality and Equalities Specialist. Here are some examples to get you thinking.

Carry out an ESHIA:

- If you are building or reconfiguring a building.
- If you are planning to reduce or remove a service.
- If you are consulting on a policy or a strategy.
- If you are bringing in a change to a process or procedure that involves other stakeholders and the wider community as well as particular groupings

For example, there may be a planned change to a leisure facility. This gives you the chance to look at things like flexible changing room provision, which will maximise positive impacts for everyone. A specific grouping that would benefit would be people undergoing gender reassignment

Carry out an equality and social inclusion approach:

- If you are setting out how you expect a contractor to behave with regard to equality, where you are commissioning a service or product from them.
- If you are setting out the standards of behaviour that we expect from people who work with vulnerable groupings, such as taxi drivers that we license.
- If you are planning consultation and engagement activity, where we need to collect equality data in ways that will be proportionate and non-intrusive as well as meaningful for the purposes of the consultation itself.
- If you are looking at services provided by others that help the community, where we need to demonstrate a community leadership approach

For example, you may be involved in commissioning a production to tour schools or appear at a local venue, whether a community hall or somewhere like Theatre Severn. The production company should be made aware of our equality policies and our expectation that they will seek to avoid promotion of potentially negative stereotypes. Specific groupings that could be affected include: Disability, Race, Religion and Belief, and Sexual Orientation. There is positive impact to be gained from positive portrayals and use of appropriate and respectful language in regard to these groupings in particular.

3. Council wide and service area policy and practice on health and wellbeing

This is a relatively new area to record within our overall assessments of impacts, for individual and for communities, and as such we are asking service area leads to consider health and wellbeing impacts, much as they have been doing during 2020-2021, and to look at these in the context of direct and indirect impacts for individuals and for communities. A better understanding across the Council of these impacts will also better enable the Public Health colleagues to prioritise activities to reduce health inequalities in ways that are evidence based and that link effectively with equality impact considerations and climate change mitigation.

Health in All Policies – Health Impact Assessment

Health in All Policies is an upstream approach for health and wellbeing promotion and prevention, and to reduce health inequalities. The Health Impact Assessment (HIA) is the supporting mechanism

- Health Impact Assessment (HIA) is the technical name for a common-sense idea. It is a process that considers the wider effects of local policies, strategies and initiatives and how they, in turn, may affect people's health and wellbeing.

- Health Impact Assessment is a means of assessing both the positive and negative health impacts of a policy. It is also a means of developing good evidence-based policy and strategy using a structured process to review the impact.
- A Health Impact Assessment seeks to determine how to maximise health benefits and reduce health inequalities. It identifies any unintended health consequences. These consequences may support policy and strategy or may lead to suggestions for improvements.
- An agreed framework will set out a clear pathway through which a policy or strategy can be assessed and impacts with outcomes identified. It also sets out the support mechanisms for maximising health benefits.

The embedding of a Health in All Policies approach will support Shropshire Council through evidence-based practice and a whole systems approach, in achieving our corporate and partnership strategic priorities. This will assist the Council and partners in promoting, enabling and sustaining the health and wellbeing of individuals and communities whilst reducing health inequalities.

Individuals

Will the proposal have a *direct impact* on health, mental health and wellbeing?

For example, would it cause ill health, affecting social inclusion, independence and participation?

Will the proposal directly affect an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to be physically active e.g., being able to use a cycle route; to access food more easily; to change lifestyle in ways that are of positive impact for their health.

An example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g., green highways), and changes to public transport that could encourage people away from car usage. and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve lives.

Will the proposal *indirectly impact* an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to access local facilities e.g., to access food more easily, or to access a means of mobility to local services and amenities? (e.g. change to bus route)

Similarly to the above, an example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g. pedestrianisation of town centres), and changes to public transport that could encourage people away from car usage, and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve their health and well being.

Communities

Will the proposal directly or indirectly affect the physical health, mental health, and wellbeing of the wider community?

A *direct impact* could include either the causing of ill health, affecting social inclusion, independence and participation, or the promotion of better health.

An example of this could be that safer walking and cycling routes could help the wider community, as more people across groupings may be encouraged to walk more, and as there will be reductions in emission leading to better air quality.

An *indirect impact* could mean that a service change could indirectly affect living and working conditions and therefore the health and well being of the wider community.

An example of this could be: an increase in the availability of warm homes would improve the quality of the housing offer in Shropshire and reduce the costs for households of having a warm home in Shropshire. Often a health promoting approach also supports our agenda to reduce the level of Carbon Dioxide emissions and to reduce the impact of climate change.

Please record whether at this stage you consider the proposed service change to have a direct or an indirect impact upon communities.

Demand

Will there be a change in demand for or access to health, local authority and social care services?

For example: Primary Care, Hospital Care, Community Services, Mental Health and Social Services?

An example of this could be: a new housing development in an area would affect demand for primary care and local authority facilities and services in that location and surrounding areas. If the housing development does not factor in consideration of availability of green space and safety within the public realm, further down the line there could be an increased demand upon health and social care services as a result

of the lack of opportunities for physical recreation, and reluctance of some groupings to venture outside if they do not perceive it to be safe.

For further information on the use of ESHIAs: please contact your head of service or contact Mrs Lois Dale, Rurality and Equalities Specialist and Council policy support on equality, via telephone 01743 258528, or email lois.dale@shropshire.gov.uk.

For further guidance on public health policy considerations: please contact Amanda Cheeseman Development Officer in Public Health, via telephone 01743 253164 or email amanda.cheeseman@shropshire.gov.uk

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Appendix 6 - Schedule of planning applications relating to the Flaxmill

Planning Applications To Shropshire Council

Repair and re-use of the Main Mill, Warehouse, Malt Kiln and Cross Mill for Business Use (B1) and Non-Residential Institutions (D1), landscaping of areas around the Mill, provision of a temporary car park, demolition of north silo and demolition of all non-listed buildings on the Spring Gardens sites (excluding existing takeaways)

Ref. No: 10/03230/FUL | Status: Permission Granted

Listed Building application for the repair and alterations of the Main Mill, Warehouse, Malt Kiln and Cross Mill to facilitate their proposed re-use for Business Use (B1) and Non-Residential Institutions (D1) affecting a Grade I Listed Building

Ref. No: 10/03233/LBC | Status: Permission Granted

Outline application for the mixed use re-development of Ditherington Flaxmill comprising repair and re-use of historic buildings to create workspace and associated cultural activities, new retail/commercial office and residential development, associated access, landscaping and car parking and demolition of non-listed buildings

Ref. No: 10/03237/OUT | Status: Permission Granted

Works to facilitate removal of the mezzanine floor; roof sections and floor sections in the Dye House; insertion of suspended floor structure; repairs to roof structure affecting a Grade II* Listed Building

Ref. No: 11/04899/LBC | Status: Permission Granted

Demolition of the North Silo

Ref. No: 12/04197/LBC | Status: Permission Granted

Repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping

Ref. No: 12/04435/FUL | Status: Permission Granted

Works to facilitate repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping

Ref. No: 12/04436/LBC | Status: Permission Granted

To erect and display 3 non-illuminated banner signs and one non-illuminated fascia sign

Ref. No: 13/00113/ADV | Status: Permission Granted

Demolition of existing south silo structure affecting a Grade I Listed Building

Ref. No: 13/02383/LBC | Status: Permission Granted

Discharge of Conditions for Application ref 12/04436/LBC

Ref. No: 13/04599/DIS | Status: Discharge Conditions Part Approved

Discharge of conditions no 3 (Schedule of Works) no. 4 (Materials and Finishes) attached to planning permission 12/04436/LBC Works to facilitate repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping

Ref. No: 15/00120/DIS | Status: Discharge Conditions Part Approved

External Signage for Interpretation and Orientation

Ref. No: 15/03997/LBC | Status: Permission Granted

Repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site

Ref. No: 16/02872/FUL | Status: Permission Granted

Works for the repair and restoration of the Main Mill and Kiln, installation of structural strengthening solution; re-opening of windows to all floors; installation of services and utilities

Ref. No: 16/02873/LBC | Status: Permission Granted

Discharge of condition 3 (Schedule of Works) 4 (Materials and Finishes) 5 (Repointing and Pointing) 6 (Architectural Features) 7 (Replacement Features) 8 (External Finishes) attached to planning permission 12/04436/LBC Works to facilitate

repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping

Ref. No: 17/00596/DIS | Status: Discharge Conditions Approved

Discharge of condition 3 (Foul and Surface Water) 4 (Archaeological Programme) 5 (Swifts Nesting) 6 (Wildlife Protection Plan) 8 (Landscaping Works) 9 (Lighting Plan) 10 (Bird, Bat and Habitat Management) 11 (Bat Monitoring) 12 (Travel Plan) attached to planning permission 12/04435/FUL Repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping

Ref. No: 17/00624/DIS | Status: Discharge Conditions Part Approved

Discharge of condition 4 (WSI) 5 (EPS Licence and MS) 19 (Artificial Nests) attached to planning permission 16/02872/FUL Repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site

Ref. No: 17/02153/DIS | Status: Discharge Conditions Approved

Discharge of condition 3 (CMS) attached to planning permission 16/02872/FUL Repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site

Ref. No: 17/02601/DIS | Status: Discharge Conditions Approved

Discharge of Conditions 3 (Archaeology), 4 (Method statement and EPS Licence), 6 (Schedule of Features), 8 (Artificial Nests For Swifts), 10 (Services Internal & External), 11 (Roofing) and 12 (pointing and re-pointing) on Listed Building Consent 16/02873/LBC for the works for the repair and restoration of the Main Mill and Kiln, installation of structural strengthening solution; re-opening of windows to all floors; installation of services and utilities

Ref. No: 17/03535/DIS | Status: Discharge Conditions Part Approved

Amendments to Planning Permission 12/04435/FUL for the repair and conservation of the Dye and Stove House, office and stables to provide mixed use development (use classes A1-A3, B1-B2, B8 and D1-D2); new landscaping

Ref. No: 17/04866/AMP | Status: Permission Granted

Partial Discharge of Conditions 12 (Brickwork Pointing), 13 (Joinery) and 16 (Decorative Finishes) in relation to the Phase 1 works approved under Listed Building consent 16/02873/LBC for the works for the repair and restoration of the Main Mill and Kiln, installation of structural strengthening solution; re-opening of windows to all floors, installation of services and utilities

Ref. No: 18/04243/DIS | Status: Discharge Conditions Part Approved

Alterations to previously approved 16/02873/LBC to include new steps and raised sections of the west boundary wall; demolition of a section of the east boundary wall and replacement with new railings; a timber clad bin store adjacent to the Apprentice House; demolition of the Warehouse elevator tower and Kiln masonry partitions and plant; repair of Dye House, Warehouse, Cross Mill fenestration and RWGs; installation of high quality partitions to the Main Mill first and second floors.

Ref. No: 18/05157/LBC | Status: Withdrawn

Amendments to Planning Permission 16/02872/FUL for the repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site

Ref. No: 18/05177/AMP | Status: Withdrawn

Off site improvements to road junctions and new pedestrian / cycle crossings and entrances into the development site. On site new access road, pavements and pedestrian / cycle routes and external lighting to detail

Ref. No: 19/02769/FUL | Status: Permission Granted

Non Material Amendment to raise existing wall; new external steps; timber clad bin store; new stair and ramps along line of the former canal with steel balustrade; remove maltings plant; repair existing windows RWGs and slate roofs; 2no. new internal openings; high quality partitions; 2no. new external openings to previously approved planning permission 16/02872/FUL Repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all

floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site

Ref. No: 19/05405/AMP | Status: Permission Granted

Works for the repair and restoration of the Main Mill and Kiln, installation of structural strengthening solution; re-opening of windows to all floors; installation of services and utilities as approved under 16/02873/LBC and the following additional works: Existing west retaining wall raised; new external steps to west wall retaining wall; new timber clad bin store; New stair and ramps along the line of the former canal with steel balustrade; remove internal maltings plant; repair existing windows, RWGs and slate roofs; 2no. new internal openings; high quality internal partitions; 2no. new external openings

Ref. No: 19/05423/LBC | Status: Permission Granted

Discharge of conditions 4 (Archaeology) 12, 13 and 14 (Contaminated land and remediation strategy) 15 and 16 (Drainage) 17 (External Lighting) 21 (Hard and soft Landscaping) and 22 (CCTV and Barrier details) for application 16/02872/FUL Repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site

Ref. No: 20/00164/DIS | Status: Discharge Conditions Approved

Re-roofing and structural strengthening of the existing cast iron trusses to the Cross Mill

Ref. No: 20/03344/LBC | Status: Permission Granted

Non Material Amendment to planning permission 16/02872/FUL (previously amended by 19/056405/AMP) for the repair and restoration of the Main Mill and Kiln; installation of structural strengthening solution; re-opening of windows to all floors; formation of visitor interpretation centre, learning space and cafe; restoration of upper floors for commercial use; landscaping and formation of car parking area (98 spaces) with improved accessibility across the site, to amend the approved drawings to include the addition of a >100KW Ground Source Heat Pump Installation (bore holes and plant room) to serve the Main Mill and Kiln.

Ref. No: 20/03366/AMP | Status: Permission Granted

Erect and display non-illuminated information panels to southern boundary fencing comprising 32 panels measuring 1.5m high x 2.5m wide

Ref. No: 20/03854/ADV | Status: Permission Granted

Hybrid application for outline planning permission for residential development (Class C3) and commercial, business and service use (Class E) to include access with all other matters reserved; and application for planning permission for the change of use of the ground floor of 1 and 15 Haughmond Square to a mixed use including hot food takeaway restaurant (sui generis use) and commercial, business and service use (Class E) and associated alterations and change of use of the Apprentice House to residential use (C3).

Ref. No. 20/05065/OUT | Status: Permission Granted

Proposed restoration of two pedimented external door cases and panelled doors based on evidence from salvaged fragments and historic photographs. (Apprentice House - Phase 3)

Ref. No: 21/04574/LBC | Status: Permission Granted

Proposed fixing of external grade metal signage and wayfinding units into the mortar joints of brickwork at various locations around the Shrewsbury Flaxmill Maltings site, as part of the installation of a signage and wayfinding scheme affecting a Grade I Listed Building

Ref. No: 22/00520/LBC | Status: Pending Consideration

Planning Applications To Shrewsbury & Atcham Borough Council

Change of use of Block A to offices.

Ref. No: SA/87/1200 | Status: PERCON

Change of use to leisure, research and development and alterations to building.

Ref. No: SA/88/0496 | Status: PERCON

Erection of two circular grain silos including elevators and ducts.

Ref. No: SA/76/0913 | Status: PERCON

Demolition and removal of materials of an existing laboratory.

Ref. No: SA/81/0973 | Status: PERCON

Change of use of vacant grain silo to an archival type depository storage unit.

Ref. No: SA/89/0803 | Status: PERCON

Block B - Change of use to offices, light industrial, high-tech industrial and workshop.
Block G - Change of use to in house catering and leisure uses. Block K - Change of use to leisure, industrial museum, in house conference and catering.

Ref. No: SA/87/1202 | Status: PERCON

Demolition and clearance of 2 modern concrete silo buildings.

Ref. No: SA/98/0556 | Status: PERCON

External and internal alterations to the Flaxmill, Kiln and Cross Mill, including the erection of two external glazed stairways, in connection with changes of use to mill shopping, offices, and Visual Arts Trust uses (or offices or pub/restaurant uses). (Amended description).

Ref. No: SA/98/0421 | Status: PERCON

Change of use from former maltings to :- mill shopping (3490m²); offices (B1) (5,229m²) and/or visual arts trust in warehouse ; visual arts trust (1,104m²) (galleries, lecture room, studios, restaurant, kitchen, associated offices) or offices (B1) or pub/restaurant(A3) ; caretakers dwelling (133m²) (conversion of office); change of use from garden centre to landscaped entrance, including reinstatement of former canal; formation of car parking and associated landscaping; associated external alterations to the buildings including the erection of two external glazed stairways ; after demolition of 2 No. silo buildings (amended description).

Ref. No: SA/97/0795 | Status: PERCON

Renewal of listed building consent reference 98/0555/LB2/128/75 granted on the 8th February 2000 for external and internal alterations to the Warehouse, Apprentice House, Dye House, Stable and Office in connection with changes of use to mill shopping, offices and/or Visual Arts Trust and caretakers dwelling

Ref. No: SA/05/0185/REW | Status: Application Withdrawn

Renewal of planning permission reference 97/0795/128/75 granted on the 8th February 2000 for change of use from former maltings to :- mill shopping (3490m²); offices (B1) (5,229m²) and/or visual arts trust in warehouse ; visual arts trust (1,104m²) (galleries, lecture room, studios, restaurant, kitchen, associated offices) or offices (B1) or pub/restaurant(A3) ; caretakers dwelling (133m²) (conversion of office); change of use from garden centre to landscaped entrance, including reinstatement of former canal; formation of car parking and associated landscaping; associated external alterations to the buildings including the erection of two external glazed stairways ; after demolition of 2 No. silo buildings

Ref. No: SA/05/0184/REW | Status: Application Withdrawn

Renewal of Listed Building Consent 98/0421/LB1/128/75 granted on the 08-02-2000 for external and internal alterations to the Flax Mill, Kiln and Cross Mill, including the erection of two external glazed stairways in connection with the changes of use to mill shopping, offices and visual arts trust uses (or office or pub restaurant uses)

Ref. No: SA/05/0153/REW | Status: Application Withdrawn



Development Management Report

Responsible Officer: Mark Barrow, Director of Place

Summary of Application

Application Number: 20/05065/OUT	Parish:	Shrewsbury Town Council
Proposal: Hybrid application for outline planning permission for residential development (Class C3) and commercial, business and service use (Class E) to include access with all other matters reserved; and application for planning permission for the change of use of the ground floor of 1 and 15 Haughmond Square to a mixed use including hot food takeaway restaurant (sui generis use) and commercial, business and service use (Class E) and associated alterations and change of use of the Apprentice House to residential use (C3).		
Site Address: Flax Mill Spring Gardens Shrewsbury Shropshire		
Applicant: Historic England		
Case Officer: Jane Raymond	email :	planning.northern@shropshire.gov.uk

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

REPORT

1.0 THE PROPOSAL

1.1 This is a hybrid application for the following:

- outline planning permission for residential development (Class C3) and commercial, business and service use (Class E) to include access with all other matters reserved;
- change of use of the Apprentice House to residential use (C3) and
- change of use of the ground floor of 1 and 15 Haughmond Square to a mixed use including hot food takeaway restaurant (sui generis use) and commercial, business and service use (Class E).

1.2 All matters relating to the outline consent other than access are reserved for later approval and an application for reserved matters will be required for the scale, design and appearance of the new buildings and for the layout and landscaping of the site.

1.3 An application for full detailed planning permission for any external alterations and/or extensions (operational development) to the listed Apprentice House and to 1 and 15 Haughmond Square will be required in addition to listed building consent for any external and internal alterations required to the Apprentice House to enable its conversion.

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The application site comprises the land in front of and to the south east of the Main Mill and land to the north east, and has recently been cleared of all buildings other than 1 and 15 Haughmond Square and The Apprentice House. Both 1 and 15 Haughmond Square and the Grade 2* Listed Apprentice House are included within the red line of the application and are proposed to be retained.

2.2 The land is part of the wider former Flax Mill site that contains a group of buildings and structures which relate to the original Flax Mill operation and subsequently Maltings business on the site between 1796 and 1987. This wider site contains a complex of former mill buildings and a former Maltings and include the following:

The Main Mill – Grade 1 Listed
The Cross Mill – Grade 1 Listed
The Warehouse – Grade 1 Listed
The Malt Kiln – Grade 1 Listed
The Apprentice House – Grade 2* Listed
The Dye / Stove House – Grade 2*

2.3 The site is approximately one mile north of Shrewsbury town centre and is part bounded by the Crewe to Shrewsbury railway line to the north west and the busy Spring Gardens main road to the south east. Residential properties lie immediately to the north east and south west of the site and on the opposite side of Spring Gardens to the south east.

2.4 The site is located within the Shrewsbury Conservation Area. The site and wider Flax Mill site is wholly owned by Historic England.

3.0 **REASON FOR DELEGATED DETERMINATION OF APPLICATION**

3.1 No contrary opinions have been received that would require determination of the application by Committee under the terms of the scheme of delegation as set out in Part 8 of the Council Constitution.

4.0 **Community Representations**

4.1 **- Consultee Comments**

4.1.1 **SC Learning and Skills:** *Shropshire Council Learning and Skills reports that the local primary schools are currently close to capacity. It is forecast that the cumulative effect of this and of other developments in the area will require additional school place capacity. This development is forecast to increase school capacity requirements by 21 primary pupils . It is therefore essential that the developers of this and any new housing in this area contribute towards the*

consequential cost of any additional places/facilities considered necessary to meet pupil requirements at those schools. Based on the scale of the proposed development of 120 dwellings it is recommended that contributions, to address future educational capacity needs, are secured by means of a s106 agreement.

- 4.1.2 **SC Economic Growth:** *The Economic Growth Service supports the application for residential and commercial development at the Flaxmill which will be a key driver to the regeneration of this area. The application is in outline however there are a number of minor detailed issues :*

The reuse and renovation of the existing commercial uses is supported however it does raise the question about how these are serviced and provision for car parking.

The commercial units on the corner with Spring Gardens and the new access seem rather underwhelming at 1-2 storeys . This is the main pedestrian access into the site and whilst it is accepted that there is a need to keep open views of the Flaxmill this is a key gateway and should reflect this . The opportunity to increase development and maximise value should be taken given that the site has received considerable public subsidy .

The design aspiration to retain the visual impact of the Flaxmill has resulted in the residential development of three storeys on the east side of the canal basin. In addition, the canal towpath on this side has also been reduced by half a storey resulting in the Flaxmill having a dominating impact on the new properties and potentially their market attractiveness .

The treatment of the canal basin and its use as a public open space raises some concern as this has also been lowered from existing levels and raises the question as to how well the open space will be used. There is also a need to provide a clear distinction between public and private space for properties facing onto the towpath. This is probably best done by a clear demarcation between the 'public' footpath and 'private' gardens . There is also a need to make clear as to whether this will be a public 'front' or a private 'back'. The implication is that the properties facing onto the tow path will have a private 'back' despite the fact that a footpath will run past them. Ideally this should be an active frontage rather than a dead space with a boundary wall facing on to the towpath .

It is assumed the new housing development will have a frontage on Spring Gardens however the main view will be the 'garden wall' which faces onto the Spring Gardens footpath and public realm. It may be appropriate either to reduce the impact or to punctuate the wall to provide visual relationship to the development behind.

- 4.1.3 **SC Parks and Recreation:** *Under Shropshire Council's SAMDev Plan and MD2 policy requirement, adopted 17th December 2015, all development will 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.

4.1.4 **SC Regulatory Services:**

Noise - The acoustic report and the 2010 addendum is accepted as indicating the mitigation and façade requirements of the properties close to noise sources, especially transport noise. I would agree that further updated noise assessment at locations nearest noise sources would be required for more accurate assessment of mitigation requirements in accordance to the principles of ProPG but at this stage I would note that Spring Gardens North would benefit from setback and/or orientation or internal arrangements which would be have non habitable rooms primarily facing the road noise sources- such rooms being kitchen, bathroom, utility room, hallways, landings, so that habitable rooms such as main bedrooms and living rooms are facing inward to the site, likewise for the rail facing apprentice house. Such embedded mitigation may achieve internal guidance without reliance on windows closed to achieve internal standards. For external standards the indication is that Spring gardens north would be most likely to exceed standards, but standoff and screening may result in achievement.

Odour - In the title of the application 1 and 15 Haughmond Sqaure, currently takeaways are mentioned but no further information in the documents. It is noted that proposed housing is to be positioned close to the units which would require odour abatement technologies to be required.

Contaminated land - A report by Stantec; Shrewsbury Flaxmill Maltings project: Remediation Strategy; Ref. 330201477R1, November 2020. Final has been submitted in support of this outline application and the requirements for remediation detailed are based on the latest development plans and where necessary supersede or are in addition to those already detailed in the previous remediation strategy. Details of previously approved remediation undertaken or in the process of being undertaken has not yet been submitted to the Council.

The Environment Agency must be consulted on this latest Remediation Strategy.

Regulatory Services generally concurs with the proposed remediation strategy that includes include details of gas protection and how these will be verified as per BS8485:2015+A1:2019 and CIRIA C735 and Shropshire Council will only accept verification from a suitable experienced verifier who is independent of the installer.

There is also a requirement that a suitably qualified and experienced geo-environmental consultant attends during the proposed excavation works in order to oversee general betterment of land quality across the site.

Subject to any additional comments the Environment Agency may have, the following must be included as conditions:

4.1.5 **SC Ecology:** I have reviewed the Preliminary Ecological Appraisal and Bat Surveys report undertaken by Middlemarch Environmental (dated September 2020) which were submitted in association with the application and I am happy with the survey work carried out.

I concur with the conclusions and recommendations of the reports. No bats were

recorded in the two buildings proposed for demolition.

Multiple bat species are known to be present in the adjacent buildings, most of which are not within the redline boundary of this application, the exception being Apprentice House. A bat mitigation strategy has been produced, which covers Phase 1 of the development and the phase of development to which this application pertains. This strategy details the replacement roosting provision and the commute routes which cross the development site, and a bat mitigation licence is in place covering Phase 1 of the development.

The bat mitigation strategy has been updated several times since it was granted, in agreement with Natural England; the current most up to date strategy is Report Number: RT-MME-112753-02 Revision 6 (Middlemarch Environmental, Oct 2019). The design of the whole site is required to maintain dark flight routes for bats, and dark commute routes for other nocturnal animals, between the lit areas, and appropriate landscaping to facilitate foraging and commuting by bats. Conditions to ensure that reserved matters applications adhere to the approved bat mitigation strategy in terms of lighting, landscaping and bat roost mitigation are recommended.

The reserved matters application will need to secure either a modification of the existing bat licence or a new licence to cover the works as detailed in the Bat Mitigation Strategy for this phase of the development. This has already been approved in principle by Natural England, as part of the first licence (as it was for a phased development). On considering the mitigation detailed within the mitigation strategy I am satisfied that the proposals will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

I have provided a European Protected Species 3 tests matrix to accompany this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered.

It is also noted that temporary artificial nesting opportunities for swift were included on Apprentice House as part of previous applications, to provide compensatory nesting provision whilst the mills were being refurbished. The temporary swift boxes have now been removed and increased swift roosting provision (over and above the baseline) has been provided on cross mill and flax mill by restoring historic vents (pers comm. Dr. Nick Steggall, Middlemarch Environmental, 31.03.2021). To further enhance nesting opportunities on the site for swift, as well as house martin, a condition is recommended to provide artificial nest provision in and on suitable parts of the new build.

- 4.1.6 **SC Highways:** The current proposal seeks to renew of the 2011 outline consent that is due to expire. Whilst all matters are reserved, consent is sought, in principle, for the quantum of development as described within the application submission.

On the basis that outline planning consent was granted back in 2011 the principle

of development of the site is already established and from a highway perspective the local and site circumstances have not materially changed that would lead to a highway objection. Moreover, the full detailed development including scale and layout will be further considered as part of a subsequent reserved matters application. The current application is also supported by Transport Assessment which raises no fundamental issues of the development of the site.

It should be noted also that some of the highway infrastructure works have been undertaken, including the changes to the mini roundabout junction with Sultan Road, Pedestrians Crossings and internal access road are under construction and due for completion soon under planning permission 19/02769/FUL.

Notwithstanding the fact that all matters are reserved the applicant, as stated above, is keen to establish the quantum of development that could come forward in order to provide a degree of certainty of the viability of the Flax Mill project to a prospective developer.

One of the key issues of the development of the site relates to parking demand and provision and in this regard I would make the following comments:

- The proposed 1 parking space to 1 household ratio, is low for this location (ideally 1.5 spaces/unit would be the minimum). However, given the site is relatively close to the Town Centre and other amenities, then the lower ratio could be acceptable. Although, it is important that the provision and allocation of parking spaces is clearly communicated to residents and other road users and appropriately controlled.

Some thought needs to be given to visitors and how their behaviours and actions may need to be controlled to ensure vehicles aren't parked in unsafe places. The potential loss of 58 Mill spaces once all 4 phases of the housing development are completed, needs to be comprehensively dealt with by a separate report and resolved, to the satisfaction of the LPA before Phase 4 starts. If the phasing is changed then a condition that 58 Mill spaces remain somewhere on the site needs to be put in place on the permission until the loss of these spaces is addressed to the satisfaction of the LPA. No mention is made of cycle parking and how this will be provided for residents. Are they expected to keep bike in their properties?

- Non-Car Accessibility. This site has relatively good non-car accessibility. However, reference is made to the existing Park and Ride facility again, which does not currently stop at the Flaxmill. Clarification is required.
- Framework Travel Plan. It is appreciated that this is an outline application. However, further details are expected, including some specifics commitments. For example:
 - No mention is made of how the process will be managed – travel plan co-ordinator, liaison with Shropshire Council etc.
 - It needs to refer to the importance of addressing sustainable travel during the sales and promoting phase of the development by appointing a TP coordinator to engage with prospective purchasers. This is particularly important given the parking limitations. It is noted that the report does state (7.3.5) "This (Travel Plan) must be accompanied by management of parking to ensure the limitations of the

site are understood and acted upon by residents.”

- It should commit to provide incentives (not just information) in order to achieve take up of sustainable travel. Examples would include cycle training vouchers, free short-term bus passes to encourage take up of the local bus service.
- The Travel Plan should refer to how secure residential cycle parking will be achieved within the development.
- The plan should include details of travel survey, monitoring, targets and timescales as well as the length of time the plan will be in place.
- An easy to understand location plan/map identifying local amenities and destinations, highlighting appropriate safe routes and estimates of journey time using active travel modes.
- An appropriate resident friendly version of the TP should be produced (like the sales literature) to inform, engage and encourage active travel.

It is recognised however that the above matters will be dealt with as part of the first reserved matters submission(s). The applicant and/or future developer needs to be fully aware that car parking and the Travel Plan will be key elements as part of the first reserved matters and therefore included as Conditions at this outline stage.

It is recommend that the following Condition be imposed:-

- The first submission of reserved matters shall include full details of the parking provision and a Parking Management Plan which links to the Phasing of the development, shall be submitted to and approved in writing by the Local Planning Authority; the parking, management and allocation of spaces shall be implemented fully in accordance with the approved details and Phased delivery of the designated site uses. Reason: To provide adequate and management of the parking provision within the site to serve the development.

In addition to the above I consider that it would be appropriate to replicate Conditions 22 to 25 inclusive that were imposed on the original outline consent reference 10/03237/OUT.

4.1.7 **WSP on behalf of SC Drainage:** Recommends a drainage condition and provides informative advice.

4.1.8 **Environment Agency** (latest comments received 15 March):

I refer to additional information received in support of the above application and, specifically, to provide clarification on points raised in my previous response. Having reviewed the submitted Remediation Strategy (Stantec UK Ltd, ref 330201477R1REV1, dated March 2021) we are in a position to remove our objection and would offer the following comments and conditions for your consideration at this time.

We welcome the revision to the Remediation Strategy (RS) which has generally addressed the observations and comments in our previous response SV/2021/110864/01-L01 of 26 January 2021. We are satisfied that the risks to controlled waters posed by contamination at this site can be addressed through appropriate measures. However, further details will be required in order to ensure

that risks are appropriately addressed prior to the development commencing and being occupied. It is important that remediation works, if required, are verified as completed to agreed standards to ensure that controlled waters are suitably protected.

The below conditions are required to protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 170, 178, 179 and The Environment Agency's approach to groundwater protection (formerly Groundwater Protection: Principles and Practice (GP3)).

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.

- 4.1.9 **SC Conservation:** *We would advise at the outset that in considering this application, due regard to the following local and national policies and guidance would be required, where applicable, including policies CS6 Sustainable Design and Development Principles and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the SAMDev, and the National Planning Policy Framework (NPPF) revised 2019, and relevant Historic England Guidance including for example GPA3 The Setting of Heritage Assets. Legislatively Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) is relevant in considering the impact on the character and appearance of the Conservation Area (Shrewsbury Conservation Area and more particularly the Castlefields and Spring Gardens Special Character Area), and Section 66 of the Act is also applicable where paying special regard to the impact on the character and setting of listed buildings is required.*

This Outline planning application is a renewal of an earlier outline application 10/03230/FUL granted in 2010 covering the significant property and group of former industrial buildings comprising the historic mill complex at Ditherington, where this earlier planning consent expires this year. Since that time our Team has commented on a number of planning and listed building applications which pertain specifically to existing buildings on the site as work progresses towards their repair and reuse.

As noted in the current Design and Access Statement the application is submitted with all matters reserved where consent is sought for the 'quantum of development described' but not for the 'illustrative' or indicative scheme shown within the red line boundary of the application, which mainly consists of the areas beyond the existing main mill complex of buildings where these parts of the wider site have not yet been subject to detailed planning applications.

The original 2010 Outline application included a lengthy Planning Design and

Access Statement and this current renewal application provides a more condensed version of this where it is noted that in comparing the two Statements there are now revisions to the earlier illustrative or indicative scheme relevant to each key area of the site.

Historic England have submitted formal comments on this application which we would refer you to and which are supportive of the overall 'quantum of development' illustrated within the current Design and Access Statement, but are clear to note that this is an outline scheme only which demonstrates what is possible to achieve and advises that appropriate conditions will need to be applied to set the level of control required for development on this sensitive and historic site. We concur with Historic England's statements in this regard.

We would also acknowledge the concerns raised by the Shrewsbury Town Council as well as a member of the public where these concerns relate in the main to the "Spring Gardens South" character/key area of the illustrative scheme. The current illustrative layout shows an unbroken linear 13 unit three storey terrace running along the former canal and to the front of the main flax mill building, where in this solid form and height the concern is raised that this housing may conceal to some degree views of the main building, potentially diminishing its visual significance.

We would note that this is one key area of the illustrative scheme that has been revised from the earlier 2010 concept plans, where the building plan form and layout appears now to have been simplified, there are less built forms shown and a more traditional terrace rather than a contemporary flat roof design for the buildings is being considered – our Team is generally supportive of the direction these illustrated revisions are taking for this part of the site.

But, we would also contend that the concerns noted above are valid, and further options relevant to the layout and/or the height of the eventual built forms in this key area of the site need to be compared and fully considered to ensure that the main historic buildings remain visually dominant.

It would be useful to have a bit more of an expanded Statement closer in line with the level of detail submitted in 2010 which illustrates how the concept or illustrative plan for the site has evolved since that time – again it is acknowledged that this is an outline planning application only with only an indicative scheme provided – where a presentation from the applicants (as suggested by the Town Council) may be warranted so that potential areas of concern can be raised and discussed in a timely manner.

- 4.1.10 **SC Archaeology:** The proposed development site comprises a 2.7ha area immediately north and east of the main Flax Mill complex. The archaeological desk based assessment indicates that prior to redevelopment in the 20th century, and in addition to Grade II* listed Apprentice House (NHLE ref. 1254855), this area was occupied by a range of the buildings, structures and features. These include an infilled section of the Shrewsbury Canal (HER PRN 03410); an area of 19th century workers housing east of the canal (HER PRN 31284); late 18th or early 19th century cluster houses on Haughmond Square (HER PRN 28828); the site of the former Sultan Inn (HER PRN 28849); the site of the formal gardens for the Apprentice House (HER PRN 28851); and a range of ancillary and outbuildings to

the North of the Flax Mill (HER PRNs 28831 – 28845).

The degree to which below ground remains of these various buildings and structures survive across the site is likely to vary significantly, as does the extent of previous archaeological investigation. Evaluation trenching in 2010 indicated that the area of the formal gardens is of little archaeological interest due to 20th century disturbance. A community excavation in 2013 found well preserved remains of the former wash house (HER PRN) 28838 and cow house (HER PRN 28834) at the northern end of the site. However, in 2020 a watching brief that was maintained during groundworks for a new access road found that demolition operations in the 20th century had removed structural remains of the buildings that previously stood north west of the Apprentice House to a sub-floor level. There has been no previous investigation of the areas of former workers housing at the south-eastern end of the proposed development site.

Consequently, the archaeological potential of the proposed development site is therefore likely to vary, although the archaeological desk based assessment indicates that areas of high potential exist at the northern end of the site and possibly in the central area at Haughmond Square. The sites of the former Sultan Inn, in the north eastern area, and the 19th century housing, at the southern end of the site, are thought to have lower potential.

RECOMMENDATION:

With referenced to Policy MD13 of the Local Plan and Paragraph 189 of the NPPF, it is advised that the archaeological desk based assessment by Salford Archaeology provides a satisfactory level of information about the archaeological interest of the proposed development site, and the likely impacts the development would have upon that interest.

We concur with the findings of the Assessment and, in particular, that the significance of the below ground remains that are potentially present on the proposed development are unlikely to merit preservation in situ.

In view of the results of the Assessments, and in relation policy MD13 of the Local Plan and Paragraph 199 of the NPPF, it is advised that a programme of archaeological work should be made a condition any planning permission for the proposed development. This should comprise a phased approach, with an initial trial trenching evaluation on the sites of the former 19th century workers housing, the cluster houses, the Sultan Inn, and the retort house, gas holder and kiln. Should significant archaeological remains be revealed, the results of the evaluation should then be used to inform design of a second phase of further archaeological mitigation.

No development approved by this permission shall commence until the applicant has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

4.1.11 Historic England:

Summary

This site comprises a collection of buildings which together form an industrial complex of international significance. The scheme provides for a quantum of development which the application demonstrates can be accommodated on the site. Historic England recommends that it should be approved subject to appropriate conditions.

International Significance of the Flax Mill

This site comprises a collection of buildings which together form an industrial complex of international significance. The complex is outstanding in textile industrial history for the large scale of the operation and the reliance on steam power.

The 1797 Flax Mill is a pioneering example of the use of an iron frame: the 'world's first building with a full internal iron frame'. It was converted to a maltings in the 1890s. The adjoining Cross Mill and Flax Warehouse are also early examples of the iron technology.

The 1897 conversion to a maltings gives the site further significance in the evidence for a large scale maltings, and in the ingenious adaptation of the buildings. The whole site was of great local significance as the economic and social driver for the northward expansion of Shrewsbury, facilitated by the canal.

The statutory listings recognise the significance of the buildings. The Flax Mill is Grade I. The attached Malt Kiln is listed at Grade II. The attached Cross Mill and Flax Warehouse are each listed at Grade I. The Stove & Dye House and the Apprentice House are listed at Grade II, and the Stables and Offices are listed at Grade II.*

The whole site is within the extensive Shrewsbury Town Centre Conservation Area which includes the whole of the historic centre of the town.

The only listed structure within the application site is the Apprentice House, but the blue line includes all the rest of the listed buildings.

Impact of the scheme

This application concerns the largely undeveloped areas of the site to the north and east of the historic mill complex which were until recently occupied by 20th century commercial and industrial premises as well as a bus depot on the northern part of the site. These have all been cleared as the development of the wider site has progressed.

1 and 15 Haughmond Square are two small but significant unlisted buildings resembling gate lodges fronting Spring Gardens. They are used as take-away food premises with residential accommodation above.

An extant Outline planning consent granted in 2011 covers the site in its entirety. That permission expires in 2021. Detailed planning permission and listed building consent were obtained for the repair and reuse of the Main Mill and Malt Kiln as workspace, a visitor attraction and café. Those works are now close to completion. This application is intended to renew the outline consent for the development of the

wider site which has not yet been subject to detailed planning applications. It is intended to set the site's capacity, and to inform more detailed proposals once a development partner has been secured.

The site is divided into four zones, Spring Gardens North, Spring Gardens South, Apprentice House Square and the former canal.

The illustrative elements included in the Design & Access statement as is usual in an outline scheme are not a part of the consent. Rather, they seek to demonstrate that it is possible to achieve the quantum of development which is being applied for on the site in an acceptable manner.

In Spring Gardens South careful consideration has been given to the placing of the houses to the south-east of the Main Mill, facing it across the former canal. That area will be preserved as a landscaped space that could be restored to a canal if that ever becomes feasible. The only significant standing buildings in this zone are the pair of unlisted 'lodge' buildings, which will be retained.

Spring Gardens North provides for a block of relatively low rise apartments on the main road frontage, with terraced houses to the rear fronting onto the former canal.

Apprentice House Square includes the Grade II listed Apprentice House. The setting of the house included a garden to the south-east and a wall joining it to the warehouse extending from its south-west corner. A terrace of houses is proposed to the north-east of this, and a block of apartments to the rear, north-west, side of this zone.*

Overall the proposals have been developed with regard for the setting of the significant historic buildings. They demonstrate that the proposals can provide appropriate development within the settings of the listed buildings. That will ensure that key views of those structures will be preserved and enhanced. The new buildings do not follow the historic development pattern in this area, but they offer an appropriate response to the historic significance of the site.

Policy

The statutory requirement to preserve and enhance Conservation Areas, reinforced by the NPPF, and the settings of listed buildings as required by the legislation and the NPPF are the key policies to be applied.

Position

Overall the scheme provides for a quantum of development which the application demonstrates can be accommodated on the site. There is no need for excessive heights or for intrusion into the most sensitive parts of the site. Appropriate conditions should be applied to ensure that the approval sets the level of control required in this sensitive location to ensure that the details of the various elements of the scheme are in-line with this approval as they emerge.

Recommendation

We consider that the issues outlined in our advice need to be addressed in order for the application to meet the requirements of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act 1990 requires you to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

4.1.12 Shrewsbury and Newport Canal Trust:

31 Jan 21: Shrewsbury & Newport Canals Trust **OBJECT** to this application for the following reasons:

1. The indicative layout and design of the proposed residential development are contrary to the UK Government's policy for design in the planning system as contained in the National Planning Policy Framework (NPPF) – [see note (1) below]

2. The indicative illustrative proposed residential development is contrary to the UK Government's policy for conserving and enhancing the historic environment as contained in the National Planning Policy Framework (NPPF) – [see note (2) below]

3. The accommodation of the route of the Shrewsbury Canal through the site is contrary to Shropshire Council core strategy – [see note (3) below]

Notes

(1) NPPF section 12 requires the achievement of “well-designed places” and that great weight should be given [in decision-making processes] to “outstanding or innovative designs which promote high levels of sustainability”. It is my opinion that the illustrative elements included in the Design & Access Statement indicate that:

(a) the achievement of the proposed quantum of development can only be achieved by unacceptably high site coverage and/or density of new buildings of bland appearance

(b) the new buildings are proposed to cluster around and damage the setting of the main historic asset, and the setting of the restored canal (c) the proposals do not indicate attention to Passive Sustainable Design strategies, such as considering sun orientation and shadow effects on the historic assets

(2) NPPF section 16 paras 184-202 require that development in conservation areas should not only conserve but “enhance” the historic environment: it is my opinion that the illustrative elements included in the Design & Access Statement indicate that the proposed development in the Spring Gardens South part of the site will:

(a) Partially conceal the restored flax mill building and completely conceal the restored canal from the view of the general public passing along Spring Gardens

(b) prevent the enhancement of the restored canal by the provision of a winding hole (for turning narrow boats) and visitors' car parking as envisaged by the canal trust

(3) Shropshire Council core strategy policy CS7 calls for the protection and enhancement of strategic canal networks for recreation or leisure uses and policy CS16 states that the council will support development that provides opportunities for accessing, understanding and engaging with Shropshire’s historic assets including canals (note 6.36 specifically refers to the Shrewsbury and Newport Canal): it is my opinion that the illustrative elements included in the Design & Access Statement indicate that the quantum of proposed development, especially in the Spring Gardens South section of the site does not allow sufficient space:

- (a) for the general public to access, understand and engage with the restored canal by the provision of an open view of the canal from Spring Gardens*
- (b) for the provision of a winding hole necessary to turn 70ft narrow boats pending the final completion of the canal restoration at the Buttermarket*
- (c) for the installation of visitor information display boards and visitors’ car park on the Spring Gardens South part of the site (shown in section 2 of the Design & Access Statement)*
- (d) for the encouragement of the recreational and leisure use of the canal route as a continuous green walk through the northern corridor between Castlefields and Pimley pending the ultimate restoration of the canal to navigation*

The applicant (Historic England) has, by a letter dated 7 January 2021 posted on the planning portal, correctly recommended that the planning team address this application for it “to meet the requirements of the NPPF” and their statutory duty to pay special regard to “the desirability of preserving listed buildings or their setting”. These objectives could be met by the removal of residential development from the Spring Gardens South part of the site.

Indicative and illustrative proposals for the restored canal through the Flax Mill site are included in a feasibility study for the whole of the Shrewsbury & Newport Canals restoration project prepared for the canal trust in 2003 by consulting engineers W.S. Atkins. A copy of the front page of a summary of this 100-page-plus document is attached at the head of this representation for the information of the planning team.

For these reasons, while supporting the Flax Mill restoration project in principle, it is my opinion that this application should be REFUSED in its present form.

3 & 5 Feb 2021 Chairman on behalf of S&NCT: The indicative layout and design are contrary to policy. NPPF section 12 requires the achievement of “well-designed places” and that great weight should be to “outstanding or innovative designs which promote high levels of sustainability”. The proposed development includes an unacceptably high density of new buildings. It further damages the setting of the Flaxmill and Shrewsbury canal

The proposed residential development is contrary to NPPF section 16 paras 184-202 which require that development in conservation areas should enhance the historic environment. The proposed development in the Spring Gardens South part of the site will not only partially conceal the restored Flaxmill but will also completely conceal the Shrewsbury canal from the view when it is restored.

The accommodation of the route of the Shrewsbury canal through the site is

contrary to CS7, which calls for the protection and enhancement of strategic canal networks for recreation or leisure uses. CS16 further states that “the authority will support development that provides opportunities for accessing, understanding and engaging with Shropshire’s historic assets including canals” (note 6.36 specifically refers to the Shrewsbury and Newport Canal). The Design & Access Statement, in the Spring Gardens South section of the site, does not allow sufficient space for the general public to access, understand and engage with the restored canal.

When a Detailed Planning Application is submitted, a condition should be made via a Section 106 Agreement for the developer to restore the Shrewsbury canal through the Flaxmill site to a navigable state. This would not only return the Flaxmill site to its original setting and greatly enhance the attractiveness of the development, but it would also enhance the property prices of the planned houses by up to 20%, thereby providing the funding required to restore the canal.

Additional comments on behalf of S&NCT with images attached available on file:

Further to my representation dated 31 January 2021 and the canal planning statement by Historic England dated 4 February 2021, I make additional comments as follows:

- 1. The restoration of the Shrewsbury Canal as a navigable water feature within the site should be included as part of the Flax Mill restoration project– see note (1)*
- 2. The proposed site layout should be re-designed to include adequate open space for leisure use and landscaping over and above the route of the canal – see note (2)*
- 3. The plans should include space for the enhancement of the canal so that the public is able to see and engage with the restored canal as a linear park – see note (3)*

Notes

(1) The applicant accepts that the canal restored to navigable condition is an integral part of the Flax Mill restoration project

(2) A significant proportion of the open space indicated on the application plans will be unavailable to the new residents when the canal is re-watered

(3) A visitor car park and local widening of the canal should be created on the Spring Gardens South part of the site in front of the main Flax Mill:

(a) To create an uninterrupted public view of the restored Flax Mill and canal from Spring Gardens

(b) To encourage public use of the canal route as a leisure walkway through the “northern corridor”

(c) To create a horse-drawn trip boat turning and embarking point as an asset to enhance the setting of the Flax Mill and to support the on-going restoration and maintenance of the Shrewsbury Canal through the entire “northern corridor” of the county town It is my opinion that these changes to the submitted indicative plans are necessary in order for the application to comply with Shropshire Council Core Strategy and the National Planning Policy Framework, compliance that Historic England has accepted in its letter to the planning case officer dated 7 January 2021, and that the application should consequently be REFUSED in its present form.

It is the S&NCT’s opinion that the vast majority of the representations made

objecting to this application prefer the S&NCT “vision” and that the present Outline planning application should be conditioned:

- (a) To restore the canal through the site, initially as a water feature*
- (b) To build a replica canal bridge where the access road crosses the line of the canal*
- (c) To keep the so-called ‘Spring Gardens South’ site clear of new housing as a public open space*

The S&NCT trustees are concerned by the proposed development of up to 120 new dwellings on this site before the canal waterway is restored.

The line of the unrestored canal is indicated to provide the principal open recreational space for the new residents, and we anticipate that there will be significant resistance and/or objection if the restoration of the canal is not included. Historic England accepts that the restoration of the canal is an important element of the Flax Mill project and, to avoid the possibility of future conflict between new residents and the established objectives of the Trust, it is our opinion that the section of canal through the site must be restored as a waterway as part of this project.

Both Shropshire Council Planning core strategy and NPPF guidance support the canal's restoration.

We therefore OBJECT to the application unless it is conditioned by a Section 106, or similar agreement, that the section of canal within the site will be restored as a waterway or water feature before the new dwellings are occupied.

- 4.1.13 **The Georgian Group:** *The industrial buildings which form the flax mill site are of international significance not least because of the 1797 mill's pioneering iron frame. The adjoining Cross Mill and Flax House are also early examples of iron framing. The nearby apprentice house is an unusual survival, and reflects legislative changes governing the treatment of apprentices contained within the first Factories Act.*

The present application seeks to renew outline permission for a development within the setting of the grade one listed mill, on a site which was until recently occupied by twentieth century commercial buildings and a bus depot. The application site contains one listed building, the grade II former Apprentice House of c1811. This is an outline scheme only which demonstrates what it is possible to achieve within the setting of the internationally important and extremely sensitive site.*

The Group must stress that it does not wish to object to this proposal and that it indeed believes that there is much to be welcomed within it. However, we do nevertheless have reservations about one specific aspect of the proposed development which we hope can be addressed in the future when more detailed proposals are prepared. These concerns relate to the height of one of the proposed new blocks.

The proposed apartment block to the NW of the Apprentice House whilst stepping down from the height of the main mill almost completely screens the Apprentice House in one of the views illustrated (View 6 from Greenfields, p.32). At present therefore this aspect of the proposed development would cause a degree of harm

to the setting of this grade II listed structure and to that of the wider industrial complex. We would advise that there is a case on heritage grounds for reducing the height of this block by a storey.*

Whilst believing that there is much to be welcomed in this scheme. The Georgian Group's Casework Committee believes that further consideration should be given to the above issue before detailed proposals are submitted.

4.2 - Public Comments

4.2.1 Shrewsbury Town Council (Initial comments dated 7 Jan 21): *Members raised some concerns with regards to this planning application. The main being that it appears that the Flaxmill will be hidden behind 3 storey terraced housing and the impact of the building will be lost. Members also agree with public comments made with the site should be offering the opportunity of a public plaza. We would also like to see the views of the Conservation Officer and if possible we would like a representative from the Flaxmill to join the next Planning Committee Meeting to discuss the proposals further with Members before a decision is made on this application.*

Comments dated 29 Jan 21 (following a presentation to the TC by the applicant): *Members support the proposed application but recommended that the houses directly in front of the Flaxmill are two rather than three storeys to prevent the view of the historic building being obscured.*

4.2.2 Representation on behalf of Shrewsbury Civic Society :

We are delighted to see this outline application for the development of the Flaxmill site, with its exciting prospect of creating a first-rate and fitting setting for these magnificently restored industrial buildings, of world architectural importance and interest. There is the potential to revitalise a whole neighbourhood, as well as boosting the town's economy and pride with a new prestigious heritage site which can potentially tap the seam of global visitors from Ironbridge.

We note the design and access statement says the phasing may proceed anti-clockwise and begin with Spring Gardens South and "...this should set the standard of housing, landscape, open space and amenity for that which follows". The civic society sees quality of design as key to the transformative possibilities of this ambitious project, and will take a very close look when details emerge at a later stage.

Meanwhile, we are pleased to see the stated intention of improving the Flaxmill setting, which includes the planned reinstatement of the canal towpath as a pedestrian route, and the former canal line legible and opening the view through the site – which also makes it easy to rewater "...should a more comprehensive scheme for the canal infrastructure be progressed".

The planned refurbishment of a cycle and pedestrian route along the former canal will also be essential to provide an appealing short walk from the station and help the relationship to the town centre of this currently forgotten neighbourhood.

While we strongly support this development in principle, we would like to make the following observations:

1. The argument is made for predominantly housing, based on historic use however the purpose of the site has changed. With houses backing onto it, the canal corridor in front of the Flaxmill is lifeless. This would benefit from some commercial/recreational uses at ground floor level to activate the green area and provide a destination. The approach from St Michael's Street is a key entrance and could offer a public plaza with attractive commercial/public buildings.

2. The newly restored five-storey mill standing on a rise with its fine ranks of windows, is a truly impressive eye-drawing sight. The design and access statement says the historic buildings should be visually pre-eminent. However there are concerns that the proposed three-storey terraced housing, noted at a lower level, in the foreground is not adequately subservient and the dramatic effect of the building's stature diminished and concealed from view for those travelling into Shrewsbury from the north.

4.2.3 One letter of support: *Great to see the improvement. It will be good to see the work completed so that it will attract more visitors.*

4.2.4 Representation on behalf of Shrewsbury & North Wales Branch of the Inland Waterways Association: *The IWA, which has some 15,000 members, campaigns to protect and restore the waterways for everybody to enjoy, whether they be walkers, cyclists, anglers or boaters.*

The Flax Mill was sited here alongside the Shrewsbury Canal, then being built, so that coal to power machinery could be easily and cheaply delivered. Indeed, the Mill opened in 1797, the same year as the canal.

There is much to be welcomed in this application, in particular that it preserves the line of the canal, facilitating its future restoration, in accordance with the County's planning policies. Nevertheless it is regretted that the water alongside the Mill will not be reinstated, at least in the short term, as had been shown in earlier illustrations. A grassed area does not have anything like as good a visual setting for the main Mill building. Furthermore, much of the impact would be lost because the Mill will be largely hidden behind three-storey terraced housing.

However, we have serious concerns about some details which would make the restoration of the canal more difficult and more costly.

Firstly, the proposed bridge does not allow sufficient air draft for boats. We suggest that the design be done in such a way that it would be easy to replace the fixed bridge with a lift bridge at a future date. The Shrewsbury Canal had several lift bridges through its length, and one would be an attractive feature here, despite not being authentic in this particular location.

Secondly, the underground services as currently designed are too shallow and are not compatible with restoration. Preventative action at this stage would yield significant savings in the long run.

4.2.5 100 letters of objection from the public (many members of the Shrewsbury and Newport Canal Trust) summarised as follows:

The Ditherington Flaxmill and the adjacent canal are integral to the overall heritage of this important and unique site.

The original site was served by the Telford & Shrewsbury canal (it's one of the principal reasons for the mill's very existence) and there is an opportunity here to safeguard the reinstatement of the waterway and pedestrian (tow path) access to the mill.

The applicant's statement - "An overarching objective of the development is that it should create an economically viable, vibrant new community" - is laudable but there is much more to the Flaxmill than that. Having spent millions of pounds renovating this unique building, it would be a travesty to spoil it by not taking account of its setting (including the canal), its history (with the canal) and its potential long term benefits (reinstating the canal).

Restoration of the canal would have commercial, ecological, health, Heritage and tourist benefits, not just for the site and Shrewsbury, but for England - it is potentially a World Heritage site.

The Mill, the canal and the overall setting must be taken into account when addressing the planning application.

There are issues around roads, access and services serving the site and the residential properties that are inadequately addressed by the application and the broader heritage aspects are virtually ignored.

Correspondence speaks of "ambitions in the long term to reopen the canal" but remarks that the road running from the new roundabout on Spring Gardens to the Apprentice House and beyond would block those ambitions.. and goes to suggest that a swing bridge would be a "relatively easy" solution should that ambition ever come to fruition.

Concern that the construction of the new bridge across the canal , which seems to be underway, would indeed sabotage any possibility of making the canal navigable in the future and that the plan for a swing bridge has been shelved.

The proposal includes a bridge that crosses the line of the Shrewsbury Canal that will be too low for canal boats to pass under thereby precluding the restoration of the canal through the Flaxmill site.

Services that cross the canal should be routed so that they don't block the restored channel of the canal.

Shallow services and a low bridge make restoration much harder in the future while a restored canal would greatly enhance the public amenity of the development.

The proposal is contrary to Shropshire Council's plans to protect the line of the canal from development and that has been ignored on this site in the past months.

The Waterways of the U.K. present opportunity and infrastructure to protect communities, enhance environments and create energy, jobs, tourism and inward investment. Social and environmental impact investors want to engage with stakeholders in appropriate sustainable business opportunities linked to waterways

that will create jobs. I urge the Council not to fall into the trap that the politicians of the 1960s fell into. Filling in and cutting the lines of this most valuable asset was a terrible mistake.

The canal restored would deliver significant benefits to developers, residents and the wider community so it would be short-sighted and irresponsible to let this opportunity slip away.

Many canals around the country have been restored against all the odds, and with great benefit to the communities concerned, and Shrewsbury will be no different.

You only have to look a few miles north to see the successful progress of the restoration of the Montgomery Canal and also how towns and cities like Banbury, Stroud, Swindon, Birmingham, Leeds, Liverpool and Manchester have all benefited from the restoration of their canal side environments - both in amenity value, business opportunities and real estate values.

So much of canal restoration nationally has been prejudiced by inappropriate road schemes when there has been no forethought for the future, and School House Bridge on the Montgomery Canal is a case in point where Shropshire Council is now assisting in the rebuilding of the bridge which was allowed to be flattened by its predecessor, Shropshire County Council.

Provision of a good width of towpath should provide a good cycle route through the site and hence into town centre or out into the northern parts of town and onward to the countryside.

Besides walking and cycling the canal could also be used for other leisure opportunities for example canoeing.

The Canal has a huge potential as a tourism and economic regenerator. It is vital that Shropshire Council does everything in its power to ensure that the restoration of the Canal and its basin in front of the FlaxMill is kept as a prime objective, unimpeded by insensitive developments in the area which would mar the Canal's future participation in the long list of successful canal restoration projects throughout Britain.

Whether or not the "green swathe" (grassed) proposal in front of the Flaxmill is replaced by a real water channel (canal) or not, the bridge should have headway and width to permit its future access to canal vessels when the Shrewsbury Newport canal is restored. This not only makes long-term economic sense, but a traditional style canal bridge would be visually attractive, practical and serve as a road traffic speed regulator for residents' and visitors' safety.

It is essential that the profits that the developers will make from this scheme are used to finance the restoration of this part of the canal to navigable standards.

A condition of this application should guarantee the funding of the canal restoration during or towards the end of the building process requiring the applicant and/or developers to restore this section of the canal to include a suitable new bridge and to re-route the necessary services.

It is good to see carbon zero building proposed but the provision of green areas and wildlife corridors, of which the canal would be an excellent example, is also necessary for climate change mitigation.

Objects to the erection of new buildings to the front of the Flax Mill that would make it impossible to restore the canal in the future to its original route.

At present the whole of the Flax Mill can be seen in all its splendour from the road, but the proposed buildings planned to be built there will destroy the view of the frontage of the Mill. Large sums of money have been spent to restore the Mill and it is unacceptable to spoil the view of such an important historical building.

Considerable time, money and effort has been spent on the excellent restoration of the historic Flaxmill building. The proposed development would significantly detract from the redevelopment and seriously hinder the appeal of the building, effectively hiding it behind cheaply-built, unattractive housing. This will do nothing to enhance or maximise the appeal of the Flaxmill.

The view of the restored mill will largely be hidden behind a three storey block of high density housing of modern design which is totally out of character with the Flaxmill buildings. This is exacerbated by the fact that these houses are planned to be built right up to the edge of the old canal line, leaving a comparatively narrow open space between them and the Flaxmill.

This could be a once-in-a-lifetime opportunity to convert a somewhat run-down area of the town into a vibrant, tourist-attracting hub. It is also important to provide sufficient 'stand-back-and-appreciate' space for people to register the grandeur of this, our local claim to industrial fame.

Visuals produced for HE at the start of redevelopment, a few years ago, gave prominence to a restored canal along the whole frontage of the buildings of the main mill and everyone welcomed the exciting intentions expressed for water-borne tourism to replicate the original commercial artery which served the mill throughout its hundred-year existence.

It is extremely disappointing that the application does nothing to further this half of the historical importance of this site and, indeed, seems to preclude any future work to achieve the full story for future generations.

Historic England seem to have joined the developers in trying to maximise capital assets and destroy any chance of properly restoring the canal and the original setting for the Flaxmill. They should be treated as developers out to make a fast buck instead of preserving England's industrial heritage.

Provides a copy of a painting by Alan Reade which shows the potential for restoring the historic Flaxmill.

The building density currently proposed is too high for the site, the parking provision of 1 car per unit is unrealistic and would mean that any public space will essentially have to become an overflow carpark which would degrade the site.

Requests changes to the building proposals to provide a more traditional design which complements the Flaxmill buildings; to reduce the height of those in front of the Flaxmill to one or two storeys, and to set all of the buildings back from their proposal line to provide a buffer space and private frontage, away from the canal towpath.

Further consideration should be given to restricting the height and number of the buildings, to ensure a successful regeneration.

The current landscaping is based on the canal being unrestored and no thought has been given to the effect of restoration would have on either the "landscaping" proposed or the buildings & their residents.

Concerns and reservations about the travel plan for the site.

The A5191 between the town centre and Heathgates roundabout is dangerous for cyclists and was expecting this scheme to help address some of these issues.

The Big Town Plan 'Low Line' route has been put forward to help with this, through directing cyclists along the old canal path. However, preference would still be for a future segregated cycle route along the A5191 in front of the site to be retained as this is more direct.

The Shrewsbury Big Town Plan advocates the use of the line of the old canal to allow additional cycle routes along the northern corridor to a proposed new public Plaza by the Buttermarket with a new railway station. This is a missed opportunity to fully restore the canal within the northern corridor to include a canal basin on land to the rear of the old Canal Tavern PH. This would contribute to the sustainable travel along this route into the town centre and give the town a real asset and an economic boost and support our towns heritage and increase tourism.

Further checks on traffic modelling to ensure traffic levels do not increase markedly as a consequence of the development and that alternatives to car ownership and car use are actively pursued.

No provision has been made for internal or integral nest boxes within the site buildings for Swifts and House Martins. This is a missed opportunity and should be included in the submission.

4.2.6 Three representations on behalf of members of the Shrewsbury Swift Group summarised as follows:

Swift numbers have declined by over 50% in the last 20 years and this is mainly due to the loss of breeding sites in buildings.

Old buildings with suitable nooks and crannies for their nest have either been demolished or renovated so that access to nest sites is lost.

Swifts are very faithful to their nest site and when they are mature enough to breed

and they have identified a site they will use it for the rest of their lives. They do not move easily to other sites even if they are available in the locality.

Surveys undertaken by the Shrewsbury Swift Group over the past three years have found that the Flaxmill supports one of the most important colonies of nesting swifts in the whole of Shrewsbury town and its residential districts.

Surprised that the Preliminary Ecological Appraisal did not mention the presence of a swift colony at the Flax Mill or the history of Swifts at the site either through the planning history or bird records and did not mention them as a notable species in Table 4.2.

The Friends of the Flaxmill put up more than 20 boxes to mitigate for nesting disruption while the Flaxmill was restored.

Organisations such as the RSPB and local swift groups are helping to conserve this species and halt decline in numbers by encouraging homeowners and developers to put up nesting boxes or "swift bricks".

A recent paper strongly recommends that integrated Swift bricks (bricks with an in-built cavity for nesting birds) are the universal solution for small cavity nesting birds e.g. House Sparrows as well as Swifts.

Any new development should include several swift bricks (which, as survey work at the site showed, are much more effective than external nest boxes).

The key points are that integral or internal nest boxes are:

- more aesthetically pleasing
- maintenance free
- long lasting
- less prone to predation
- less prone to temperature variations

The RSPB recommend an average of 1 nest brick per residential unit.

Disruption to existing nests should be avoided by ensuring that scaffolding does not cover vents in the Cross Mill or Main Mill from May-August.

Tall buildings surrounding the Flaxmill may also affect access to nesting sites (as well as blocking public views of this important historic building that is much valued by local residents).

Provision should also be provided during this development for House Martins - another urban species that is declining rapidly and is dependent on buildings for nest sites.

4.2.7 One representation on behalf of RSPB:

We have liaised with Exeter CC on creating and implementing the Biodiversity Requirements of their award winning Residential Design Guide SPD adopted in 2010 which promotes installing nest/roost boxes in all suitable new buildings.

Colleagues submitted the first attachment, a paper to the CIEEM <https://cieem.net/wp-content/uploads/2019/06/9.pdf> (included in their mid-year bulletin in 2019) which is broadly based on the above. Since integral boxes designed for swifts are used by most species that nest/roost in cavities in older buildings and mature trees we recommend them more or less exclusively.

In 2015 the Duchy of Cornwall adopted similar policies and in 2018 agreed to set up a monitoring system to establish what were being used by which species.

Attached is their 2020 report with the results from six hundred and twenty eight boxes located at four different sites, these numbers are likely to increase exponentially over the next ten years.

None of these have been in situ for more than five years and the majority have been installed more recently, tables 1 & 2 provide details which we are satisfied supports the types of boxes, locations and numbers recommended.

We are not disappointed that only one pair of swifts have been recorded as their colonies take much longer to establish however they have been recorded investigating potential sites which is encouraging.

We are pleased but not surprised by the House Sparrows and Starling numbers, both species are red listed and clearly they find the boxes installed meet their needs, the number of house martins at two different locations was a surprise, as the program is intended to last for an extended period it will be interesting to see how these develop.

Elsewhere we are aware of the successful inclusion of swift bricks in schools, hotels, blocks of flats and commercial/ public buildings.

We are arranging monitoring programs elsewhere, initial results are very similar to the Duchy's, we hope to have more information when the 2021 results are available.

Hope this gives sufficient information to support Peta Sams request for what is generally becoming accepted as "best practice", we understand the forthcoming BSI Standard on integral bird boxes will make very similar recommendations, please let me know if ongoing information would be helpful.

4.2.8 One representation regarding the development of 15 Haughmond Square:

As owner of property 15 Haughmond Square it is noted the proposal is for this building to remain as ground floor commercial use and living accommodation above and to refurbish as part of a coherent new neighbourhood forming a pedestrian link to the Flax Mill. The history and significance of number 15 forming part of the original gatehouse entrance into the Flax Mill has always been known to me. I am willing to engage with the Applicant in terms of the refurbishment of the building as proposed in the scheme but with my retaining ownership. The building is currently commercial use on the ground floor and living accommodation on the first floor. Both tenants were served with the application and

have understandably expressed concerns. It is extremely disconcerting to be advised via the local press that the Applicant intends to Compulsory Purchase the building.

4.2.9 One representation on behalf of Sustainable Transport Shropshire:

This application is submitted with All Matters Reserved. Consent is sought for the quantum of development described, but not for the illustrative design contained within this report. The illustrative scheme is included solely to show the level of impact of this amount of development upon the site and its wider context, and to establish that the impacts of such a scheme are appropriate

Many of the transport aspects were dealt with under application 19/02769/FUL which was granted planning permission in October 2019.

However, we also feel that the agenda for taking sustainable and active transport more seriously in all planning applications has moved on since the time of the previous application as, firstly, Shropshire Council has started to develop its understanding of the implications of the Climate Emergency that it declared in May 2019 and, secondly, as the council responds to the fallout from the COVID19 pandemic. In respect to the latter we note that in May 2020 the Secretary of State for Transport said:

"We recognise this moment for what it is: a once in a generation opportunity to deliver a lasting transformative change in how we make short journeys in our towns and cities. According to the National Travel Survey, in 2017-18 over 40% of urban journeys were under 2 miles – perfectly suited to walking and cycling.

Active travel is affordable, delivers significant health benefits, has been shown to improve wellbeing, mitigates congestion, improves air quality and has no carbon emissions at the point of use. Towns and cities based around active travel will have happier and healthier citizens as well as lasting local economic benefits.

The government therefore expects local authorities to make significant changes to their road layouts to give more space to cyclists and pedestrians. Such changes will help embed altered behaviours and demonstrate the positive effects of active travel".

Taken together, we feel that this means that the provision and allowance for sustainable and active travel options within the plans for this site need to be significantly upgraded from those set out in the previous application and that developers who take this site on need to be instructed to take this into account in their plans. It seems that there is a marked contrast between the high levels of energy efficiency being demanded by English Heritage for the properties and the seriousness with which the carbon aspect of the transport plan being treated, despite transport being the most significant contributor to Shropshire's carbon footprint.

In terms of the transport assessment by IMA, we would comment that, whilst the site has reasonable access by bus (particularly if future planned increases are implemented), it is not currently well served by safe, direct cycle routes along the

major desire lines e.g. routes as shown by the Propensity to Cycle Tool – see image below (available on file) which are crucial for linking some of the most deprived parts of town to the potential economic benefits that the Flaxmill development aims to achieve (bearing in mind that 37% of the local population does not have access to a car and would be dependent on sustainable and active transport to access the site).

In particular we would draw attention to the data from Crashmap - see image below (available on file) which indicates a high frequency of incidents involving people using bikes on the A5191 between the town centre and Heathgates roundabout (a route described by Cycle streets as 'hostile') and also along parts of Mount Pleasant Rd, both important cycling routes for commuters and school children. We therefore do not agree with the statement in the transport plan that 'An extensive and comprehensive cycle network surrounds the site'.

Whilst the Big Town Plan 'Low Line' route aims to address some of these issues by routing people using bikes via the old canal path, there are issues with perceptions of security on this route which also results in a significant dog leg through the Flaxmill development – a diversion that many people moving from the north to the centre of town by bike will choose to avoid. We therefore believe that, unless the diversion through the Flaxmill site can be linked more directly and safely to desire lines to the north, provision for a segregated cycle route along the A5191 in front of the site should be retained. Not to do so will be regarded in future as a serious missed opportunity on what is the most important cycle route in Shrewsbury.

The transport document refers to a future Travel Plan for the site. It is essential that any travel plan complies with DfT guidance that Travel Plans should include challenging targets for modal shift in favour of sustainable travel modes. We have recently seen poor quality travel plans submitted as part of other developments (e.g. Copthorne Barracks, Bicton SUE) which have been remarkably unambitious, resulting in further entrenchment of private cars as the primary form of transport. To the best of my knowledge there is no travel plan officer in post in Shropshire Council. Travel plans require a degree of monitoring and updating and an awareness of what has succeeded in best practice locations elsewhere and this requires a full-time officer who can take on these tasks for Copthorne and for all other sites with a travel plan submitted in support of a planning application.

We agree with the statement that 'The residential plan needs to discourage car ownership by encouraging the use of alternatives and must also discourage parking off-site.' However, we do not agree that the provision of parking spaces at a ratio of 1:1 per property adequately reflects this ambition.

The Transport report suggests that traffic levels are falling on the A5191 but Traffic data covers just three years over a nine year period which seems a little inadequate as an indicator of a dependable long term trend.

5.0 THE MAIN ISSUES

Principle of development
Character and appearance and Impact on heritage assets
Access and Highway implications

Ecology
Drainage, flood risk and contaminated land
Residential amenity
Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is situated in an established residential area within the urban development boundary of Shrewsbury. The location of the development close to Shrewsbury town centre is acceptable in principle in accordance with Policy CS2 that identifies Shrewsbury as the main focus for all new residential development. The site is close to services, facilities and employment in the locality, and Shrewsbury town centre can be accessed by other modes of transport besides the private car. The proposed new residential development represents sustainable development that would make effective use of a brownfield site in accordance with National and local policies that set out the location for residential development

6.1.2 SAMDev S16 supports the restoration and redevelopment of the wider Ditherington Flaxmill site as part of improvements to the Shrewsbury Northern Corridor in accordance with the aims of the Northern Corridor Regeneration Framework to provide a sustainable and complementary mix of retail, community, employment and residential uses. The application site as part of the wider Flaxmill site is an allocated housing site under S16.1a (SHREW198) with the following Development Guidelines:

'Mixed use development to have regard to the adopted masterplan for the re-development of the Flaxmill and adjoining land and buildings, to include approximately 120 dwellings. The redevelopment will comprise of the repair and reuse of historic buildings to create workspace and associated cultural activities, new retail/commercial office and residential development, associated access, landscaping and car parking, with demolition of non-listed buildings.'

The submitted design and access statement indicates predominantly residential development but with two new small commercial units for Class E use that offers a mix of uses. The two existing takeaways at 1 and 15 Haughmond Square are proposed to be retained as commercial units (Class E and also takeaway use) with residential use above. It is recommended that the floor area for the new build Class E use that includes retail and a variety of other uses is limited in order to protect the viability and vitality of Shrewsbury town centre. The provision of commercial units above 500 square metres would require the submission of an impact assessment to ensure development does not cause significant adverse impacts on the vitality and vibrancy of the town centre as required by SAMDev policy MD10b ((Town and Rural centre Impact Assessments).

6.1.3 It is considered that the change of use of the Apprentice house to dwellings, the continued use of 1 and 15 Haughmond Square as a hot food takeaway (or an alternative commercial use within class E) with residential accommodation above and new build development of the remainder of the site predominantly for residential use with some Class E use is acceptable in principle and accords with

CS2 and S16.

6.1.4 The principle of residential development on this part of the wider Flax Mill site has also been previously established by the earlier outline planning permission 10/03237/OUT.

6.2 Character and appearance and Impact on heritage assets

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.2 The proposed development affects a listed building which is situated within a conservation area with other significant listed buildings nearby. The proposal has the potential to impact on these heritage assets. Special regard has to be given to the desirability of preserving listed buildings and/or their setting or any features of special architectural or historic interest which they possess and preserving or enhancing the character and appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.3 Applications affecting a site occupied by a listed building and within the Conservation Area boundaries would normally be expected to be in full and not outline and should be accompanied by a Historic Impact Assessment (HIA) as required by paragraph 189 of the NPPF. An Archaeological Assessment and Design and Access statement have been submitted that includes an assessment of an illustrative proposal.

6.2.4 New build: The NPPF advises at paragraph 200 that *'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'*. The Main Mill on the adjacent site has recently been restored and the buildings in front demolished under earlier permissions for the development of the wider site area. These buildings had a detrimental impact on the significance and setting of the listed Apprentice House on this site and the listed buildings on the adjacent site and also made a negative contribution to the character and appearance of the locality and conservation area.

6.2.4 Now that the land in front of the Main Mill has been cleared and the whole of the restored building revealed some public comments indicate that no development should be allowed in front of the building or that development should only be two storey rather than three storey (as has been indicated in the illustrative plans submitted). The Civic Society has concerns that *'the proposed three-storey terraced housing, noted at a lower level, in the foreground is not adequately subservient and the dramatic effect of the building's stature diminished and concealed from view for those travelling into Shrewsbury from the north'*.

- 6.2.5 The principal of new development in front of the Main Mill and surrounding the Apprentice House has already been established by earlier approvals. Historically there was high density development on this land (demolished to make way for the later buildings that have now also been demolished) and this is evidenced within the submitted documents. Although the earlier development more closely associated with the Flax Mill was high density development it was not three storey in front of the Main Mill. It is considered that two storey would be more appropriate, and that a sensitively designed and appropriately landscaped scheme (informed by a HIA) comprising predominantly residential development but including some buildings for commercial use, could be achieved that would preserve and enhance the character and appearance of the conservation area and the setting of both the Main Mill and all the adjacent listed buildings. Reducing the height of the development compared to that illustrated within the submitted documents would not necessarily reduce the quantum of development (number of units) the applicant is seeking to achieve in developing this brownfield site in an efficient and effective manner.
- 6.2.6 Granting this application for outline planning permission would not approve the indicative layout or illustrations submitted, as scale, design, appearance layout and landscaping are all reserved for later approval. Any proposal submitted at the Reserved Matters stage would need to be assessed in accordance with paragraphs 195 and 196 of the NPPF and any submission and supporting assessments would need to demonstrate that the proposal would not result in 'significant harm' or 'less than substantial harm' to designated heritage assets that include the Conservation area and listed buildings on this and the surrounding site. Design, however, can be subjective and if any aspect of the proposal was considered to result in 'less than substantial harm' at the Reserved Matters stage this would need to be weighed against the public benefits of developing this site when determining the application for reserved matters.
- 6.2.7 Change of use of the Apprentice House and 1 to 15 Haughmond Square: This application is only for the principle of change of use of the listed Apprentice House to dwellings and an application for full detailed planning permission for any external alterations and/or extensions to the Apprentice House and also to 1 and 15 Haughmond Square will be required. In addition listed building consent will also be required for any external and internal alterations required to the Apprentice House to enable its conversion.
- 6.2.8 The assessment of the impact of the proposed conversion of the Apprentice House on the historic fabric and any features of special architectural or historic interest will be fully considered when the required applications to include full details of the associated alterations are submitted. However, it is considered that changing the use of the vacant building to residential use will better help preserve the historic fabric and significance of the building and will ensure its long term maintenance and preservation. Any internal or external alterations will be subject to a full Historic Impact Assessment (HIA) when the applications for listed building consent and planning permission are submitted.
- 6.2.9 Canal restoration: Significant objection has been received from members of the public including from the S&NCT. Their main objection is that the proposed road

over the route of the canal is too low to allow for the future passage of boats and that services will also cross the line of the canal, both making the future restoration of the canal more difficult and more costly. Some representations consider that Historic England (or any future developer) should be required to restore this section of the former canal and build a suitable bridge and this should be secured by a S106 or planning condition.

6.2.10 The imposition of planning conditions or securing contributions or infrastructure by a S106 have to meet certain tests including being reasonable and necessary to make the development acceptable. Some objections refer to the proposal not complying with the Councils policy to protect the line of the canal.

6.2.11 The route of the former canal is afforded some protection by relevant local plan policies within the Core Strategy and SAMDev. Core Strategy at 6.36 states the following:

'The ongoing aspiration to reopen the Shropshire Union - Shrewsbury and Newport Canal is also recognised although currently the feasibility of the project is such that it is unlikely to be brought forward in the plan period'.

SAMDev MD11 at 5 states that:

'The Policies Map identifies the canals and lines to be protected against other forms of development that conflict with their use as a multifunctional resource or potential for restoration or regeneration'.

The line of the canal which is indicated by a blue line on the policies map does not continue along the former route of the canal beyond Telford Way. The former route of the canal that passes through the Flax Mill development site is therefore not currently protected by local plan policy MD11.

6.2.12 Notwithstanding this, the LPA would not wish to grant approval for development that would preclude the potential future restoration of any part of the canal. This was considered when an earlier application for the new road was approved that crosses the line of the canal and was referred to in paragraph 6.4.3 of the officer report for that development (19/02769/FUL):

6.4.3 Historic England have noted that there are ambitions in the long term to reopen the canal which the construction of the new road would block. However they have commented that the relevant part of the embankment on which the road will be constructed can be relatively easily replaced with a swing bridge should that ambition ever come to fruition.

6.2.13 The applicants have provided a written statement in response to the amount of public objection received and consider that they have endeavoured to future proof and preserve and enhance the line of the canal at significant cost to Historic England and the overall project for the development of the wider site. It is understood that these costs amount to over £250,000 and would likely rise to in the region of £500,000. The following for completeness is the submitted statement from HE almost in its entirety:

Historic England (HE) have invested significant resources to restore its line, including removing buildings, concrete and contaminated waste.

Until the canal can be fully restored, it will be transformed into an area of green landscaping with a pedestrian and cycle route, giving local people the opportunity to access and enjoy it.

Together our current and future works will safeguard the canal line's future, enabling it to one day be fully reinstated more easily and inexpensively.

...we ultimately share the same aspiration; to future-proof this element for possible future reinstatement, which would significantly limit the cost and complexity for the Canal Trust to deliver this part of their ambitious project.

The following demonstrates our firm commitment to support this future venture:

- The new outline planning application for the sustainable housing scheme, currently under consideration, has been designed not to impede upon the line of the canal, rather it has been redesigned to respect and enhance it.*
- There are no current proposals to construct a bridge over the canal. HE are, however, in the process of completing the construction of a new road into the site which crosses the canal. This element has full planning consent and is not a part of the current live application. This road was previously designed to be raised on an embankment to address the significant change in levels from Spring Gardens up to the Apprentice House. To reduce the impact of these works upon any future re-construction of the canal we redesigned the line of the road to ensure it crosses the line of the canal at an appropriate gradient to later facilitate the future economic installation of a bascule or swing bridge, avoiding the need to carry out major civil engineering works.*
- The new road does contain mains services into the site. The expensive element, the drainage, has been designed to be installed under the line of the canal and the remaining services (water, electric, telecoms) can be economically re-routed under the canal when the future construction details /water levels are known. Without this knowledge of the future water levels, and to comply with current building regulations, we are unable to put the latter services in at a lower level at this time. But that does not preclude straightforward re-routing at a later date.*
- The full line of the canal, including the towpath, has been preserved in perpetuity. In lieu of it returning to water, we are landscaping its line to form a new cycle and pedestrian route into the core of the site and linking into the line of the former canal, as it threads its way through Castlefields and into town. This will include the restoration of the canal tow path. The soft landscaping could be relatively easily and inexpensively removed at the appropriate time. Where artefacts associated with the canal are uncovered during the works i.e. coping stones, these will be conserved and preserved in situ.*
- Historic England have recently demolished a large former late-20th century industrial building constructed over the line of the canal, which included excavating*

hundreds of tons of reinforced concrete which completely blocked the line of the canal . Prior to this, other buildings constructed over the canal line were removed and their foundations removed.

- *Historic England have also carried out a significant amount of major civil engineering works, including the removal of a vast quantum of backfill, including contaminated material, to reduce the ground level, thus re-creating the route of the canal across the entire line at the back of the former bus depot, up to the boundary with Wingfield Crescent/ new Spring Garden housing development. This has removed a further costly and significant obstacle to its reinstatement and has wholly recreated the backfilled line of the canal.*

Historic England have spent in excess £250,000 (upon detailed review of these costs they will most likely exceed £500,000 in value) in the delivery of physical works to future-proof and landscape the line of the canal and protect its route for future generations. This is a considerable commitment by HE and clearly demonstrates how much we also care about this section of the Flaxmill Maltings site.

6.2.14 It is considered that this proposal for outline planning permission would not preclude the potential re-instatement of the canal and would not make the future restoration more costly or more difficult for S&NCT. Due to the significant works already undertaken to date (which would have been a significant obstacle to the canals restoration) and due to the ongoing and proposed works, HE will have contributed between £250,000 and £500,000 to the canal restoration which is a significant saving to S&NCT. It is therefore not considered reasonable or necessary to require the applicant to enter into a S106 to secure additional funding for the future restoration of the canal and/or to impose a condition requiring any application at the reserved matters stage to include re-instatement of this part of the former canal and/or the construction of a bridge.

6.2.15 Below ground remains/Archaeological implications: An archaeological desk based assessment has been submitted and reviewed by the Councils Historic Environment Manager who has confirmed that the significance of any below ground remains that are potentially present on the proposed development are unlikely to merit preservation in situ. As the site is known to hold archaeological interest and in accordance with SAMDev MD13 and Paragraph 199 of the NPPF a condition is recommended to secure a phased programme of archaeological work in accordance with a written scheme of investigation (WSI) prior to commencement of works.

6.3 **Access and Highway implications**

6.3.1 The application is outline only but with access to the site included. The internal layout of the site is reserved for later approval although the proposed access and internal access road currently under construction has previously been approved under planning permission 19/02769/FUL.

6.3.2 CS6 seeks to ensure that development achieves '*an inclusive and accessible environment which respects and enhances local distinctiveness and which mitigates and adapts to climate change*' and '*Requiring proposals likely to*

generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.'

- 6.3.3 Concerns and reservations about the travel plan for the site have been raised by one resident and also a representative of Sustainable Transport Shropshire. These refer to the need for positive investment in active travel measures as part of this development and that alternatives to car ownership and car use are actively pursued. Representations also refer to a robust Travel Plan being required to be submitted at the Reserved Matters stage and that a safe and segregated cycle way should be provided from the site to the town centre and railway station either via the old canal path or as a segregated cycle route along the A5191. A condition is recommended regarding the submission of a travel plan at the reserved matters stage.
- 6.3.4 The access to the site previously approved and under construction will provide an improved access for vehicles, cyclists and pedestrians. The earlier planning permission in addition to the new access also provides new pedestrian and cycle crossings and entrances into the wider site. The application site is easily accessible by public transport and is reasonably close to the town centre to the south and also employment areas and services and facilities to the north that can also be accessed on foot or by cycle. The provision of fewer than two car parking spaces per dwelling would be acceptable in this location and would help discourage car ownership.
- 6.3.4 It is not considered necessary to secure additional off-site highway improvements including the provision of cycle ways in the immediate and wider area to make the proposal acceptable. However, a condition is recommended requiring the provision of the off-site highway improvements approved under 19/02769/FUL to be provided prior to first occupation of any part of the development.

6.4 **Ecology**

- 6.4.1 The Councils Ecologist has reviewed the supporting documents and reports, including a recent bat survey report which has confirmed the presence of bat species within Apprentice House. A bat mitigation strategy covers the wider site and a bat mitigation licence is in place for Phase 1 of the development. A new or updated EPS licence will be required and conditions are recommended to ensure that the reserved matters application adheres to the approved bat mitigation strategy in terms of lighting, landscaping and bat roost mitigation. The Councils Ecologist is satisfied that the proposals will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range subject to the recommended conditions included within the required EPS 3 test matrix which is provided at appendix 2 to this report.
- 6.4.2 Members of the Swift group have commented that no provision has been made for internal or integral nest boxes within the buildings for Swifts and House Martins. This application is outline for the principle of development only and does not include details of the proposed buildings or landscaping of the site. A condition is recommended to ensure the provision of artificial nests within some of the new buildings.

6.4.3 Subject to compliance with the recommended conditions it is considered that a detailed proposal at the reserved matters stage would have no adverse impact on protected species or their habitat and would protect ecological networks and priority species and habitat and would provide ecological enhancement as required by CS17 and MD12.

6.5 **Drainage, flood risk, contaminated land**

6.5.1 Drainage, flood risk and contaminated land assessments and reports have been submitted and have been reviewed by the WSP on behalf of SC Drainage, the Environment Agency and SC Regulatory Services. Subject to compliance with the recommended conditions it is considered that a satisfactory drainage proposal can be designed to avoid flooding of the site and neighbouring land, and that the development can be carried out safely without unacceptable risks to human health and off-site receptors including 'controlled waters'.

6.6 **Residential amenity**

6.6.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development '*creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*'.

6.6.2 A condition is recommended to ensure the submission of a Noise Assessment and Acoustic Design Statement (ADS) that includes a scheme of mitigation to ensure that acceptable indoor and outdoor noise levels are achieved for future residents.

6.6.3 There are existing residential properties close to the northern boundary and it is considered that a residential scheme can be achieved that would not result in overlooking or a loss of privacy for any neighbouring properties and that would not adversely impact on the outlook in terms of the development appearing obtrusive or overbearing.

6.6.4 To protect the amenity of existing nearby residents during the construction phase it is recommended that a condition is imposed to restrict the hours of work.

6.7 **Developer contributions**

6.7.1 Policy MD2 requires that adequate open space is provided within residential development and is set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). The number of future occupiers will be based on a standard of one person per bedroom. For developments of 20 dwellings or more it is usually expected that this should comprise an area of functional recreational space for play, recreation, formal or informal uses including semi-natural open space.

6.7.2 There are 2 recreation grounds (that also have equipped play areas) in close proximity and easy walking distance of this site and it is therefore not expected that

a recreation ground would be provided within the layout at the reserved matters stage. A condition is however recommended requiring the submission of an open space assessment to ensure the provision of an appropriate amount of open space that accords with MD2 (or any local plan policy that replaces this policy). A condition is recommended regarding the future maintenance of the open space and landscaped areas not within private gardens.

- 6.7.3 CS11 and the Supplementary Planning Document (SPD) on the Type and Affordability of Housing require that all new housing developments make a contribution to affordable housing unless it is demonstrated that the scheme is not viable with the required amount. Paragraph 202 of the NPPF also states that *'Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies'*.
- 6.7.4 Historic England face challenging viability issues in order to facilitate the delivery of the wider site development and the restoration / regeneration of the remaining historic buildings on site. The proposed new development of this part of the site would contribute funds to enable further investment into the ongoing restoration of the wider site, and without the requirement to provide affordable housing will ensure that the highest land value can be attained. However, it is expected that a large proportion of homes delivered will be one and two bedroom units that will be at the lower end of the property market and therefore more affordable. It is considered that as with the earlier outline planning permission a deviation from the policy requirement for affordable housing is acceptable in this instance due to viability issues and to ensure that the comprehensive redevelopment of this site is not comprised in any way.
- 6.7.5 SC Education/Learning and Skills team have requested a contribution to education. Although no developer contributions are required to be secured by a S106 the scheme will be CIL liable and as the buildings have been demolished some time ago there will be no reduction in CIL liability for either the new build aspect of the proposal or the conversion of the Apprentice House. The CIL receipt for development of this site could be in the region of £400,000 to £500,000 a large proportion of which can be spent on Education. In view of this and the viability issues it is not considered that an additional financial contribution to education is required to be secured.

7.0 CONCLUSION

- 7.1 The proposed development of land situated close to Shrewsbury town centre that makes effective use of a brownfield site is considered to represent sustainable development and is acceptable in principle in accordance with Policy CS2 that identifies Shrewsbury as the main focus for all new residential development. The development of the site also accords with S16, and the principle of development has previously been established by the earlier outline planning permission 10/03237/OUT.
- 7.2 The proposed access to the site is acceptable and is the same as that already approved and under construction. It is considered that residential development of

this site (with the exact number and scale of dwellings determined at the reserved matters stage) would not result in a significant increase in traffic that would significantly increase congestion on roads in the locality. Subject to compliance with the recommended conditions the proposal would have no adverse highway safety implications and will ensure the provision of the off-site highway improvements approved under 19/02769/FUL. It is not considered necessary to secure additional off-site highway improvements including the provision of cycle ways in the immediate and wider area to make the proposal acceptable.

7.3 Subject to a sensitively designed scheme it is considered that development would have no adverse impact on residential amenity or adversely affect the character and appearance of the area or setting of nearby listed buildings. The proposal would also not preclude any future restoration of the canal. Due to the significant expenditure by Historic England on removing all the buildings and clearing the route of the canal it is not considered necessary or reasonable to require the applicant to restore a section of the canal or construct a bridge cover the line of the canal.

7.4 It is considered that subject to compliance with the recommended conditions and a proposal at the reserved matters stage that includes an appropriate landscaping scheme to provide ecological enhancements that includes bird boxes and mitigation for bats, the proposed development would have no adverse impact on protected wildlife or habitats and would provide ecological enhancements. An EPS 3 tests matrix is provided at Appendix 2.

7.5 Having regard to the above it is considered that the proposal accords with the most relevant local development plan policies CS2, CS6, CS8, CS17, MD2, MD12 and MD13, and the NPPF and the local plan taken as a whole. In determining this application regard has been given to the desirability of preserving the setting of the listed buildings and preserving and enhancing the character and appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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:

National Planning Policy Framework

Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:

CS2, CS6, CS8, CS17, MD2, MD12 and MD13

RELEVANT PLANNING HISTORY:

10/03237/OUT Outline application for the mixed use re-development of Ditherington Flaxmill comprising repair and re-use of historic buildings to create workspace and associated cultural

activities, new retail/commercial office and residential development, associated access, landscaping and car parking and demolition of non-listed buildings GRANT 28th March 2011

19/02769/FUL Off-site improvements to road junctions and new pedestrian / cycle crossings and entrances into the development site. On site new access road, pavements and pedestrian / cycle routes and external lighting to detail GRANT 1st October 2019

11. Additional Information

List of Background Papers

20/05065/OUT - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QKS25TTDJ3R00>

Cabinet Member (Portfolio Holder) - Councillor Gwilym Butler

Local Member - Cllr Alan Mosley

Appendices

APPENDIX 1: Conditions

APPENDIX 2: EPS 3 Test Matrix

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins or in the case of a phased development before development of each phase commences. In the case of a phased development as part of the first application for reserved matters a Phasing Plan shall be submitted for approval that includes a masterplan that indicates the separate infrastructure and development phases. Development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure (England) Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters for the development of the whole site or each phase of development shall be made to the local planning authority before the expiration of ten years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. This outline planning permission does not purport to grant consent for the number or scale of dwellings or buildings indicated on the submitted illustrative plans as details of the number of dwellings, the layout of the site and the scale and appearance of the buildings are reserved for later approval.

Reason: To enable the Local Planning Authority to consider the number and type of units having regard to a heritage impact assessment and other additional information that is required to be submitted alongside the details of the layout, scale and appearance of the buildings and the landscaping of the site at the Reserved matters stage.

5. As part of the application/applications for reserved matters no more than two new build commercial units (Class E use) shall be provided each with a gross internal floor area not exceeding 500 square metres in addition to the two existing commercial units (1 and 15 Haughmond Square).

Reason: To protect the viability and vitality of Shrewsbury town centre and to ensure the proposal complies with SAMDev policy MD10b.

6. As part of any application for Reserved Matters a Noise Assessment and Acoustic Design Statement (ADS) that includes a scheme of mitigation which takes into account the principles of good acoustic design detailed in ProPG shall be submitted.

Reason: To determine mitigation required to achieve acceptable indoor/outdoor noise levels.

7. Any application for Reserved Matters shall include the submission of a Construction Method Statement and Traffic Management Plan. The approved Statement shall be adhered to throughout the construction period. The Statement/Plan shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials,
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii. coordination and management of all deliveries, HGV routing proposals and off-site holding areas

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

8. Any application for reserved matters shall include the submission of a Travel Plan which commits the site operator and residents to use their best endeavours to reduce car travel to the site and promote more sustainable travel modes such as walking, cycling and the use of public transport. The Travel Plan shall include a timescale for its implementation and its operation thereafter, and mechanisms for monitoring and review of the Travel Plan.

Reason: In order to promote sustainable travel objectives and reduce carbon emissions.

9. Any application for reserved matters shall include full details of the parking provision and a Parking Management Plan which links to the Phasing of the whole development. The parking provision and management and allocation of spaces shall be implemented fully in accordance with the approved details and Phased delivery of the designated site uses.

Reason: To provide adequate parking and management of the parking provision within the site to serve the development.

10. Any application for reserved matters shall include details of measures to enable the safe routing of pedestrians and cyclists, including ramps and street lighting, through the site from Spring Gardens and Greenfields. Additionally, the number, style and location of cycle stands within the site and details for the secure parking of motorcycles and scooters on the site shall be submitted.

Reason: In the interests of site accessibility, in order to promote walking, cycling and alternative travel modes and to protect the amenities of the area.

11. As part of any application for reserved matters an Open Space Assessment shall be submitted.

Reason: To demonstrate that the proposal provides an appropriate amount of open space that accords with MD2 (or any local plan policy that replaces this policy).

12. Any application for reserved matters shall include a detailed landscaping plan. The submitted plan shall include:

- a) Planting plans and creation of wildlife habitats, include features such as hedgehog passes under fence lines;
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

In order to retain and enhance connectivity for wildlife through the site, particularly bats, the landscaping plan shall take into account the strategy as detailed in Drawing Ref DIT243-SW-1-002 Softworks Plan, Grant Associates, contained within the latest Bat Mitigation Strategy (report number: RT-MME-112753-02 Revision 6 (Middlemarch Environmental Ltd, October 2019)) or in accordance with an alternative Bat Mitigation Strategy to be submitted to and approved in writing by the LPA. The landscaping 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 and to maintain suitable foraging and commuting habitat for bats, European protected Species.

13. As part of any application for reserved matters, details of the makes, models and locations of swift boxes and house martin cups shall be submitted.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

14. No development or any phase of development approved by this permission shall commence until the applicant has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

15. Prior to commencement of any operational development associated with the change of use of the Apprentice House and 1 and 15 Haughmond Square an application for planning permission for the alterations to the buildings to be retained and an application for listed building consent for any internal or external alterations to the listed building shall be submitted to and approved in writing by the LPA.

Reason: This hybrid permission only gives planning permission for change of use of the existing buildings and any operational development associated with the change of use require separate planning permission and listed building consent (if a listed building).

16. No works shall take place on Apprentice House until a European Protected Species (EPS) Mitigation Licence with respect to bats, covering post Phase 1 development has been obtained from Natural England and submitted with the approved method statement to the Local Planning Authority.

Reason: To ensure the protection of bats, which are European Protected Species.

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

17. a) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy (Stantec UK Ltd, Shrewsbury Flaxmill Maltings project: Remediation Strategy 2020, 330201477R1REV1, March 2021) or in accordance with an alternative remediation scheme to be submitted to and approved in writing by the LPA.

b) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until an investigation and risk assessment has been undertaken in accordance with current guidance - Land contamination: risk management (Environment Agency, 2019) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared and submitted to and approved in writing by the LPA detailing how this unsuspected contamination shall be dealt with and which 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. The approved remediation scheme shall be implemented as approved prior to first occupation of the relevant part of the development.

c) Following completion of measures identified in the approved Remediation Strategy and any other approved remediation scheme) and prior to occupation of any part of the development or phase of development hereby permitted a Verification Report shall be submitted to and approved in writing by the Local Planning Authority demonstrating completion of works set out in the approved Remediation Strategy and 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 protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and 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 off-site receptors.

18. No above ground works shall take place on any phase of the development until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority for that phase. The approved scheme shall be fully implemented before that phase of development is first brought into use.

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

19. Prior to the first occupation of any part of the development (or phase of development) hereby approved a management plan that sets out the future management responsibilities for the open space and all landscape areas (other than privately owned, domestic gardens), to include details of the financial and legal means through which the management plan will be implemented, shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall be carried out as approved for the lifetime of the development or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the adequate future management and maintenance of the open space.

20. Prior to the installation of any external lighting, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. It shall demonstrate that the proposed lighting will not adversely impact on bats and shall be designed to take into account the strategy as detailed in Drawing Ref C112753-02-28 Rev A contained within the latest Bat Mitigation Strategy (report number: RT-MME-112753-02 Revision 6 (Middlemarch Environmental Ltd, October 2019)) which includes details of bat flight paths and dark flightlines to be retained. The lighting shall be installed in accordance with the approved details and to a timetable which has been approved in writing by the Local Planning Authority.

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

21. Prior to the first new use of any buildings as a restaurant or hot food takeaway full details of the proposed odour control equipment shall be submitted to and approved in writing by the Local Planning Authority. The use of any such premises shall not

commence until the approved odour control scheme has been fully implemented in accordance with the agreed details and shall thereafter be retained and maintained to the same standard or in accordance with alternative details to be submitted to and approved in writing by the LPA.

Reason: To safeguard residential amenities from potential noise and odour nuisance.

22. Noisy demolition or construction works shall not take place on the site outside the following times:

Monday to Friday 07:30hrs to 18:00hrs

Saturday 08:00hrs to 13:00hrs

Nor at anytime on Sundays, bank or public holidays.

Reason: To protect and maintain the amenity of the area.

APPENDIX 2: EUROPEAN PROTECTED SPECIES (EPS) 3 Tests Matrix

EPS – Consideration of the three tests

Application name and reference number:

20/05065/OUT

Flax Mill, Spring Gardens, Shrewsbury, Shropshire

Hybrid application for outline planning permission for residential development (Class C3) and commercial, business and service use (Class E) to include access with all other matters reserved; application for the change of use of the ground floor of 1 and 15 Haughmond Square to a mixed use including hot food takeaway restaurant (sui generis use) and commercial, business and service use (Class E) and associated alterations; change of use of the Apprentice House to residential use (C3).

Date of consideration of three tests:

1 April 2021

Consideration of tests one and two carried out by:

Jane Raymond

Technical Specialist Planning Officer

Consideration of third test carried out by:

Suzanne Wykes

Specialist Practitioner (Ecology)

1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

Yes - The application will ensure the long term use and therefore preservation of the listed Apprentice House. The overall scheme for development of this site will provide up to 120 new homes which will boost housing supply in a sustainable location and as a result provide social and economic benefits for both present and future generations. The development will also provide bio-diversity enhancements of the site with no adverse environmental impacts.

2 Is there ‘no satisfactory alternative’?

The alternative is not to develop the site, or for an alternative development proposal to be considered. However, any development proposal will require a mitigation licence and if the site is not developed this would not provide the boost to housing supply numbers in Shropshire and would fail to provide the social and economic benefits of the proposal and the ecological enhancements of the site to be secured by conditions attached to this planning permission.

3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

This application pertains to post phase 1 development of the site. This includes:

- Apprentice House conversion into residential apartments. This will require new partition walls, removal of some internal load bearing walls, repairs to the roof, replacement of rotten timber and the installation of a lift.
- Construction of new residential properties; and
- Provision of landscaping, car and bike parking facilities and lighting.

An extant European protected species bat mitigation licence is in place for phase 1 of the development and as part of the granting of that licence, a full mitigation strategy for all phases of development of the site was also submitted to Natural England and approved. This mitigation strategy has been subject to several updates involving modifications to the extant licence since it was originally granted.

The details contained within the latest mitigation strategy (RT-MME-112753-02 Revision 6 (Middlemarch Environmental Ltd, October 2019)) provides sufficient and appropriate mitigation for the species of bats, and types of roosts present within the wider site so that there will be no adverse effects on the favourable nature conservation status of the bat species concerned.

During Phase 1, bat roosts have been retained within the Apprentice House. The attic has been temporarily enhanced to allow additional areas to be utilised and to provide additional roosting features within the structure whilst not impacting the existing roost. The potential roost within the basement has also been retained without modifications. During the next phase of development, to convert Apprentice House into residential accommodation, the current roosting areas will be destroyed. To replace the mitigation provided within the Apprentice House, a new void roosting location will be created within the attic of the Warehouse and the mitigation within the Cross Mill will be enlarged. This will ensure that the available volume of bat roosting locations post works will not be reduced from that previously stated.

A modification of the existing extant bat licence or a new bat licence will be required at reserved matters stage and to implement the next stages of the mitigation strategy which pertain to post phase 1 development.

I am satisfied that the proposed development will not be detrimental to the maintenance of the populations of soprano and common pipistrelle, lesser horseshoe bat, brown long-eared bat and *myotis* species, at favourable conservation status within their natural range, provided that the conditions set out in the response from Suzanne Wykes to Jane Raymond (dated 31 March 2021) are included on the decision notice and are appropriately enforced.

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DECISION NOTICE



Date: 10th May 2021

Historic England
c/o Feilden Clegg Bradley Studios
Matt Somerville
Bath Brewery
Toll Bridge Road
Bath
BA1 7DE

Our Ref: 20/05065/OUT
Your Ref: Shrewsbury Flaxmill
Maltings ...

Dear Historic England c/o Feilden Clegg Bradley Studios

DETERMINATION OF APPLICATION FOR OUTLINE PLANNING PERMISSION

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015

Location:	Flax Mill, Spring Gardens, Shrewsbury, Shropshire
Proposed Development:	Hybrid application for outline planning permission for residential development (Class C3) and commercial, business and service use (Class E) to include access with all other matters reserved; and application for planning permission for the change of use of the ground floor of 1 and 15 Haughmond Square to a mixed use including hot food takeaway restaurant (sui generis use) and commercial, business and service use (Class E) and associated alterations and change of use of the Apprentice House to residential use (C3).
Application No.	20/05065/OUT
Date Received:	4th December 2020
Applicant:	Historic England

Shropshire Council hereby **GRANT OUTLINE PERMISSION** subject to the conditions listed below.

STANDARD CONDITIONS

1. Approval of the details of the appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins or in the case of a phased development before development of each phase commences. In the case of a phased development as part of the first application for reserved matters a Phasing Plan shall be submitted for approval that includes a masterplan that indicates the

separate infrastructure and development phases. Development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure (England) Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters for the development of the whole site or each phase of development shall be made to the local planning authority before the expiration of ten years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. This outline planning permission does not purport to grant consent for the number or scale of dwellings or buildings indicated on the submitted illustrative plans as details of the number of dwellings, the layout of the site and the scale and appearance of the buildings are reserved for later approval.

Reason: To enable the Local Planning Authority to consider the number and type of units having regard to a heritage impact assessment and other additional information that is required to be submitted alongside the details of the layout, scale and appearance of the buildings and the landscaping of the site at the Reserved matters stage.

5. As part of the application/applications for reserved matters no more than two new build commercial units (Class E use) shall be provided each with a gross internal floor area not exceeding 500 square metres in addition to the two existing commercial units (1 and 15 Haughmond Square).

Reason: To protect the viability and vitality of Shrewsbury town centre and to ensure the proposal complies with SAMDev policy MD10b.

6. As part of any application for Reserved Matters a Noise Assessment and Acoustic Design Statement (ADS) that includes a scheme of mitigation which takes into account the principles of good acoustic design detailed in ProPG shall be submitted.

Reason: To determine mitigation required to achieve acceptable indoor/outdoor noise levels.

7. Any application for Reserved Matters shall include the submission of a Construction Method Statement and Traffic Management Plan. The approved Statement shall be adhered to throughout the construction period. The Statement/Plan shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials,
- iii. storage of plant and materials used in constructing the development

- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii. coordination and management of all deliveries, HGV routing proposals and off-site holding areas

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

8. Any application for reserved matters shall include the submission of a Travel Plan which commits the site operator and residents to use their best endeavours to reduce car travel to the site and promote more sustainable travel modes such as walking, cycling and the use of public transport. The Travel Plan shall include a timescale for its implementation and its operation thereafter, and mechanisms for monitoring and review of the Travel Plan.

Reason: In order to promote sustainable travel objectives and reduce carbon emissions.

9. Any application for reserved matters shall include full details of the parking provision and a Parking Management Plan which links to the Phasing of the whole development. The parking provision and management and allocation of spaces shall be implemented fully in accordance with the approved details and Phased delivery of the designated site uses.

Reason: To provide adequate parking and management of the parking provision within the site to serve the development.

10. Any application for reserved matters shall include details of measures to enable the safe routing of pedestrians and cyclists, including ramps and street lighting, through the site from Spring Gardens and Greenfields. Additionally, the number, style and location of cycle stands within the site and details for the secure parking of motorcycles and scooters on the site shall be submitted.

Reason: In the interests of site accessibility, in order to promote walking, cycling and alternative travel modes and to protect the amenities of the area.

11. As part of any application for reserved matters an Open Space Assessment shall be submitted.

Reason: To demonstrate that the proposal provides an appropriate amount of open space that accords with MD2 (or any local plan policy that replaces this policy).

12. Any application for reserved matters shall include a detailed landscaping plan. The submitted plan shall include:

- a) Planting plans and creation of wildlife habitats, include features such as hedgehog passes under fence lines;
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;

- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

In order to retain and enhance connectivity for wildlife through the site, particularly bats, the landscaping plan shall take into account the strategy as detailed in Drawing Ref DIT243-SW-1-002 Softworks Plan, Grant Associates, contained within the latest Bat Mitigation Strategy (report number: RT-MME-112753-02 Revision 6 (Middlemarch Environmental Ltd, October 2019)) or in accordance with an alternative Bat Mitigation Strategy to be submitted to and approved in writing by the LPA. The landscaping 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 and to maintain suitable foraging and commuting habitat for bats, European protected Species.

13. As part of any application for reserved matters, details of the makes, models and locations of swift boxes and house martin cups shall be submitted.

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

14. No development or any phase of development approved by this permission shall commence until the applicant has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

15. Prior to commencement of any operational development associated with the change of use of the Apprentice House and 1 and 15 Haughmond Square an application for planning permission for the alterations to the buildings to be retained and an application for listed building consent for any internal or external alterations to the listed building shall be submitted to and approved in writing by the LPA.

Reason: This hybrid permission only gives planning permission for change of use of the existing buildings and any operational development associated with the change of use require separate planning permission and listed building consent (if a listed building).

16. No works shall take place on Apprentice House until a European Protected Species (EPS) Mitigation Licence with respect to bats, covering post Phase 1 development has been obtained from Natural England and submitted with the approved method statement to the Local Planning Authority.

Reason: To ensure the protection of bats, which are European Protected Species.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

17. a) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy (Stantec UK Ltd, Shrewsbury Flaxmill Maltings project: Remediation Strategy 2020, 330201477R1REV1, March 2021) or in accordance with an alternative remediation scheme to be submitted to and approved in writing by the LPA.

b) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until an investigation and risk assessment has been undertaken in accordance with current guidance - Land contamination: risk management (Environment Agency, 2019) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared and submitted to and approved in writing by the LPA detailing how this unsuspected contamination shall be dealt with and which 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. The approved remediation scheme shall be implemented as approved prior to first occupation of the relevant part of the development.

c) Following completion of measures identified in the approved Remediation Strategy and any other approved remediation scheme) and prior to occupation of any part of the development or phase of development hereby permitted a Verification Report shall be submitted to and approved in writing by the Local Planning Authority demonstrating completion of works set out in the approved Remediation Strategy and 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 protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and 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 off-site receptors.

18. No above ground works shall take place on any phase of the development until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority for that phase. The approved scheme shall be fully implemented before that phase of development is first brought into use.

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

19. Prior to the first occupation of any part of the development (or phase of development) hereby approved a management plan that sets out the future management responsibilities for the open space and all landscape areas (other than privately owned, domestic gardens), to

include details of the financial and legal means through which the management plan will be implemented, shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall be carried out as approved for the lifetime of the development or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the adequate future management and maintenance of the open space.

20. Prior to the installation of any external lighting, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. It shall demonstrate that the proposed lighting will not adversely impact on bats and shall be designed to take into account the strategy as detailed in Drawing Ref C112753-02-28 Rev A contained within the latest Bat Mitigation Strategy (report number: RT-MME-112753-02 Revision 6 (Middlemarch Environmental Ltd, October 2019)) which includes details of bat flight paths and dark flightlines to be retained. The lighting shall be installed in accordance with the approved details and to a timetable which has been approved in writing by the Local Planning Authority.

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

21. Prior to the first new use of any buildings as a restaurant or hot food takeaway full details of the proposed odour control equipment shall be submitted to and approved in writing by the Local Planning Authority. The use of any such premises shall not commence until the approved odour control scheme has been fully implemented in accordance with the agreed details and shall thereafter be retained and maintained to the same standard or in accordance with alternative details to be submitted to and approved in writing by the LPA.

Reason: To safeguard residential amenities from potential noise and odour nuisance.

22. Noisy demolition or construction works shall not take place on the site outside the following times:

Monday to Friday 07:30hrs to 18:00hrs

Saturday 08:00hrs to 13:00hrs

Nor at anytime on Sundays, bank or public holidays.

Reason: To protect and maintain the amenity of the area.

INFORMATIVES

NESTING BIRDS

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.

Artificial nests should be positioned out of direct sunlight, preferably under the eaves of a building and with a clear flight path to the entrance. North or east/west aspects are preferred.

CONTAMINATED LAND

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

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

DRAINAGE

Detailed drainage drawings and attenuation calculations should be provided for the proposed surface water drainage strategy as shown in Appendix 4 and 5 of the Drainage Assessment Report.

A plan should be provided demonstrating that urban creep has been applied. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. 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%

Shropshire Council's 'Surface Water Management: Interim Guidance for Developers, paragraphs 7.10 to 7.12' requires that exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site, or contribute to surface water flooding of any area outside of the development site. As the spacing of road gullies are usually designed for a 50mm/hr storm event (5 minute 1 in 1 year return period), exceedance flow are likely to be generated above this event.

Therefore the proposed management of exceedance flows generated by storms up to the 1 in 100 year plus CC return period must also be considered and catered for. This must be demonstrated by the provision of a contoured plan of the finished road levels showing the proposed management of any exceedance flow. (The discharge of any such flows across the adjacent land would not be permitted)

Vulnerable areas of the development, where exceedance is likely to result in the flooding of property, or contribute to flooding outside of the development site, highway gully spacing

should be doubled over the entire length of highway contributing to the vulnerable area to ensure a 100mm/hr storm event is managed or attenuated on site.

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

STREET NAMING AND NUMBERING

You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

BUILDING REGULATIONS

If your proposed project requires **Building Regulations Approval** or you are unsure whether it does please contact us on **01743 258710**, email buildingcontrol@shropshire.gov.uk or visit our website www.buildshropshire.co.uk for pre-application advice and a competitive fee.

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link:

<http://www.shropshirefire.gov.uk/planning-applications>

Approved Drawings

Plan Type	Plan No.	Date Received
Site Location Plan	1821-5/P/001, Rev. B	11.12.2020
Block Plan	1821-5/P/002, Rev. B	11.12.2020

20/05065/OUT



Ian Kilby Planning Services Manager
Date of Decision: 10th May 2021

NOTES

Conditions

You will see that your decision notice includes a number of conditions:

- You must comply with all of the conditions. If you are unclear about any of them, please contact the Planning Officer who dealt with the application.
- Some of the conditions may require you to submit further information to the Council for approval. Most conditions will need to be complied with before you start work on site.
- If you think any of the conditions are unreasonable you may appeal to the First Secretary of State, through the [Planning Inspectorate](#).
- Please also ensure that you comply with the requirements of any Legal Agreement that may accompany the planning permission.

Informatives

Your decision notice includes a number of informatives. This gives you some extra guidance and advice which will help the development process. Please note your Decision Notice gives permission only under the Town and Country Planning Acts. You may need other approvals, for example under the Building Regulations, or Party Wall Act, or permission from your neighbour to go onto his/her land.

Amendments

If you need to alter your approved drawings please send full details to us regardless of how small the alteration is. Your case officer will determine whether this can be agreed through a simplified exchange of correspondence or whether a revised application needs to be submitted. Further guidance can be found at www.shropshire.gov.uk/planning . You should not commence work until the amendment has been approved in writing by the Council.

Appeals to the Secretary of State

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then the applicant can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.

An appeal must be made within six months of the date of this notice, or 12-weeks if the scheme is for that of "household" development, or minor commercial application, or within 8 weeks in the case of advertisement appeals. The appeal must be made on a form which can be obtained from the Planning Inspectorate at Customs Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online through the Planning Portal website at www.planningportal.gov.uk/pcs

Where an enforcement notice has been served on the same, or substantially the same, development as in the application within 2 years of the date the application was made, the period for receiving an appeal is 28 days of the date on the decision notice or the date by which the LPA should have decided the application. Where an enforcement notice was served after the decision notice was issued or after the end of the period the LPA has to determine the application, the period for receiving an appeal is within 28 days of the date the enforcement notice was served (unless this extends the normal 12 week deadline).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority (appeals@shropshire.gov.uk) and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Purchase Notices

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the District Council requiring the Council to purchase the interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix 8

Planning Policy Document Schedule.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 Act requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'.

The Development Plan for Shropshire consists of the Core Strategy 2011 and the Site Allocations and Management of Development Plan (SAMDev Plan).

Shropshire Council Core Strategy Adopted February 2011

<https://shropshire.gov.uk/planning-policy/local-planning/core-strategy/>

Relevant Core Strategy Policies

CS2: Shrewsbury Development Strategy

CS6: Sustainable Design and Development Principles

CS8: Facilities, Services and Infrastructure Provision

CS17: Environmental Networks

Site Allocations and management of Development (SAMDev) Plan adopted December 2015

<https://shropshire.gov.uk/planning-policy/local-planning/samdev-plan-2006-2026/the-plan/>

Relevant SAMDev Plan Policies

MD2: Sustainable Design

MD12: Natural Environment

MD13: Historic Environment

S16: Shrewsbury area settlement policy (S16.1a: SHREW19)

National Planning Policy Framework (July 2021)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Shrewsbury Big Town Plan

https://shropshire.gov.uk/committee-services/documents/s19381/Shrewsbury%20Big%20Town%20Plan_Appendix%201.pdf

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